

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

IN RE	X	
	X	CASE NO. 16-51781-RBK
AMBROSIO HERNANDEZ, JR.	X	
	X	
DEBTOR	X	CHAPTER 11

**DISCLOSURE STATEMENT TO PLAN OF REORGANIZATION OF  
AMBROSIO HERNANDEZ, JR.**

**I. INTRODUCTION**

On August 5, 2016, Ambrosio Hernandez, Jr. (hereinafter the "Debtor"), filed his voluntary petition under Chapter 11 of the United States Bankruptcy Code. Since that time he has continued to operate as Debtor in Possession pursuant to the provisions of Section 1108 of the Bankruptcy Code.

This Disclosure Statement To Plan of Reorganization (hereinafter "Disclosure Statement") has been prepared by the Debtor pursuant to Section 1125 of the Bankruptcy Code, which requires that creditors receive a written Disclosure Statement containing sufficient information about the Debtor to enable creditors to make an informed and intelligent decision regarding the Plan of Reorganization (hereinafter "Plan"). Prior to the solicitation of your vote on the Plan, and as required by the Bankruptcy Code, the Bankruptcy Court has approved this Disclosure Statement as containing adequate information on the Debtor.

In addition to this Disclosure Statement and accompanying Plan, you will also receive an order of the Court setting the hearing on the confirmation of the Plan and establishing deadlines for casting your vote or filing objections to confirmation. Mailing instructions are included in your Ballot. YOUR VOTE IS IMPORTANT. In order for the Plan to be accepted, at least two-third (2/3's) in amount and one-half (1/2) in number of the voting creditors in each class must affirmatively vote for the Plan. Even if all classes of claims accept the Plan, the Bankruptcy Court may refuse to confirm the Plan. Among other things, Section 1129 requires that the Plan be in the best interests of the creditors and other parties in interest, and generally requires that the holders of the claims not receive less than would otherwise be realized if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code.

In appropriate circumstances, the Bankruptcy Court may confirm a Plan even though less than all of the classes of claims accept the Plan. The circumstances warranting confirmation notwithstanding the vote of a dissenting class or classes of creditors are set forth in Section 1129(b) of the Bankruptcy Code. Except as otherwise provided in the Plan, the Order of Confirmation, or Section 1141(d), confirmation of the Plan will discharge the Debtor from all of its debts. Confirmation makes the Plan binding on the Debtor and all of his creditors, regardless of whether or not they have accepted the Plan.

A. The Debtor. The Debtor is Ambrosio Hernandez, Jr.

B. The Disclosure Statement.

Pursuant to Section 1125(b) of the Bankruptcy Code (Title 11 of the United States Code, hereinafter referenced as 11 U.S.C. section number), a precondition to solicitation of acceptances and rejections of a Plan of Reorganization from holders of claims or interests in the bankruptcy estate is that the holders be furnished with a copy of the Plan or a summary of the Plan and a written Disclosure Statement which contains "adequate information".

"Adequate information" means

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 reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the Plan, but adequate information need not include such information about any other possible or proposed Plan. 11 U.S.C. 1125(a)(1).

Whether or not a Disclosure Statement contains adequate information is determined by the Court upon notice and hearing. 11 U.S.C. 1125(b). All parties in interest may participate in this determination. After the Disclosure Statement is approved by the Court, a hearing will be set on confirmation of the Plan and a Plan package which includes copies of the Order Approving Disclosure Statement, Plan, Disclosure Statement and Ballot will be sent to the parties entitled to vote on the Plan.

C. Chapter 11.

Chapter 11 is a portion of the Bankruptcy Code which provides businesses and certain individuals with protection from creditors while he seeks to reorganize his financial affairs, including the repayment of his debts. The terms of the proposed reorganization are embodied in a Plan of Reorganization. While the Bankruptcy Code gives the Debtor many aids in the reorganization of his financial affairs, these aids are balanced with rights and protections afforded to creditors. Confirmation of a Plan of Reorganization is the objective of the Debtor in a Chapter 11 Reorganization Case. Performance of the confirmed Plan is the objective of the Reorganized Debtor. The Plan is the terms by which the claims against and interests of the Debtor is satisfied.

D. The Process of Confirmation.

1. Hearing on Confirmation. Confirmation of a Plan is simply approval by the Court. This approval is sought by the Plan proponent at the hearing on confirmation. In order to obtain approval of the Court, the Plan proponent must show that the Plan meets all requirements for confirmation.

2. Requirements for Confirmation. The requirements for confirmation are listed in 11 U.S.C. Section 1129(a). These requirements are part of the balancing of rights and aids between the Debtor and his creditors. Certain of the requirements for confirmation necessitate the solicitation of ballots from the holders of claims against and interests in the Debtor indicating either the acceptance or rejection of the Plan. Section 1129(a) does not require that each and every holder of a claim against or interest in the Debtor's vote to accept the Plan in order for it to be confirmed by the Court. First, only those holding claims or interests which are in classes which are impaired are entitled to vote. Impairment is defined in 11 U.S.C. 1124.

