

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

In re:

CAVALIER REAL ESTATE, LLC

Case No. 17-72997-FJS
Chapter 11

Debtor in Possession.

**DISCLOSURE STATEMENT
for Cavalier Real Estate, LLC**

OCTOBER 20, 2017

Karen M. Crowley, Esquire, VSB No. 35881
Crowley, Liberatore, Ryan & Brogan, P.C.
150 Boush Street, Suite 300
Norfolk, VA 23510
Telephone: (757) 333-4500
Facsimile: (757) 333-4501
Counsel for Cavalier Real Estate, LLC

DEFINITIONS

Any term in the Disclosure Statement (the “Disclosure Statement”) or the Plan of Reorganization (the “Plan”) that is defined in §§ 101, 102 or 1101 of the Title 11 of United State Code (the “Bankruptcy Code”) shall have the same meaning assigned therein. The Plan provides definitions for all other capitalized terms used in both the Plan and Disclosure Statement.

A. INTRODUCTION

Cavalier Real Estate, LLC, the debtor in possession (the “Debtor”) in this Chapter 11 Bankruptcy case, has prepared this Disclosure Statement to provide to all known creditors and parties in interest adequate information about the Debtor and its Plan of Reorganization, dated October 6, 2017 (the “Plan”), a copy of which accompanies this Disclosure Statement.

The Disclosure Statement includes information deemed by the Debtor to be material, impartial and necessary for its creditors to arrive at a reasonably informed decision in exercising their right to vote for acceptance or rejection of the Plan. The information provided is based on the records maintained by the Debtor, and no representation or warranty is made as to its complete accuracy.

Your rights may be affected. You should read the Plan and the Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one. Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan, if confirmed, that will establish your rights.

For the Plan to be confirmed, creditors having voting rights who hold at least two-thirds in amount and more than one-half in number of the claims in each class must vote in favor of the Plan. If a creditor does not vote (does not return a fully completed ballot within the specified time to the correct addressee), neither the creditor nor the amount of its claim are counted to determine acceptance or rejection of the Plan. If you are entitled to vote and do not, the ballots will be tallied as though you do not exist. The Court can confirm the Plan even if the requisite acceptances are not obtained, so long as the Plan complies with the Code and accords fair and equitable treatment to any non-accepting class.

Each creditor entitled to vote will be furnished a ballot on which to record its acceptance or rejection of the Plan. Each completed ballot must be returned to counsel for the Debtor, who will then tally the votes and report the results to the Court at the hearing on Confirmation of the Plan.

NO REPRESENTATIONS CONCERNING THE DEBTOR, PARTICULARLY AS TO ITS FUTURE INCOME, THE VALUE OF ITS PROPERTY OR THE AMOUNT TO BE DISTRIBUTED UNDER THE PLAN OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT IS AUTHORIZED BY THE DEBTOR. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE THAT IS OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION, AND ANY SUCH ADDITIONAL REPRESENTATIONS AND

INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTOR OR THE UNITED STATES TRUSTEE.

THE COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE A RECOMMENDATION BY THE COURT AS TO THE MERITS OF THE PLAN, BUT MERELY CONFIRMS THAT THIS STATEMENT IS ADEQUATE TO PROVIDE THE INFORMATION NECESSARY FOR YOU TO MAKE AN INFORMED JUDGMENT WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN.

THE INFORMATION CONTAINED IN THIS STATEMENT HAS NOT BEEN SUBJECT TO AUDIT. IT IS BASED ON RECORDS KEPT BY THE DEBTOR PRIOR TO FILING FOR BANKRUPTCY AND DURING THE PERIOD OF ADMINISTRATION. EVERY REASONABLE EFFORT HAS BEEN MADE TO PRESENT ACCURATE FIGURES. HOWEVER, A CERTIFIED AUDIT OF THE DEBTOR'S FINANCIAL RECORDS HAS NOT BEEN PERFORMED AND ALL CREDITORS PROCEED AT THEIR OWN RISK.

