

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

IN RE:

DENNIS RAY JOHNSON, II, et al.,¹

Debtors.

Bankruptcy No. 3:16-bk-30227

Jointly Administered
Chapter 11

**DISCLOSURE STATEMENT ACCOMPANYING CHAPTER 11 PLAN OF LIQUIDATION FOR
THE BANKRUPTCY ESTATE OF DENNIS RAY JOHNSON, II DATED NOVEMBER 16, 2018
FILED BY PEOPLES BANK AND THOMAS H. FLUHARTY, CHAPTER 11 TRUSTEE**

BERNSTEIN-BURKLEY, PC
Kirk B. Burkley, Esq.

707 Grant Street, Suite 2200
Pittsburgh, PA 15219

T: (412) 456-8100
F: (412) 456-8135

SUPPLE LAW OFFICE, PLLC
Joe M. Supple, Esq.

801 Viand Street
Point Pleasant, WV 25550
T: (304) 675-6249
F: (304) 675-4372

¹ The debtors in these chapter 11 cases, along with the original case number for each debtor, are: *Dennis Ray Johnson, II*, Case No. 16-30227; *Appalachian Mining and Reclamation, LLC*, Case No. 16-30400; *DJWV1, LLC*, Case No. 16-30249; *DJWV2, LLC*, Case No. 16-30062; *Elkview Reclamation and Processing, LLC*, Case No. 16-30250; *Green Coal, LLC*, Case No. 16-30399; *Joint Venture Development, LLC*, Case No. 16-30403; *Little Kentucky Elk, LLC*, 16-30251; *Moussie Processing, LLC*, Case No. 16-30248; *Producer's Coal, Inc.*, Case No. 16-30402; *Producer's Land, LLC*, Case No. 16-30401; *Redbud Dock, LLC*, Case No. 16-30398; *Sabbatical, Inc.*, Case No. 16-30247; *Southern Marine Services, LLC*, Case No. 16-30063; and *Southern Marine Terminal, LLC*, Case No. 16-30064.

TABLE OF CONTENTS

I. Introduction..... 1

II. Overview of the Plan..... 3

III. Claim Information 8

IV. Confirmation and Consummation of the Plan 11

V. Alternatives to Confirmation of the Plan 17

VI: Conclusion and Recommendation 17

EXHIBIT A – Chapter 11 Plan of Liquidation Dated November 16, 2018

EXHIBIT B – Real Estate Subject to Fraudulent Transfer Action

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

IN RE:

DENNIS RAY JOHNSON, II, et al.,

Debtors.

Bankruptcy No. 3:16-bk-30227

Jointly Administered
Chapter 11

**DISCLOSURE STATEMENT TO ACCOMPANY THE CHAPTER 11 PLAN OF LIQUIDATION
FOR THE BANKRUPTCY ESTATE OF DENNIS RAY JOHNSON, II DATED NOVEMBER 16,
2018, FILED BY PEOPLES BANK AND THOMAS H. FLUHARTY, CHAPTER 11 TRUSTEE**

PEOPLES BANK (“Peoples” or the “Bank”), an Ohio banking corporation formerly known as Peoples Bank, National Association and a secured creditor in the above captioned jointly administered chapter 11 cases, and Thomas H. Fluharty, Chapter 11 Trustee (the “Plan Proponents”) hereby file this Disclosure Statement to accompany its proposed *Chapter 11 Plan of Liquidation for the Bankruptcy Estate of Dennis Ray Johnson, II Dated November 16, 2018* (the “Plan”). Unless otherwise defined in this Disclosure Statement, capitalized terms used herein have the meanings ascribed to them in the Plan.

I. INTRODUCTION

Under the Plan, the Plan Proponents propose to liquidate all remaining assets of Debtor Dennis Ray Johnson, II for the benefit of the Creditors.