Impairment basically means an alteration of the legal, equitable or contractual rights of the holder of the claim or interest. The Plan proponents must assert in the Disclosure Statement whether or not each class is deemed by them to be impaired. The proponents' conclusion may be disputed by a creditor and the dispute resolved by the Court. If a Plan impairs or changes the rights of any creditor, it must be accepted by at least one Class of impaired claims. Second, only those ballots that are properly completed and timely delivered are counted. Third, of those voting in each class, only a majority of the claims in number and at least two-thirds (2/3) in amount are needed for the acceptance of the Plan by that class.

Even if all Classes of claims and interests accept the Plan, its confirmation may be denied by the Bankruptcy Court for the failure to meet some other requirement of Section 1129 of the Bankruptcy Code. Among those requirements is one that the Plan be in the best interest of claimholders and interest holders. That generally requires that the value to be distributed to claimholders and interest holders may not be less than such parties would receive if the Debtor were liquidated under Chapter 7 of the Code.

3. Cramdown. The Court may confirm a Plan even though a class of claims or interest holders rejects the Plan. Confirmation of a Plan over the rejection by one or more classes of claims or interests is generally referred to as "cram down". In order for the Plan to be confirmed in spite of the rejection by a class of claims or interests, the proponent of the Plan must show that the Plan does not discriminate unfairly and is fair and equitable with respect to each class of claims or interests that is impaired and has not accepted the Plan.

Section 1129(b)(2) provides that the following standards are among the issues to be considered in determining whether the Plan is "fair and equitable" with respect to a particular class:

Secured Claims. The Plan is fair and equitable with respect to a class of secured claims if it provides that either:

1. The holders are to retain their lien, whether the collateral is retained by the Debtor or transferred to another entity, to the extent of the allowed amount of their secured claim, and are to receive deferred cash payments totaling not less than the allowed amount of their claims and having a present value of not less than the value of the collateral.

2. The collateral is to be sold in a sale permitting the holder to "bid in" free and clear of holder's lien, with such lien to attach to the proceeds of such sale, and the treatment of the lien on such proceeds under either clause (1) or (3) hereof; or

3. The holders are to receive the "indubitable equivalent" of their claims.

Unsecured Claims. The fair and equitable requirement in the context of a class of unsecured claims requires that either:

1. The holders are to receive property with a present value equal to the allowed amount of their claims; or

2. No holders in a class junior to the rejecting class are to receive any property.

## **II. REPRESENTATIVES**

The statements contained in this Disclosure Statement are made as of the date of this Disclosure Statement unless another time is specified. Except as stated herein, no other representations concerning the Debtor, his financial affairs, the value of his property, or the value of any benefits offered to you in the Plan are authorized. ANY REPRESENTATIONS OR INDUCEMENTS WHICH ARE CONTRARY TO THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION, and such representations or inducements and their origin should be immediately reported to William R. Davis, Jr., Langley & Banack, Inc., Counsel for the Debtor, 745 E. Mulberry, Suite 900, San Antonio, Texas 78212 Telephone: (210) 736-6600.

THE DEBTOR AND HIS COUNSEL HAVE MADE EVERY EFFORT TO INSURE THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS ACCURATE. WE CANNOT, HOWEVER, WARRANT THAT ALL OF THE DATA IS COMPLETELY ACCURATE, THOUGH WE FEEL IT IS MATERIALLY ACCURATE TO OUR BEST KNOWLEDGE, INFORMATION AND BELIEF. THE INFORMATION IN THIS DISCLOSURE STATEMENT HAS NOT BEEN SUBJECT TO AN INDEPENDENT AUDIT, AND FINANCIAL INFORMATION HAS BEEN BASED UPON OUR INTERNAL RECORDS. IF ANY STATEMENTS OF FINANCIAL MATTERS WERE MADE BY THIRD-PARTY ACCOUNTING PROFESSIONALS ACCOMPANY THIS DISCLOSURE STATEMENT, THEY WILL CONTAIN A DISCLAIMER REQUIRED OF UNAUDITED FINANCIAL INFORMATION. FURTHER, YOU SHOULD NOT CONSTRUE THE BANKRUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT AS AN ENDORSEMENT OF THE PLAN OR A GUARANTY OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION PRESENTED HEREIN.

The Debtor has expended considerable time in devising a Plan which he believes to be financially feasible and fair to his creditors. Consequently, the Debtor urges you to vote for acceptance of the Plan.

