

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

In re)	
)	Chapter 11
)	
FEDERAL BUSINESS SYSTEM CORPORATION)	Case No. 17-12128-BFK
GOVERNMENT DIVISION)	
)	
Debtor)	
)	

DISCLOSURE STATEMENT OF FEDERAL BUSINESS SYSTEMS CORPORATION
GOVERNMENT DIVISION

Federal Business Systems Corporation Government Division (“FBS”) debtor, respectfully presents his Disclosure Statement. This Chapter 11 case was initiated by the filing of a Chapter 11 voluntary petition on June 21, 2017.

The Debtor has set this matter for a hearing on November 21, 2017 at 11:00 am in Courtroom II at the United States Bankruptcy Court for the Eastern District, Alexandria Division, 200 South Washington Street, Alexandria Virginia. A copy of the proposed Plan of Reorganization is set forth as Exhibit A.

I. GENERAL DISCLAIMER AND VOTING PROCEDURE

PLEASE READ THIS DOCUMENT, INCLUDING THE ATTACHED EXHIBITS, CAREFULLY. IT EXPLAINS WHO MAY OBJECT TO CONFIRMATION OF THE PLAN. IT EXPLAINS WHO IS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN. IT ALSO TELLS ALL CREDITORS AND ANY SHAREHOLDERS OR PARTNERS WHAT TREATMENT THEY CAN EXPECT TO RECEIVE UNDER THE PLAN, SHOULD THE PLAN BE CONFIRMED BY THE COURT.

THE SOURCES OF FINANCIAL DATA RELIED UPON IN FORMULATING THIS DOCUMENT ARE SET FORTH BELOW. ALL REPRESENTATIONS ARE TRUE TO THE PROPONENT'S BEST KNOWLEDGE.

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

II. **BACKGROUND**

Debtor filed its petition on the evening of June 21, 2017. [Doc. # 1] Debtor is a government IT contractor, which also owns three parcels of land in Fairfax and Loudoun counties. In the course of its business, Debtor relied on a line of credit from Fulton Bank. The line of credit was secured by a general lien on the assets of FBS.¹ Over a period of years, Fulton Bank would advance Debtor significant funds under a line of credit. Debtor would use the line of credit to fund its work under government contracts. The relationship began in 2012. For each year prior to 2017, Debtor was able to pay down the line of credit as it received contract payments during the government fiscal year.

In early 2017, Fulton froze the credit line. Subsequently it obtained a confessed judgment against Debtor in Fairfax Circuit Court in the amount of Two Million Seven Hundred Eighty-Six Thousand Three Hundred Forty-Nine and 80/100 Dollars (\$2,786,349.80) with interest on March 30, 2017. Following the entry of the confessed judgment, Fulton Bank filed a motion to place FBS in receivership. Believing that this motion would both destroy the value of the company and unfairly discriminate against unsecured creditors, FBS file for bankruptcy on June 21, 2017.

Debtor filed a motion to approve use of cash collateral on June 22, 2017. [Doc. # 5] In filing the motion, Debtor and Debtor's counsel relied largely on financial statements prepared by an accountant who worked closely with Fulton. The main funding for the cash collateral plan was to be a previously approved contract payment for work performed by the Debtor at Rock Island

¹ This lien was junior to a lien by Tech Data.

Armory² in the amount of \$89,322.87. The Defense Finance and Accounting Service (“DFAS”) had filed on its iRAPT system acceptance of the invoice. In the normal course, payment would be received electronically once the request was submitted. An interim order was approved based on these facts. [Doc. # 32] DFAS froze the payment for reasons which have still not been explained. The Court then issued a cash collateral order limiting the Debtor to spending funds from rental income for adequate protection, insurance, and post-petition real estate taxes. [Doc. # 51]

Debtor filed complete schedules and the statement of financial affairs between August 11, 2017 and August 13, 2017. Docs. ## 53-56] The continued meeting of creditors was held on August 26, 2017.

On August 16, 2017, Fulton Bank filed a motion to convert the case, asserting violation of the cash collateral order and inability to reorganize. [Doc. #59] The hearing on motion has been continued several times.

In August and September, the Debtor obtained a number of new post-petition contracts. As is shown in its Monthly Operating Reports for August [Doc # 73] and September [Doc # 88], the Debtor has shown a positive cash flow for each month. No further funds owed by DFAS have been frozen. The Debtor is current on all payments required under the cash collateral order.