The debtors are related entities consisting of the following: Dennis Ray Johnson, II (“Johnson”), Appalachian Mining & Reclamation, LLC (“Appalachian”), Green Coal, LLC (“Green Coal”), Joint Venture Development (“JVD”), Redbud Dock, LLC (“Redbud”), Producer’s Land, LLC (“Producers Land”), Producer’s Coal, Inc. (“Producers Coal”), Sabbatical, Inc. (“Sabbatical”), Southern Marine Terminal, LLC (“SMT”), Southern Marine Services Limited Liability Company (“SMS”), DJWV1, LLC (“DJWV1”), DJWV2, LLC (“DJWV2”), Elkview Reclamation & Processing, LLC (“Elkview”), Moussie Processing, LLC (“Moussie”), and The Little Kentucky Elk, LLC (“LKE”) (collectively, Johnson, Appalachian, Green Coal, JVD, Redbud, Producers Land, Producers Coal, SMT, SMS, DJWV1, DJWV2, Elkview, Moussie, and LKE, the “Collective Debtors”), all administratively consolidated at case number 3:16-bk-30227.

The Collective Debtors were each part of a coal enterprise of related entities owned and operated by Johnson.

On May 9, 2016 (the “Petition Date”), Johnson filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, the “Bankruptcy Code”) at Case No. 16-30227 (the “Johnson Case”) in the United States Bankruptcy Court for the Southern District of West Virginia (the “Bankruptcy Court”). By order entered November 7, 2016, the Bankruptcy Court administratively consolidated the Johnson Case with the following cases: *Appalachian Mining and Reclamation, LLC*, Case No. 16-30400; *DJWV1, LLC*, Case No. 16-30249; *DJWV2, LLC*, Case No. 16-30062; *Elkview Reclamation and Processing, LLC*, Case No. 16-30250; *Green Coal, LLC*, Case No. 16-30399; *Joint Venture Development, LLC*, Case No. 16-30403; *Little Kentucky Elk, LLC*, 16-30251; *Moussie Processing, LLC*, Case No. 16-30248; *Producer’s Coal, Inc.*, Case No. 16-30402; *Producer’s Land, LLC*, Case No. 16-30401; *Redbud Dock, LLC*, Case No. 16-30398; *Sabbatical, Inc.*, Case No. 16-30247; *Southern Marine Services, LLC*, Case No. 16-30063; and *Southern Marine Terminal, LLC*, Case No. 16-30064.

The Plan will not become effective unless and until the Bankruptcy Court confirms the Plan in accordance with the Bankruptcy Code. Unless the Court orders otherwise, Confirmation of the Plan requires, among other things, acceptance of the Plan by one-half in number and two-thirds in dollar amount of the Creditors in each Class in the Plan. The Plan Proponents submit this Disclosure Statement to the holders of all claims against Debtors Johnson and Sabbatical in connection with its solicitation of the necessary acceptances of the Plan.

The Creditors are encouraged to vote for the Plan. Pursuant to the Plan, the Trustee and the Bank propose for an agreed upon Plan Administrator to liquidate all remaining assets of the Johnson and Sabbatical Debtors for the benefit of the creditors of the respective Debtors’ estates.

Under the Plan, the Chapter 11 Trustee and the Bank propose for an agreed upon Plan Administrator to liquidate all remaining assets of the Johnson Case for the benefit of creditors. Upon confirmation of the Plan, the Bank will contribute the Plan Funding sufficient to bring the cash balance to \$220,000.00 in the Johnson Case. Of the Plan Funding, the Seed Money (\$25,000.00), will be used to fund the Chapter 11 plan administration expenses.² The remaining \$200,000 shall be disbursed pro-rata after confirmation to pay Allowed Administrative Expense Claims in the Johnson Case. Any additional funds in the Johnson Case from any source whatsoever at or after the Confirmation Date will go first toward repaying the Bank’s Initial Contribution, but only up to the maximum of \$200,000.00 plus any Discretionary Contribution made by the Bank. Any funds recovered in the Johnson Case after the Bank has been repaid the maximum amount of the Bank’s Initial Contribution plus