### **III. INFORMATION CONCERNING THE DEBTOR**

#### **A. History of the Debtor**

##### **1. Description of the Debtor's Operations**

The Debtor herein is a CPA and has been involved in running home health care businesses for a number of years pre-petition, and continues such operations post-petition. The Debtor's main company, Legacy Home Health Agency, Inc., recently completed a successful reorganization under Chapter 11 (Case No. 15-50902-RBK) and continues to operate and make payments on its 941 tax liability to the Internal Revenue Service, on which the Debtor has been held to be a responsible party, but against him the Internal Revenue Service is not pursuing collection activity against as long as Legacy Home Health Agency, Inc. stays current on its Chapter 11 Plan payments. The Debtor is dealing with his pre-petition 1040 liability to the Internal Revenue Service under this Plan.

##### **2. Results of Operations as Debtor in Possession**

The Debtor is filing his Monthly Operating Report's post-petition in a timely manner. The Debtor believes his Monthly Operating Reports show the profitability necessary to fund a Chapter 11 Plan of Reorganization. A copy of the Debtor's August, 2016 Monthly Operating Report is attached hereto as Exhibit "G". The Debtor projects that the profitability needed to perform under the terms of the Plan proposed herein exists now, and will continue going forward.

The Debtor's projections attached hereto as Exhibit "B" are premised upon the pre-petition operational changes, and the resulting increase in income/profitability (as reflected in the MOR's filed during this case), which is necessary to make this Plan work. The Debtor will continue to file his Monthly Operating Reports in a timely manner.

##### **3. Estimated Future Income and Expenses**

A copy of the Debtor's 2015 corporate income tax return (Form 1120) is attached hereto as Exhibit "E". The Debtor owes a significant pre-petition tax liability to the Internal Revenue Service. The Debtor is staying current with the Internal Revenue Service post-petition and has an agreement with the Internal Revenue Service for the payment of the pre-petition tax debt (1040 liability) as set forth herein. Additionally, attached hereto as Exhibit "B" is a copy of the Debtor's pro-forma projections, which support the Debtor's ability to perform under the terms of the Plan of Reorganization as proposed herein. The Debtor's income and expenses are projected to continue to increase gradually over the term of the Plan, and then stabilize with normal adjustments for inflation going forward.

#### 4. Future Management of the Reorganized Debtor

No changes are proposed, other than as discussed herein.

#### 5. Causes of the Bankruptcy Filing

The Debtor's bankruptcy filing is the result of his business struggles, which resulted in the Debtor's main business filing a Chapter 11 bankruptcy case (Legacy Home Health Agency, Inc., Bankruptcy Case No. 15-50902-RBK, which resulted in a confirmed Chapter 11 Plan of Reorganization on November 10, 2015). The Debtor was assessed the Trust Fund liability as a responsible party for the liability of Legacy Home Health Agency, Inc.; as long as Legacy Home Health Agency, Inc. remains current on its payments to the Internal Revenue Service under the Plan, no collection activity will be undertaken against the Debtor herein. The Debtor has also incurred personal income tax liability (1040) to the Internal Revenue Service over the last several years, which the Debtor is addressing herein, and is not expected to increase going forward.

#### 6. Changes to Operations

No changes are being made at this time,. Changes were made through and as a part of the Legacy Home Health Agency, Inc.'s Chapter 11 case/reorganization. The Debtor's income is now stable and sufficient to support the Debtor's obligations under this Plan.

### **IV. ANALYSIS AND VALUATION OF PROPERTY**

#### A. Real Property

The Debtor owns two (2) pieces of real property. The Debtor leases his residence located at 7705 Windchime Way, Boerne, Texas. The Debtor owns two (2) pieces of real property - 1022 Forest Oak, Portland, Texas and 3404 San Eduardo, Mission, Texas. The real property located at 1022 Forest Oak is subject to mortgages to The Bank of New York Mellon - \$88,767.00 and Deutsch Bank National Trust Company - \$28,974.00. The Debtor has filed a Motion to Employ Dillard & Chapa Real Estate as Real Estate Brokers, which was approved, with the goal of generating a lump sum payment to the Internal Revenue Service (estimated to be approximately \$100,000.00 net). The second real property located at 3404 San Eduardo - it is used by the business, including the Debtor staying there when he is in the valley. This real property and the mortgage to Wells Fargo are in the name of the Debtor's wife only. Legacy Home Health Agency, Inc. makes the payments on this property. The Debtor does not anticipate selling the property at this time.

#### B. Personal Property

Attached hereto as Exhibit "C" is the Schedule B - Personal Property filed by the Debtor with the Court. The Debtor's personal property includes bank accounts, exempt personal property, ownership interest in businesses and a Note Receivable. Based upon the pre-petition liens, little value is projected to be realized for the Estate's creditors in a liquidation scenario (as a result of the large debt owing to the

Internal Revenue Service).

C. Leases

Attached hereto as Exhibit "D" is a copy of Schedule G - Executory Contracts and Unexpired Lease, which lists the leases to which the Debtor is a party.

D. Liquidation Value

The Debtor's analysis of the distribution to creditors in a Chapter 7 liquidation scenario concludes that the estate's administrative and priority creditors will be paid in full. The estate's unsecured creditors will receive minimal distributions should the case be converted to a case under Chapter 7 and the assets liquidated. The secured claims of the various secured creditors, including the large secured claim of the Internal Revenue Service, far exceed the value of the Estate's assets. A liquidation analysis prepared by the Debtor is attached hereto as Exhibit "F".