THIS DISCLOSURE STATEMENT PROVIDES INFORMATION ABOUT THE PLAN. ALTHOUGH THE DEBTOR BELIEVES THAT THE INFORMATION CONTAINED IN THIS STATEMENT IS ACCURATE, THE PROVISIONS OF THE PLAN CONTROL IF THERE IS ANY INCONSISTENCY BETWEEN THE PLAN AND THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.

The Debtor does not warrant that the financial data in this Disclosure Statement is error-free, but he has been careful to see that all financial information is fairly and accurately presented. To the best of its knowledge and belief, the Debtor believes the financial information in the Disclosure Statement is accurate.

If the Court does not confirm the Plan, the Debtor may amend the Plan or file a different plan. Only the Debtor has the absolute right to convert this Case to Chapter 7 pursuant to Bankruptcy Code § 1112.

B. BACKGROUND OF THE DEBTOR

Cavalier Real Estate, LLC is a limited liability company formed on November 3, 2005. It owns one parcel of real estate located at 3741 Holland Boulevard (the "3741 Parcel"). It acquired the 3741 Parcel from Cavalier, LLC (n/k/a Cavalier One, LLC) in 2005 and constructed the improvements in 2008.

David Messmore owns 100 % of the membership interests in Cavalier Real Estate, LLC and is its sole officer and director.

Cavalier, LLC, an affiliated entity, acquired the 3741 Parcel in 1995 along with an adjoining parcel with the address of 3745 Holland Boulevard (the "3745 Parcel"). The 3745 Parcel was sold, in 2011, to an unaffiliated third party for \$405,000.00. In 2008, the Debtor signed a loan and deed of trust with Wells Fargo Bank, N.A. (or its predecessor) for

\$461,019.87. The note was modified in 2011. The Loan matured on June 10, 2017. Except for three late payments which were caught up, all of the payments on the loan have been made to Wells Fargo. The Debtor attempted to refinance the Wells Fargo obligation but was not successful. The bankruptcy was filed in order to stop a foreclosure sale.

The 3741 Parcel is more thoroughly described in Section D.1.a of this Disclosure Statement. The improvement on the 3741 Parcel is a six-unit, mixed use light industrial building. Three of the six units were combined into a church property. The Debtor rents the 3-unit space (Units C, D, and E) to a church for \$3,600 per month. It also rents a 1-unit space to a vehicle repair business for \$1,100 per month. The other two spaces are currently vacant.

C. SUMMARY OF THE PLAN

Below is a brief summary of the Plan and should not be relied on for purposes of voting on the Plan. You are urged to read the entire Plan and to consult with counsel in order to fully understand your rights thereunder. To the extent there is a conflict between the Disclosure Statement and the Plan, the Plan controls. If confirmed, the Plan represents a legally binding agreement between the Debtor and each of their creditors, regardless of whether each creditor votes in favor of the Plan.

Class #	Party(ies)	Type and Amount of Claim	Summary of Plan Treatment
Admin.	Professionals	Estimated \$10,000	CLRB is counsel for the Debtor. An application for final Compensation shall be filed after approval of the Plan of Reorganization. Assuming a prompt confirmation process, CLRB estimates its total fees and costs in the Case will amount to approximately \$10,000. It is holding approximately \$4,300 as a retainer. All payments to CLRB are subject to prior approval by the Court.
1	Claim of the City of Chesapeake for unpaid real property taxes	Total pre- petition claim of \$6,926.01 and post-petition claim of \$1,431.00 per quarter	Any post-petition unpaid real property taxes will be paid in full on the Effective Date. Wells Fargo would not authorize the use of cash collateral to pay the \$1,431.00 in quarterly real estate taxes so these have not been paid but will be paid promptly upon court approval, consent of Wells Fargo, or confirmation of this Plan. The pre-petition unpaid real property taxes of \$6,926.01 will be paid with monthly payments of \$400 until they are paid in full, which the Debtor estimates will take approximate 18 months.
2	Wells Fargo Bank, N.A.	Secured \$385,000.00	The obligation owed to Wells Fargo will be amortized over 360 months, bear interest at prime, and be paid with monthly payments of approximately \$1,940.00 (assuming the total debt will be approximately \$390,000 on the Confirmation Date). The obligation to Wells