To deal with the effects of the Fairfax County confessed judgment on the availability of Debtor’s real property to meet the claims of unsecured creditors, the Debtor filed an adversary proceeding against Fulton Bank for a declaration that the confessed judgment lien constituted a preference. *Federal Business Systems Corporation Government Division v. Fulton Bank, N.A.* Adv. Pro. 17-01075-BFK.. The parties have agreed that the confessed judgment is a preference. A

² The work was performed under Contract # - W52P1J15F0042, Shipment # - AAA4000Z Invoice # - 12192A.

final order setting aside the confessed judgment lien is expected shortly.

Much of the Debtor's loss of profitability prior to the filing was due to its reliance on "product contracts." These contracts required the Debtor to borrow money to finance purchases of product from vendors. While once a major source of revenue, these contracts are no longer attractive: vendors have raised their prices and government purchasers have lowered the amount they are willing to pay for such commodities. Even prior to the filing, Debtor had submitted plans to Fulton Bank describing a repurposing of the company as a service provider. Service contracts often have up-front payments by the government. Virtually the only costs are salary.

The Debtor has fully transitioned to service contracts and does not expect to undertake any significant product contracts. The Debtor has also transitioned from its expensive rental headquarters and now operates a virtual office.³

III. **PROPERTY OF THE ESTATE.**

A. Real Property

The Debtor owns three real properties:

1. 25055 Riding Plaza, Suite 120, Chantilly, VA 20152. This is a condominium suite in an office building. There is a lease with the Girl Scout Council of the National Capital who pays a monthly rent of \$7,913.43. The property is subject to a mortgage with United Bank of \$400,000.00 with a monthly payment of \$4,657.65. The Debtor is current on the mortgage. The property is assessed at \$1,090,000.

2. 6412 Holyoke Drive, Annandale, VA 22003. This is a single-family residence in Annandale. It is currently under rent for \$1,5000 a month. The property is assessed at \$526,120.00. Fulton Bank asserts a mortgage claim of \$666,848.35 against this property and Property #3 which

³ As a result of this, Debtor has no post-petition rent obligations.

is disputed. Prefiling real estate taxes of \$3,365.13 are owed. Post-filing taxes are current.

3. 4219 Pine Lane, Alexandria, VA 22312. This is a single-family residence in Alexandria. It is currently under rent for \$1,5000 a month. The property is assessed at \$524,64000. Fulton Bank asserts a mortgage claim of \$666,848.35 against this property and Property #2 which is disputed. Prefiling real estate taxes of \$3,355.67 are owed. Post-filing taxes are current.

While these properties are subject to the mortgage claims of United Bank and, to the extent allowed, Fulton Bank, they are not subject to the UCC-1 claims of Tech Data and Fulton Bank which only apply to personal property. The proceeds of any sale are similarly free from the UCC-1 claims.

B. Vehicles.

At the time of the filing, the Debtor owned four vehicles. Vehicle #1 has been abandoned.

Vehicle #1 is a Mercedes ML350 4MATIC 2013 with approximately 59,000 miles. The vehicle is jointly titled to the Debtor and Ann Rose Osamba. It is no longer used in the business of the Debtor. According to Proof of Claim #1, the amount owed is \$20,537.09 and there is a monthly payment of \$976.26. Kelly Blue book value for the car is approximately the amount currently owed. The Debtor abandoned the vehicle at the Meeting of Creditors.

Vehicle #2 is a 2013 Ford Escape 4D HD Hybrid. It has a Kelley Blue Book value of \$9,000.00 and is subject to a lien held by Ford Motor Credit. The amount due as of the date of filing of the petition according to Proof of Claim #11 was \$9,750.94.

Vehicle #3 is a 2017 Ford Escape. It has a Kelley Blue Book value of \$20,800.00 and is subject to a lien held by Ford Motor Credit. The amount due as of the date of the filing of the petition according to Proof of Claim #12 was \$23,750.08.

Vehicle #4 is a 2016 Ford F350. It has a Kelley Blue Book value of \$35,800.00 and is subject to a lien held by Ford Motor Credit. The amount due as of the filing of the petition according to Proof of Claim #13 was \$38,576.11.

With respect to the three vehicles subject to claims by Ford Motor Credit, Debtor asserts that it contacted the creditor and stated that it would not object to the filing of a petition for relief from stay.

C. Equipment.

As set forth in Item #41 of the Schedules, Debtor owns a number of old computers, printers and other items with a book value of \$632,825.00. In the schedules, debtor valued these properties at ten percent (10%) or \$63,283.50. Debtor doubts that this property would fetch that amount in any form of sale.