**V. SUMMARY OF PLAN OF REORGANIZATION**

A. Classification and Treatment of Claims

Administrative claims consist of the professionals who have provided services to the Debtor during the pendency of this Chapter 11 case. These claimants and the estimated amount of their claims are as follows:

Langley & Banack, Inc. (Attorneys)	\$ 20,000.00
Total Estimated Professional Claims	<u>\$ 20,000.00</u>

The amount of the professional fees disclosed above is an approximate amount. It is unknown at this time exactly how much money will be incurred in professional fees in this Chapter 11 case. A final determination cannot be made until such time as the case is closed as to reasonable professional fees for the provision of whatever services become necessary in this Chapter 11 case. Any other allowed costs and expenses of administration of the Debtor's Chapter 11 bankruptcy case are also included as administrative claims. These claims will be paid in full at confirmation, less any retainers already received, after approval by the Court of said fees. The anticipated administrative expenses of the Debtor is moderate, with the largest estimated administrative expense claim being the legal fees of Langley & Banack, Inc.

Administrative claims are unimpaired under the Plan and not entitled to vote.

Class 1 - Secured local taxing authority (Nueces and Hidalgo County).

The Class 1 claims consist of the secured tax claims of Nueces County and Hidalgo County. The tax claims are secured by statutory tax liens which automatically attach to the real property belonging to

the Debtor. No taxing authority has filed a Proof of Claim. The claims of the tax creditors are fully secured and will retain their statutory liens until the Class 1 tax claim has been paid in full by the mortgage company from funds which have accrued and are held in escrow. The tax claims include year 2016. The Debtor is current on all ad valorem tax liability through and including tax year 2015.

The Class 1 claims are unimpaired under the Debtor's Plan of Reorganization and are not entitled to vote on the Plan.

Class 2 - Secured claim of BBVA Compass The contract will remain unaffected by the bankruptcy, and will be paid in full through the following modified payment schedule - monthly payments of principal and interest (8.5%) in the amount of \$1,000.00. The new monthly payments begin with the payment due in November, 2016. The balance owing on the debt is in the approximate amount of \$15,000.00 and the debt will be paid off in less than 1-1/2 years. The Note was current at filing and has remained current during the bankruptcy. The secured claim is for a boat owned by a corporation belonging to the Debtor, which is generally used for business purposes to promote the business.

Class 2 claim is impaired under the Debtor's Plan of Reorganization and is entitled to vote.

The Class 3 claims consist of the secured, priority and general unsecured claims of the Internal Revenue Service per the Internal Revenue Service's Amended Proof of Claim filed on August 30, 2016. The Internal Revenue Service's secured claim is in the amount of \$3,390,064.11. The priority unsecured claim of the Internal Revenue Service in the amount of \$374,91.09 is included in the Internal Revenue Service's settlement with the Debtor. The Internal Revenue Service general unsecured claim is in the amount of \$31,081.66. Pursuant to the agreement reached between the Debtor and the Internal Revenue Service, the Internal Revenue Service's Class 4 and 5 claims (priority unsecured and general unsecured) are included and treated with the Class 3 Internal Revenue Service claim. The majority of the Internal Revenue Service's claims against the Debtor herein relate to the Internal Revenue Service's claims of trust fund liability against Mr. Hernandez as a responsible party. Pursuant to the agreement between the Internal Revenue Service and Legacy Home Health Agency, Inc. in its Chapter 11 case, as long as Legacy Home Health Agency, Inc. remains current on its obligations to the Internal Revenue Service under the terms of the confirmed Plan and post-petition reporting/payment obligations, the Internal Revenue Service will take no collection activity against Mr. Hernandez individually. To date, Legacy Home Health Agency, Inc. is fully compliant with the Internal Revenue Service both under the confirmed Plan and post-confirmation compliance. This has been confirmed with Keri Templeton at the Internal Revenue Service. In this case, the Debtor is addressing and paying the Internal Revenue Service for his personal 1040 liability to the Internal Revenue Service. The Debtor owes the Internal Revenue Service for tax years 2012-2014. The Debtor is current on his personal tax filing with the Internal Revenue Service (through tax year 2015 ).

The Debtor's 2012 liability consists of the following: tax - \$132,129.00; interest - \$14,291.53 and penalty - \$66,964.73 — totaling - \$213,385.26. The agreed amount to be paid hereunder is \$132,129.00 (tax only). The Debtor will pay the claim in 84 equal monthly installments of principal and interest (4% APR) in the amount of \$1,806.05. The monthly payments begin thirty (30) days from the confirmation date. Should the Debtor be unsuccessful in repaying the Internal Revenue Service's secured claim in full pursuant to this agreement, the interest and penalties will be added back to the Internal Revenue Service's



secured claim.