			<p>Fargo will be due in full on the 1st day of the 60th month following the Effective Date.</p> <p>The Debtor may convert the six units into commercial condominiums. To the extent that an individual condominium unit is sold during the five year plan repayment period, Wells Fargo will receive the net proceeds from such sale, but not less than \$100,000 per unit.</p>
3	Towne Bank	Secured - \$80,000	<p>David Messmore will pay this obligation in accordance with its terms. The Plan provides that Towne Bank will execute a reasonable subordination agreement in order to facilitate any refinancing of the Wells Fargo obligation within the five-year plan period. In addition, to the extent that the Real Property is subdivided post-confirmation, the Plan provides that Towne Bank will release its lien against any condo unit, so long as Wells Fargo receives no less than \$100,000 per unit.</p>
4	Unsecured Claims	Unsecured	<p>This class will be paid in full on the Effective Date unless the claimants total more than \$300. If the claims total more than \$400, they will share in \$100 per month until paid in full.</p>
5	David Messmore	Equity	<p>Mr. Messmore will continue to own 100% of the membership interest in the Debtor</p>

All creditors should refer to the Plan for information regarding the precise treatment of their claims. **Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. If you do not have an attorney, you may wish to consult one.**

D. FINANCIAL INFORMATION

1. ASSETS

a. Real Property

The Debtor owns the real property located at 3741 Holland Boulevard, Chesapeake, Virginia. The documents attached as Exhibit 3 provided detailed information with respect to the 3741 Parcel.

The Debtor believes that the 3741 Parcel has a value of between \$600,000 and \$800,000. This valuation is based upon the following factors:

- (1) The 3745 Parcel sold for \$405,000 in 2011. The 3745 is smaller than the 3741 Parcel (Square foot of 4,788 as compared to 6,600)(Acreage of .779 as compared to 1.345).
- (2) Undeveloped acreage adjacent to the 3741 Parcel is valued by the City of Chesapeake at \$130,875.00 per acre.

- (3) A larger parcel in the same industrial park sold for \$1,611,978 in 2016. This parcel was double the square footage with triple the acreage. The building is the same age and type.
- (4) The tax assessed value of the 3741 Parcel is \$541,800.00 for 2017.

b. Personal Property

On the Filing Date, other than nominal cash in its bank account and accounts receivable owed to it by former tenants, the Debtor owned no personal property. The Debtor’s assets have not changed substantially during the case although cash has accumulated some.

2. EXECUTORY CONTRACTS

The Debtor, on the Filing Date, was a party to two leases. The first lease is with Kingdom Covenant Ministry for the rental of a 3-unit space for a church operation which monthly rent payments of \$3,600.00. The written lease for this space has been provided to Wells Fargo.

The Debtor has an oral month-to-month lease with James Cuffee for a 1-unit space, which he operates as a vehicle repair business for \$1,100 per month. Mr. Cuffee pays his rent irregularly. The other two spaces in the 3741 Parcel are vacant. The Debtor will assume these leases as part of the Plan.

3. ADMINISTRATIVE CLAIMS

Cavalier	Administrative Claim
Office of the US Trustee	As Due
Crowley, Liberatore, Ryan & Brogan (estimated)	\$10,000.00

Crowley, Liberatore, Ryan & Brogan, P.C. (“CLR B”) –CLR B is counsel for the Cavalier. An application for final Compensation shall be filed after approval of the Plan of Reorganization. As of the filing of the Plan, CLR B estimates its total fees and costs in the Case will total approximately \$4,000. It is hold approximately \$4,300 as a retainer.