D. Pre-Filing Accounts Receivable

There are three pre-filing accounts on which the Debtor has not received payments: Rock Island Arsenal, 1219-2 \$89,322.87; Department of the Army, 1373, \$37,605.92; and VARO Baltimore, 1099, \$7,552.51. The total of these accounts is \$134,481.30. It is not clear whether and to what extent these accounts are collectible.

E. Post-Filing Accounts Receivable.

The Debtor is currently working on a number of post-filing contracts. The Debtor, following the procedure mandated before the bankruptcy by Fulton Bank, books these contracts at the total amount which will be paid. Thus, these amounts have yet to be earned:

U.S. Geological Survey	1277-2	15450.00
U.S. Geological Survey		15450.00

JBSA San Antonio	32132.37
Dept of Treasury	31911.49
Nuclear Regulatory Commission	38938.33
Navy Medical	10579.06
Department of Education	1900.00

146,361.25

F. Other Claims

The Debtor has a claim against either or both of Fulton Bank and Synnex Corporation arising from the improper payment of a Letter of Credit. Fulton Bank issued a Letter of Credit which was to be used to pay Synnex, a supplier of parts. Synnex made a claim against the Letter of Credit and Fulton Bank made a payment to Synnex.

Over the objections of the Debtor, Fulton Bank made a payment under the Letter of Credit of \$666,848.35 to Synnex on or about March 20, 2017. The Synnex claim included amounts allegedly owed due to an order of parts for a contract with Special Operations Command Pacific Support Operations in the amount of \$55,686.40. In fact, no such parts were ever delivered which resulted in a cancellation of the contract and attempts by Special Operations Command Pacific Support Operations to recover the funds (See Section IV, *infra*) and may have been the basis for the freezing of certain funds owed Debtor by the Defense Finance and Accounting Service.

IV. Creditors.

Following is a list of creditors based on Proofs of Claims and, where no proofs of claim were filed, the Schedules:

	Proofs of Claim		Secured	Disputed
#				
1	SunTrust	\$20,537.09	X	
2	American Express	\$737,427.54		
3	Texas Workforce Commission	\$929.42		
4	Optiv	\$67,626.84		
5	HPI	\$12,933.59		
6	CDW	\$167,716.60		
7	Capitol Power	\$145,159.77		
8	IBM	\$150,837.45		
9	Fulton Bank	\$3,538,582.54	X	X
10	Eaton	\$21,936.41		
11	Ford Motor Credit	\$9,750.94	X	
12	Ford Motor Credit	\$23,750.08	X	
13	Ford Motor Credit	\$38,576.11	X	
		\$4,935,764.38		
	Other Creditors			
	Tech Data	\$188,000.00	X	
	United Bank	\$400,000.00	X	
	9 to 5	\$32,033.00		
	Anixter	\$3,084.24		
	B&H	\$20,144.71		
	Carahsoft	\$15,373.67		
	COMSTOR/Westcon	\$163,785.99		
	Dell	\$31,961.20		
	Direct Systems	\$136,723.00		
	DTA - Fairfax	\$6,138.54		
	Emergent Systems	\$8,589.00		
	FEDBID	\$1,442.37		
	GSA	\$13,708.69		
	Lockaway Storage	\$5,365.00		
	Northland	\$5,833.00		
	Xerox	\$1,136.00		
		\$1,033,318.41		
	Total	\$5,969,082.79		

In addition to these claims, the Special Operations Command Pacific Support Operations (SOJ42) has asserted a claim – disputed by the Debtor – of \$55,686.40. In August, well after the filing and notice, SOCP filed a charge-back with the Debtor's then credit card processor, Sage Payment Systems. ("Sage") Sage twice attempted to debit the Debtor in Possession account.⁴

V. **CLASSIFICATION OF CLAIMS**

Class 1 – The Mortgage Claim of Fulton Bank.⁵

Class 2 – Real Estate tax claims of Fairfax County.

Class 3 – Mortgage Claim of United Bank.

Class 4 - Secured Claim of Tech Data.⁶

Class 5 – Secured Claim of Fulton Bank.

Class 6 – Secured Claim of SunTrust Bank.

Class 7 – Secured Claims of Ford Motor Credit.

Class 8 – Unsecured Claims, except Class 9.

Class 9 – Sage Payment Systems, SOCP.

Class 10 – Claim of Texas Workforce Commission.

VI. **FUNDING OF THE PLAN.**

The Plan will be funded as follows:

1. The Debtor will sell the three real properties.
2. The Debtor will either sell or turn in the vehicles.

⁴ It appears that Sage Payment Systems may be asserting that it purchased the Special Operations Command Pacific Support Operations. Sage was not originally listed as a creditor because it was not at the time of filing. SOCP was listed, through DFAS Sage is being treated as a creditor and provided notice of this Disclosure Statement.