The Debtor's 2014 liability, including a small FICA claim for the 3<sup>rd</sup> quarter of 2011 in the amount of \$636.26, total \$90,528.84 and are priority unsecured claims. The Debtor will pay the claim through 84 equal monthly installments of principal and interest (4% APR) in the amount of \$1,237.43. The monthly payments will begin thirty (30) days from the confirmation date. Should the Debtor be unsuccessful in repaying the Internal Revenue Service's priority unsecured claim in full pursuant to this agreement, the penalties will be added back to the Internal Revenue Service's priority unsecured claim.

The Internal Revenue Service agrees to waive the unsecured general claim in the amount of \$31,081.66 as long as the Debtor is successful in paying the total amounts agreed to above for the secured claim and unsecured priority claims without defaulting (and failing to cure such default). Nevertheless, should the Debtor be unsuccessful in repaying the Internal Revenue Service's secured and unsecured priority claims in full or otherwise default under the terms of the Plan, pursuant to the agreement, the general unsecured claim in the amount of \$31,081.66 will be added back to the Internal Revenue Service's claim and the Internal Revenue Service may accelerate its allowed claim(s), past and future, and declare the outstanding amount of such claim(s) to be immediately due and owing and pursuant any and all available state and federal rights and remedies.

As a part of the repayment provisions for the Internal Revenue Service, the Debtor herein has agreed to sell the real property and improvements located at 1022 Forest Oak, Portland, Texas. The Debtor, through Bankruptcy Court approval, has employed Dillard & Chapa Real Estate as his real estate agent to list and market the real property. Based upon an asking price of \$220,000.00, and after paying the two (2) mortgage claims to The Bank of New York Mellon and Deutsch Bank National Trust Company, the estimated net sales proceeds to be generated are in the amount of \$100,000.00, and will greatly accelerate the repayment of the Internal Revenue Service herein. The Debtor believes that a sale will be achieved in the near future.

The Class 3 claims are deemed to be impaired under the Plan of Reorganization and entitled to vote on the Plan.

The Class 4 claim consists of the Bank of New York Mellon. The contract will remain unaffected by the bankruptcy, and will be paid in full through continued contractual monthly payments as provided in the contract (without modification). The Note was current at filing and has remained current throughout the bankruptcy.

The Class 4 claim is unimpaired under the Debtor's Plan of Reorganization and not entitled to vote.

The Class 5 claim consists of the Deutsche Bank National Trust Company, as Trustee. The contract will remain unaffected by the bankruptcy, and will be paid in full through continued contractual monthly payments as provided in the contract (without modification). The Note was current at filing and has remained current throughout the bankruptcy.

The Class 5 claim is unimpaired under the Debtor's Plan of Reorganization and not entitled to vote.

The Class 6 claims consist of the claims of unsecured creditors which existed prior to confirmation (other than the general unsecured claim of the Internal Revenue Service which is being treated with the Internal Revenue Service's secured claim and priority unsecured claim in Class 3). The amount of unsecured claims consist of the claims scheduled on the Debtor's Schedules (Schedule F) filed with the Court, and as amended, and the Proofs of Claim filed in this case. The Proof of Claim deadline is December 12, 2016. The Debtor believes that the total amount of allowed unsecured creditors will be in the approximate amount of \$-0-.

The Class 6 unsecured claims will be paid 25% of their allowed unsecured claim(s) through equal monthly payments of principal based on a 3-year Plan term, with payments beginning on the first day of the third month following the Effective Date of the Plan. The projected monthly payments are estimated to be in the amount of \$Unknown, and will be disbursed on a pro-rata basis to unsecured creditors based upon the amount of their allowed claims (if any).

Alternatively, Class 6 creditors may elect to receive a lump sum cash distribution equal to ten percent (10%) of the unsecured creditor's allowed claim. The 10% distribution will be made by the Debtor on or before the ninetieth (90th) day following the Effective Date of the Plan.

THE CLASS 6 CREDITORS MAY ELECT EITHER OF THE ABOVE PROPOSED TREATMENT TERMS - A TWENTY-FIVE PERCENT (25%) PAYOUT OVER TIME **OR** A LUMP SUM DISTRIBUTION OF TEN PERCENT (10%) OF THE CLASS 6 CREDITORS ALLOWED CLAIM WITHIN NINETY (90) DAYS OF THE PLAN'S EFFECTIVE DATE. SHOULD A CLASS 6 CREDITOR NOT MAKE THE ABOVE ELECTION, THEN THE DEBTOR WILL TREAT THE PARTICULAR NON-ELECTING CLASS 6 CREDITOR AS HAVING ELECTED THE 10% LUMP SUM DISTRIBUTION.

The Class 6 claims are deemed to be impaired under the Plan and are entitled to vote.

The Class 7 claim consists of Ambrosio Hernandez, Jr. Ambrosio Hernandez, Jr. will continue his ownership interest in his real/personal property as it existed pre-petition, subject to the repayment provisions contained herein.