CLR B anticipates it will be owed \$6,000 through confirmation of the Plan. This claim will be repaid through the retainer currently held by CLR B in the amount of approximately \$4,300.00. In the event that the retainer is insufficient to fully pay its allowed claim, CLR B will work with the Debtor, at confirmation to establish a monthly payment consistent with its budget for the payment of the balance of the allowed claim. All payments to CLR B are subject to prior approval by the Court.

4. CLAIMS

The deadline for filing non-governmental proofs of claim is 12/26/17. So far, the City of Chesapeake and Wells Fargo Bank have filed claims in the case.

Class	Name of Creditor	Amount
1	City of Chesapeake – Pre-petition real estate taxes and stormwater fees	\$6,926.01
2	Wells Fargo Bank	\$385,000
3	Towne Bank (owed \$48,016 on the Petition Date)	\$0 owed by Debtor
4	Unsecured – City of Chesapeake	\$68.95

E. OTHER PERTINENT INFORMATION

The Debtor believes that the Plan of Reorganization is feasible. To support feasibility, attached as Exhibit 1 are historical financial records of the Debtor. In further support of feasibility, a spreadsheet of Cavalier’s estimated projected income and expenses is attached to this Disclosure Statement as Exhibit 2.

1. Unsecured Creditors Committee. An Unsecured Creditors Committee was not appointed in this case.
2. The Bar Date. The Bankruptcy Code provides that, unless otherwise set by the Court, the last date by which creditors are permitted to file proofs of claim or interest is 90 days after the first meeting of creditors held pursuant to § 341 of the Bankruptcy Code. Pursuant to Bankruptcy Rule 3003(c)(2), any creditor whose claim is not included in the Debtor’s schedules or is scheduled as disputed, contingent or unliquidated, and who fails to file a proof of claim on or before the date so established, will not be treated as a creditor with respect to that claim for purposes of voting on, or receiving a distribution under the Plan. In the Cavalier case, the deadline for governmental units is 2/20/2018 and the deadline for all other creditors is 12/26/2017.
3. Projected Recovery of Avoidable Transfers. The Debtor does not believe there are any avoidable transfers and does not intend to pursue preference, fraudulent conveyance, or other avoidance actions.

F. LIQUIDATION ANALYSIS

The Debtor is confident that the Plan, which accompanies this Disclosure Statement, satisfies the liquidation analysis required by 11 U.S.C. § 1129. Section 1129(a)(7)(A)(ii) of the Bankruptcy Code requires that holders of claims, who are Impaired under the Plan and do not vote for the Plan, must receive property under the Plan worth, as of the effective date, at least as

much as the amount they would receive were the Debtor liquidated in a Chapter 7 bankruptcy. The Debtor believes that the Chapter 7 Trustee might decline to administer the property for the property for the benefit of the creditors because there are no unsecured creditors. The Debtor believes that Towne Bank might not be satisfied in full from a foreclosure sale and that the Chapter 11 provides a better result for Towne Bank and the small unsecured claimant.

G. TAX CONSEQUENCES OF PLAN

ALL CREDITORS AND PARTIES IN INTEREST ARE URGED TO CONSULT WITH A TAX ADVISOR TO ASCERTAIN THE PLAN'S CONSEQUENCES UNDER APPLICABLE FEDERAL, STATE, LOCAL AND FOREIGN TAX LAWS PECULIAR TO EACH CREDITOR AND PARTY IN INTEREST.

H. CONFIRMATION PROCEDURES

1. **Confirmation Hearing.** The Bankruptcy Code requires the court, after notice, to hold a hearing to determine whether a plan of reorganization should be confirmed. A hearing on Confirmation of the Plan will be scheduled and notice will be circulated in accordance with the Bankruptcy Code and Rules. The hearing may be adjourned from time to time by the Court without further notice except for an announcement made at the hearing.
2. **Objections to Confirmation.** All objections to confirmation of the Plan will be heard at the Confirmation Hearing. Any objection to confirmation of the Plan must be made in writing, filed with the Court and served upon the following parties within seven (7) days before the hearing on confirmation.