⁵ This is a claim arising from a Letter of Credit in the amount of \$666,848.35.

⁶ This is a claim in the amount of \$2,710,502.96 arising from a Line of Credit.

3. The Debtor will market the equipment.
4. The Debtor will continue attempts to collect the pre-filing account receivables.
5. Officers of the Debtor and others (the “Purchasing Group”), who do not include Catherine Prosser, will pay \$25,000.00 for purchase of stock in the company.

As will be described in more detail below, funds from the sale of Suite 120, after payment of United Bank will be used to pay unsecured or undersecured creditors. Funds from the sale of the Fairfax Properties, after payment of any amount due to Fulton Bank and payment of Fairfax real estate taxes, will also be used to pay unsecured or undersecured creditors. Any funds received from sale of equipment, collection on pre-filing accounts receivable, and from the purchase of the stock in the company will go to pay the secured Class 4 and Class 5 claims of Tech Data and Fulton Bank.

During the period prior to the sale of the real properties, Debtor will continue to make mortgage payments to United Bank and adequate protection payments to Fulton Bank, as well as paying real estate taxes and insurance on the real properties.

The Distribution Date will be the date of the sale of the last three real properties, but in no event, later than six months after the date of the approval of the Plan.

VII. **TREATMENT OF CLAIMS**

A. **Unclassified Claims.**

Under section 1123 of the Bankruptcy Code, certain claims entitled to priority treatment are not to be classified along with all other Classes of Claims or Interests. Accordingly, set forth below is a discussion of the treatment of the Administrative Expense Claims and Priority Claims under the Plan. The treatment of these Claims will be made in

accordance with the procedures established by the Bankruptcy Code and the Bankruptcy Rules and is subject to approval of the Bankruptcy Court as being reasonable.

1. Administrative Expense Claims

An Administrative Expense Claim is a Claim for payment of an administrative expense of a kind specified in sections 503(b) and 507 (a)(2) of the Bankruptcy Code.

Allowed Administrative Expense Claims shall include only those Administrative Claims that constitute Allowed Administrative Claims against the Debtor. Except to the extent that the Holder of an Allowed Administrative Expense Claim agrees to a different treatment, the Debtor shall provide to each Holder of an Allowed Administrative Expense Claim (a) Cash in an amount equal to such Allowed Administrative Expense Claim on the latest of (i) the Distribution Date, (ii) the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim, and (iii) the date such Allowed Administrative Expense Claim is due in accordance with the terms and conditions of the particular transactions or governing documents or (b) such other treatment as the Debtor and such Holder shall have agreed upon in writing; provided, however, that Allowed Administrative Expense Claims (other than Administrative Expense Claims under section 330 of the Bankruptcy Code) representing obligations incurred in the ordinary course of business during the period from the Petition Date through the Distribution Date by the Debtor shall be paid in full by the Liquidating Trustee in the ordinary course of business in accordance with the terms and conditions of the particular transactions and any agreements relating thereto.

Administrative Claims are not classified and are treated as required by the Bankruptcy Code. The holders of such Claims will not be entitled to vote on the Plan

2. Priority Claims

The priority claim of Fairfax County will be paid in full on the sale of the Fairfax

Properties.⁷ The priority Claim of the Texas Workforce Commission will be paid no later than the Effective Date.

Priority claims are not classified and are treated as required by the Bankruptcy Code. The Holders of such Claims will not be entitled to vote on the Plan.

B. Class 1 - Mortgage Claim of Fulton Bank.

The mortgage claim of Fulton Bank, to the extent that it is allowed, will be paid from the proceeds of the sale of the Fairfax Properties after first allowing for payment of pre-petition real estate taxes and the costs of sale. Debtor intends to file an objection to all or part of the claim to the extent that it is derived from the payment under the Letter of Credit. This is not an impaired claim as debtor has been making adequate protection payments.

C. Class 2 - Real Estate tax claims of Fairfax County.

The real estate claims of Fairfax County will be paid from the sale of the Fairfax County Properties.

D. Class 3 - Mortgage Claim of United Bank.

The mortgage claim of United Bank will be paid from the sale of Suite 120. This is not an impaired claim as Debtor is current on the mortgage.

E. Class 4 - Secured Claim of Tech Data.

The secured claim of Tech Data, which is a claim pursuant to a UCC-1, will be paid from the proceeds of (1) sale of equipment, (2) collection of pre-filing accounts receivable, minus any cost of collection, and (3) the proceeds from the sale of the corporation stock. This is an impaired claim. To the extent that the claim is not paid in full from the sources listed above, the amounts not paid will be treated as undersecured.