The Class 7 claims are unimpaired under the Plan and not entitled to vote.

#### B. Summary of the Mechanics/Implementation of Debtors' Plan of Reorganization

Attached to this Disclosure Statement as Exhibit "A" is a complete copy of the Debtor's Proposed Plan of Reorganization. For the specific details of the Plan of Reorganization, reference should be made to the Plan in its entirety. The summary provided below is merely for the convenience of anyone reading the Disclosure Statement and to the extent that this Disclosure Statement in any way conflicts with the actual Plan, the terms of the Plan will govern.

C. Payment of Administrative Claims

All allowed administrative claims will be paid in full on or before the Plan's Effective Date in accordance with the provisions of 11 U.S.C. §1129(a)(9)(A), unless otherwise agreed to between the particular administrative claimholder and the Debtors.

D. Feasibility of the Plan.

The Plan is feasible as a result of the income being generated by the Debtor. The Debtor's income is expected to be sufficient to fund the Plan. The income is projected to be sufficient to service the debts of the Debtor for the foreseeable future. The feasibility of the Debtor's Plan is effected by the values and interest rates set by the Court. Should the Debtor's estimate of future income be grossly in error, this Plan might not be feasible. Attached hereto as Exhibit "B" is the Debtor's income and expenses which support the feasibility of the Debtor's Plan.

E. Claims Allowance Procedure

The Debtor will file any claims objections on or before sixty (60) days from the Plan's Effective Date. At present, the Debtor is attempting to resolve any disputes regarding claims with the particular creditor. The Debtor is hopeful that such negotiations will lead to an amicable resolution of any claims disputes; however, there is no guarantee that the negotiations will lead to a resolution of any disputes.

F. Retention of Jurisdiction

The Court retains jurisdiction as set out in the Plan (See Article VIII).

G. Interest Retained by the Debtors

The Debtor is retaining his current ownership interests in real and personal property subject to the terms of this Plan.

**VI. ALTERNATIVES TO THE DEBTORS' PLAN**

The Debtor does not believe that any other Plan other than the one he has proposed is feasible for the reorganization of the Debtor's financial affairs. The Debtor does not believe that a liquidation (through this Chapter 11 case or by a Chapter 7 trustee) of his assets will result in the payment of the full amount of his debts owed. Therefore, the Debtor believes that unless his Plan is confirmed, the result would be a Chapter 7 liquidation, with a smaller distribution to unsecured creditors.

In the event of a Chapter 7 liquidation, the Bankruptcy Code would provide for the priorities of payment. The first priority of payment would be administrative claims. Those would consist of the attorneys' fees for the Debtor, along with the other professional fees for the Debtor. The Debtor estimates these will total approximately \$20,000.00 (less respective retainers of the professionals).

Based on the foregoing, the Debtor believes that his operating Plan is far superior to a Chapter 7 liquidation. A Liquidation Analysis prepared by the Debtor is attached hereto as Exhibit "F".

#### **VII. RISK TO CREDITORS UNDER THE DEBTOR'S PLAN**

The principal risk that creditors will incur under the Debtor's Plan is that the Debtor will be unable to make payments pursuant to this Plan of Reorganization. It should be pointed out, however, that all creditors will receive more if the Plan is confirmed at confirmation than they would receive in a Chapter 7 liquidation, thereby rendering the risk to creditors under the Plan minimal.

#### **VIII. TAX CONSEQUENCES**

The Debtor is a taxable entity and federal income taxes are payable by the Debtor. It is the Debtor's opinion that minimal adverse tax consequences will occur to the Debtor as a result of the reorganization. The Debtor is on a calendar tax year. The Debtor is current on his tax filings at the State and Federal levels.

#### **IX. LITIGATION**

The Debtor was a party to various lawsuits at the time of its bankruptcy filing. Attached hereto as Exhibit "H" is a list of the Debtor's pre-petition litigation.

After the bankruptcy filing, the Debtor filed Suggestions of Bankruptcy in the State Court lawsuits scheduled on Exhibit "H". The Apex lawsuit was tried before the Honorable Ronald B. King and the Debtor was not held liable for any amounts to Apex Primary Care, Inc. (Prior to this bankruptcy filing).

#### **X. RELATIONSHIP OF DEBTOR WITH AFFILIATES**

The Debtor does not have a relationship with any affiliates as the term "affiliate" is defined in Section 101(2) of the Code.

#### **XI. PREFERENTIAL OR VOIDABLE TRANSFERS**

The Debtor is unaware of any preferential or voidable transfers at this time. However, Debtor will continue to review and investigate his books, records and financial affairs to determine if a basis exists to pursue such preferential and/or voidable transfers.