Karen M. Crowley, Esquire
Crowley, Liberatore, Ryan & Brogan, PC
150 Boush Street, Suite 300
Norfolk, VA 23510
Counsel to the Cavalier Real Estate, LLC

Office of the United States Trustee
Federal Building, Room 625
200 Granby Street
Norfolk, VA 23510

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014.

UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY FILED AND SERVED, IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

3. **Requirements for Confirmation of Plan** – For the Plan:

- a. Statutory Requirements. At the Confirmation Hearing, the Court must determine whether the Plan meets the requirements for Confirmation set forth in § 1129(a) of the Bankruptcy Code.
- a. Acceptance of the Plan. The Bankruptcy Code defines acceptance of a plan by a class of claims as acceptance by holders of at least two thirds in dollar amount and a majority in number of claims in that class that actually cast ballots for acceptance or rejection of the plan. Only the classes of claims that are Impaired under a plan are entitled to accept or reject the plan. Acceptance by a class of equity interest holders is defined as acceptance by holders of interests with at least two-thirds in dollar amount, counting only those holders of interests whose holders cast ballots.
- b. Non-Acceptance and "Cram Down". Even if a class of Impaired claims or interests does not accept the Plan, the Debtor maintains the right to request that the Plan be confirmed pursuant to § 1129(b) of the Bankruptcy Code, otherwise known as the "Cram Down" provision. As long as one Impaired class votes in favor of the Plan, the Court may confirm the Plan if the Court determines that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to each rejecting class. A plan "does not discriminate unfairly" within the meaning of the Bankruptcy Code if no class receives more than it is legally entitled to receive for its claims and interests. "Fair and equitable" has different meanings with respect to the treatment of Secured and Unsecured claims as well as the treatment of Equity holders. In general, § 1129(b) establishes that the treatment of classes of claims and interests is fair and equitable so long as all junior classes are treated in accordance with the "absolute priority" rule, which requires that each dissenting class be paid in full before a junior class receives anything under the Plan.

I. VOTING PROCEDURES

1. Confirmation Through Voting. As stated above, the Court will confirm the Plan only if the requirements of § 1129 are satisfied. One of the requirements is that either:
 - a. each class of Impaired claims has voted to accept the Plan; or,
 - b. if at least one class of Impaired claims has voted to accept the Plan, the Plan does not discriminate unfairly as well as is fair and equitable to the non-accepting classes.
2. Ballots. Creditors entitled to vote will receive Ballots on which to record acceptance or rejection of the Plan. Entitled creditors must complete the Ballot and return it to counsel for the Debtor, who will tally the votes and report the results to the Court at the Plan Confirmation Hearing. Please complete the Ballot sent with this Disclosure Statement, sign the original, and return it to counsel for the Debtor.

3. Effect of Failure to Vote. If a creditor or holder of an interest does not return a fully completed Ballot within the specified time to the Debtor's attorney, neither the creditor nor the amount of its claim nor the amount of the interest holder is counted to determine acceptance or rejection of the Plan. If you are entitled to vote and do not, the Ballots will be tallied as though your claims do not exist.

J. CONCLUSION

The Debtor believes that the Plan is in the best interest of all creditors and urges holders of Impaired claims to vote to accept the Plan and to return its Ballots with all due speed.

DATE: October 20, 2017

Respectfully submitted,

By: /s/ Karen M. Crowley
Karen M. Crowley, Esquire VSB No. 35881
Crowley, Liberatore, Ryan & Brogan, P.C.
150 Boush Street, Suite 300
Norfolk, VA 23510
Telephone: (757) 333-4500
Facsimile: (757) 333-4501
COUNSEL FOR CAVALIER REAL ESTATE, LLC

Cavalier Real Estate, LLC

By: /s/ David S. Messmore
David Messmore, President

CERTIFICATE OF SERVICE

I certify that on October 20, 2017, a true and accurate copy of the foregoing Disclosure Statement shall be served electronically upon all parties who are registered to receive docket entries in this case from the Court via ECF.

/s/ Karen M. Crowley
Counsel for Cavalier Real Estate, LLC