⁷ The amount owed on each property will be paid at the time of the sale of that property.

F. Class 5 - Secured Claim of Fulton Bank.

The secured claim of Fulton Bank⁸ is junior to that of Tech Data. If funds remain from the satisfaction of the Tech Data secured claim, this claim will be paid from any remaining proceeds of (1) sale of equipment, (2) collection of pre-filing accounts receivable, minus any cost of collection, and (3) the proceeds from the sale of the corporation stock. This is an impaired claim. To the extent that the claim is not paid in full from the sources listed above, the amounts not paid will be treated as undersecured.

G. Class 6 - Secured Claim of SunTrust Bank.

This claim is secured by a 2013 Mercedes. The property was abandoned by the Debtor at the Meeting of Creditors. The property will either be sold, purchased by the co-owner, or turned back to the creditor. To the extent that this does not satisfy the debt any remaining amount will be unsecured and treated in Class 8. This is an impaired claim.

H. Class 7 - Secured Claims of Ford Motor Credit.

This claim is secured by three vehicles: 2013 Ford Escape 4D HD Hybrid, 2016 Ford F350 and 2017 Ford Escape. The property will either be sold, or turned back to the creditor. To the extent that this does not satisfy the debt any remaining amount will be unsecured and treated in Class 8. This is an impaired claim.

I. Class 8 - Unsecured Claims, except Class 9.

These claims will be paid *pro rata* from any funds from the sale of the Fairfax real estate properties after payment of mortgages, cost of sale, and real estate taxes. This is an impaired

⁸ This is separate from the mortgage claim asserted by Fulton Bank which arises from honoring a Letter of Credit. This claim is in the amount of \$2,710,502.96.

claim.

J. Class 9 - Sage Payment Systems, SOCP.

To the extent that this claim is allowed, it will be treated with the other unsecured and undersecured claims in Class 8. This is an impaired claim.

K. Class 10 - Claim of Texas Workforce Commission.

This claim will be paid in full.

VIII. **COMPARISON WITH LIQUIDATION**

No unsecured creditor would be better off under a Chapter 7 liquidation. If the case were converted to Chapter 7, there would be a delay occasioned by the need to hold a new Meeting of Creditors and to bring the trustee up top speed. The trustee would then have to undertake sale of the real properties. There would be trustee's fees as well payment of real estate taxes and insurance. The trustee would have to prosecute efforts at collecting on pre-filing accounts receivable. All work on existing contracts would cease, which would generate further, post-petition, claims against the bankruptcy estate. The trustee, who would probably not be an expert in either government contracts or IT, would have to dispose of property.

The Plan provides for the prompt and orderly disposition of property and payment of creditors.

IX. **EQUITY SECURITY INTEREST.**

The equity security interest of Catherine Prosser in the stock of the company will be cancelled. The Purchasing Group, on payment of the Purchase Fee, will succeed to ownership of the equity security interest. The company will be free and clear of all claims and interests against it, except to the extent that obligations are imposed by the Plan. Thus, the company will have the obligation to market and sell the real properties, sell the equipment, finalize the

disposition of the vehicles, and pay any administrative costs, including approved legal fees⁹ and US Trustee fees.

Given the current and projected business of the company, the equity security interest is unlikely to have any value to any entity other than the Purchasing Group.

Dated: October 18, 2017

Respectfully submitted,

/s/ David Charles Masselli

David Charles Masselli

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Counsel for Federal Business Systems Corporation
Government Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of October 2017, a copy of the foregoing Disclosure Statement and proposed Plan of Reorganization was mailed, by first class mail, postage prepaid to:

Jack I Frankel, Esq.
Office of the U.S. Trustee - Region 4
115 South Union Street, Room 210
Alexandria, VA 22314

And

Judy A. Robbins

⁹ As of the date of this filing, legal fees of approximately \$45,000 have been incurred. These have been reported in the Monthly Operating Reports filed by the Debtor. Such fees are, of course, subject to approval by the court before they can be paid.

Office of the U.S. Trustee - Region 4
115 South Union Street, Room 210
Alexandria, VA 22314-3361

And

Catherine Prosser
5209 Brier Creek Drive
Haymarket, VA 20169-6206

and

Fulton Bank, N.A.
c/o David S. Musgrave, Esq.
Gordon Feinblatt LLC|
233 East Redwood Street
|Baltimore, MD 21202-3332

and served by mail to all creditors and parties-in-interest who are set forth on the next page

/s/ David Charles Masselli

David Charles Masselli