**XII. SUMMARY OF SIGNIFICANT ORDERS ENTERED**

1. Order Approving the Employment of Langley & Banack, Inc. As Attorneys For the Estate of Ambrosio Hernandez, Jr., - August 5, 2016.
2. Order Granting Motion For Authority to Maintain and Use Pre-Petition Bank Accounts - September 7, 2016.
3. Order Approving the Employment of Dillard & Chapa Real Estate For the Estate of Ambrosio Hernandez, Jr. - September 29, 2016.

**XIII. MISCELLANEOUS DISCLOSURES**

A. Modification of the Plan.

The Debtor may propose amendments or modifications to its Plan at any time prior to the date of the entry of the Order Confirming Plan, with leave of the Court, and upon proper notice to parties in interest. After the date of the Order Confirming Plan, Debtor may, with approval of the Court so long as it does not materially or adversely affect the interests of creditors, remedy any defects or omissions or reconcile any inconsistencies in the Plan or in the Order Confirming Plan in such manner as may be necessary to carry out the purpose and effect of this Plan.

B. Effect of Confirmation of the Plan.

The provisions of the Plan once confirmed are binding upon the Debtor and all of his creditors. The confirmation of the Plan vests all property of the estate in the Debtor except as otherwise provided in the Plan. All non-exempt assets will automatically revert in the Debtor's estate in the event that the Debtor's case is converted to Chapter 7 at some point in the future. The Debtor's property is free and clear of all claims and interests except as otherwise provided in the Plan. The Debtor is discharged from any debt which arose prior to confirmation, whether maker or guarantor, except as provided for in the Plan, Order Confirming Plan or the Bankruptcy Code upon completing the terms and payments of the Plan of Reorganization. Upon the Debtor successfully completing the terms of a confirmed Chapter 11 Plan of Reorganization, the Debtor will have no further liability to any creditor of the Debtor, including the Internal Revenue Service, for any and all debts and liabilities included herein.

C. Executory Contracts.

All executory contracts of the Debtor not expressly rejected, in writing on or before the date of the hearing on Confirmation of the Plan shall be deemed assumed. The Debtor has agreed to cure its various lease defaults (if any) by adding them to the end of the lease and remaining current on its lease obligations in the future as they come due. Rejection is accomplished by filing a notice thereof with the Court, together with a proof of service of said notice of the Application to reject upon all parties affected thereby.

All parties to a rejected contract (other than creditors whose lease(s) were previously rejected by Motion and Court Order) shall have thirty (30) days from and after an Order approving rejection becomes a Final Order in which to file a Proof of Claim for damages, if any, resulting from such rejection. Failure to file such Proof of Claim within the period indicated will forever bar the party affected by the rejection from participating in any distribution under the Plan or recovering any payment of any claim on account of such rejection.

D. Default

Upon default by the Reorganized Debtor, creditors (other than the Internal Revenue Service) are required to provide written notice of such Default to the Reorganized Debtor and its counsel, William R. Davis, Jr. of Langley & Banack, Inc., by certified mail, return receipt requested, and by regular first class mail, and the Reorganized Debtor shall have thirty (30) days from the date of the notice to cure the default. Any defect in such default notice shall toll the running of the thirty (30) day cure period. Notice of default shall be given to the Reorganized Debtor and William R. Davis, Jr. If the Reorganized Debtor fails to cure within the thirty (30) day cure period provided herein, creditors shall be allowed to foreclose their liens/pursue collection activity allowed by applicable State law without further notice of hearing before the Court, and/or pursue available collection activities.

The United States (Internal Revenue Service) requests the following default language:

- (i) The debt owed by the Debtor to the Internal Revenue Service is a non-dischargeable debt, except as otherwise provided for in the Bankruptcy Code, and that if the Debtor should default, the Internal Revenue Service is not subject to the provisions of the Bankruptcy Code so that the Internal Revenue Service can take whatever actions are necessary to collect said debt in the event of default; the federal tax liens survive the plan confirmation, a bankruptcy discharge, and dismissal of the case. The liens continue to be enforceable against all of the Debtor's property under federal law.
- (ii) A failure by the Reorganized Debtor to make a payment to the Internal Revenue Service pursuant to the terms of the Plan shall be an event of default, and as to the Internal Revenue Service, there is an event of default if payment is not received by the fifteen (15<sup>th</sup>) day of each month. If there is a default, the Internal Revenue Service must send written demand for payment, and said payment must be received by the Internal Revenue Service within fifteen (15) days of the date of the demand letter. The Debtor can receive up to six (6) notices of default from the Internal Revenue Service; however, the seventh (7<sup>th</sup>) notice of default cannot be cured, and the Internal Revenue Service may accelerate its allowed claim(s), past or future, and declare the outstanding amount of such claim(s) to be immediately due and owing, and pursue any and all available state and federal rights and remedies. These default provisions pertain to the entire claim(s) of the Internal Revenue Service, secured, unsecured priority, unsecured general, administrative priority and post-confirmation accrued tax.

- (iii) The Internal Revenue Service is bound by the provisions of the confirmed Plan and is barred under Section 1141 of the Bankruptcy Code from taking any collection actions against the Reorganized Debtor for pre-petition claims during the duration of the Plan (provided there is no default as to the Internal Revenue Service). The period of limitations on collection remains suspended under 26 U.S.C. Sec. 6503(h) for tax periods being paid under the Plan and terminates on the earlier of (1) all required payments to the Internal Revenue Service have been made; or (2) thirty (30) days after the date of the demand letter (described above) for which the Debtor failed to cure the default.
- (iv) The Internal Revenue Service previously agreed to withhold collections of the trust fund recovery penalty assessment against the responsible officer of Legacy Home Health Agency, Inc., Ambrosio Hernandez, Jr., in the bankruptcy case of Legacy Home Health Agency, Inc. This agreement only encompasses the tax periods involved in the confirmed plan. The forbearance of collection efforts by the Internal Revenue Service does not preclude any action by the Internal Revenue Service to file liens or otherwise to perfect a security interest against the responsible officer as permitted under federal and state law. The period of limitations on collection will be suspended under 26 U.S.C. 603(h) for the trust fund periods and will terminate on the earlier of (1) all required payments to the Internal Revenue Service have been made under the Plan; or (2) thirty (30) days after the date of the demand letter (described above) for which the Debtor failed to cure the default.
- (v) During the term of the Plan, the Debtor is required to stay current on all ongoing tax reporting/tax payments with the Internal Revenue Service. If the Debtor defaults to the IRS (in the timely filing of any future tax returns and/or the payment of any corresponding income tax liability or any confirmed monthly plan payment) from the entry of an Order Confirming the Plan, the IRS may assert the balance of the ongoing tax plus any tax owing by the Debtor included as part of this confirmed Plan which remains unpaid. Once the Debtor completes the repayment terms to the IRS contained herein, the tax, penalties, and interest which are provided to be discharged herein, are discharged as provided in the Plan. Should the Debtor default in the payments provided in the Plan, and not timely cure such plan default or default in its post-petition reporting/payments, the IRS is entitled to pursue the collection of all tax, penalties and interest, less a credit for all payments received. If there is a default, the IRS must send written demand for the Debtor or Reorganized Debtor to remain current on its ongoing tax obligations. If the Debtor or Reorganized Debtor does not cure this default within fifteen (15) days of the date of the demand letter, the IRS may pursue collection activities immediately on all pre and post-confirmation tax, interest and penalty without further order of this Court.
- (vi) Internal Revenue Service remedies upon default: Upon any final and non-curable default by the Reorganized Debtor, the Internal Revenue Service may accelerate its allowed pre- and post-petition claims (and any future administrative claims), and declare the outstanding amounts of such claims to be immediately due and owing. The Internal Revenue Service may pursue any and all available state and federal rights and remedies as provided by law without future order of this Court.

(vii) Payments must be mailed to:

Internal Revenue Service  
ATTN: Keri Templeton  
300 East 8<sup>th</sup> Street, STOP 5026AUS  
Austin, T X 78701

(viii) Agreement with the Internal Revenue Service: The federal tax liens survive the Plan confirmation, a bankruptcy discharge, and dismissal of the case. The liens continue to be enforceable against the Reorganized Debtor's property to the extent, priority, and validity such liens were entitled to as of the Petition Date and under federal law. All liens will be timely released upon the completion of the payments to the Internal Revenue Service as set forth and required herein.

#### **XIV. CONCLUSION**

Debtor submits this Disclosure Statement and the information contained herein in good faith, in accordance with the provisions of 11 UCC Section 101, *et. seq.*, for consideration by creditors and other parties in interest, and as the sole source of information furnished by the Debtor, or to be furnished by the Debtor, in solicitation of acceptance of Debtor's Plan of Reorganization.

The Debtor recommends that the Plan of Reorganization be approved in light of the alternative of a non-orderly liquidation, which would provide a significant payment only to the Secured Creditors. An operating plan as proposed herein leads the Debtor to conclude that the Plan is in the best interest of all creditors and parties-in-interest; therefore, all Creditors and Interest Holders alike should vote to accept the Plan.


#### **ARTICLE XV.**

#### **ATTACHMENTS AND EXHIBITS**

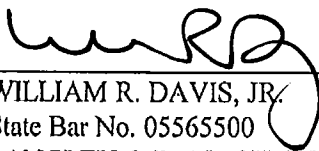
Exhibit "A"	Plan of Reorganization
Exhibit "B"	Debtor's Pro-Forma Projections
Exhibit "C"	Schedule of Personal Property
Exhibit "D"	List of Executory Contracts
Exhibit "E"	2015 Income Tax Return (Form 1120)
Exhibit "F"	Liquidation Analysis
Exhibit "G"	August, 2016 Monthly Operating Report
Exhibit "H"	List of Pre-Petition Litigation/Status



DATED: October 20, 2016

  
Ambrosio Hernandez, Jr.

OF COUNSEL:

BY:   
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