² The Bank is also providing \$25,000.00 of Seed Money in the Sabbatical bankruptcy case.

any Discretionary Contribution, will go to pay remaining Allowed Administrative Expense Claims in the Johnson Case, then to pay the Bank's \$55,000.00 substantial contribution Administrative Expense Claim in the Johnson Case, then Allowed Priority Claims in the Johnson Case and then Allowed Unsecured Claims in the Johnson Case

The Plan Administrator will prosecute all Estates Litigation for the benefit of the creditors and any and all Causes of Action held by the Chapter 11 Trustee will be transferred to the Plan Administrator upon Plan Confirmation.

Your vote to accept the Plan is critical to confirmation of the Plan and expeditious distributions to the creditors. A ballot for acceptance or rejection of the Plan is enclosed with the Disclosure Statement sent to all creditors. PLEASE COMPLETE THE BALLOT PURSUANT TO THE ENCLOSED INSTRUCTIONS. Please note that not all recipients of the Disclosure Statement will receive a ballot. Some creditors and equity interest holders will not receive a ballot, as they are not entitled to vote to accept or reject the Plan.

II. OVERVIEW OF THE PLAN

The following is a brief overview of the Plan. The overview is qualified in its entirety by reference to the Plan, a copy of which is attached hereto as Exhibit A.

A. Summary of Classification of Claims

The categories of Claims listed below classify Claims for all purposes, including voting, confirmation, and Distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim shall be deemed to be classified in a particular Class only to the extent that such Claim qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that the remainder of such Claim qualifies within the description of such different Class. A Claim is in a particular Class only to the extent that such Claim is Allowed in that Class and has not been otherwise settled prior to the Effective Date.

The classification of Claims of the Johnson Case and Sabbatical Case pursuant to the Plan are as follows:

Class	Claim or Interest	Treatment	Estimated Claims
	Administrative Expense Claims	Paid in full on the Effective Date	

1	Secured Claims of Creditors	Paid or otherwise reimbursed during the pendency of the Bankruptcy Case; no distribution under the Plan anticipated	\$0.00
2	Priority Claims	Paid pro rata from Net Recoveries from Creditors' Trust until paid in full or all Assets liquidated	\$409,000
3	General Unsecured Claims	Receive a percentage (estimated 5%) of all Net Recoveries from Creditors' Trust until paid in full or all Assets Liquidated.	\$19,200,000
4	Equity Holders	Cancelled and shall receive no distribution	N/A

C. Creditors' Trust

All Assets of the Johnson Case will be transferred to a Creditors' Trust, the liquidation of such which will be for the benefit of all Creditors. The Plan shall be implemented and administered by the Plan Administrator and will be funded by the Bank or from the Assets of the Estates as described in the Plan.

The Bank will contribute funding to assure at least \$225,000.00 in the Post-Confirmation Operating Account for the Initial Distributions in the Johnson Case. The Bank shall have no obligation to provide any or further Plan Funding but may choose to provide additional Discretionary Contributions.

The Creditors' Trust will employ counsel ("Trust Counsel") to pursue all Causes of Action, including but not limited to any adversary proceedings, actions under chapter 5 of the Bankruptcy Code, and any other Cause of Action the Plan Administrator deems appropriate to pursue in the Johnson Case. Additionally, any and all Causes of Action held by the Chapter 11 Trustee will be transferred to the Creditors' Trust upon Confirmation. The Creditors' Trust will compensate Trust Counsel pursuant to a reasonable fee arrangement agreed to by the Plan Administrator and Trust Counsel.

D. Distributions

In the Johnson Case, from the proceeds of the Recovery Actions and liquidation of the Trust Assets, the Bank, as Plan Funder, shall receive reimbursement for all Plan Funding and Discretionary Contributions, and then share the remaining Net Recoveries as follows:

- First to remaining Allowed Administrative Expense Claims,
- Second to the Bank's Allowed substantial contribution Administrative Expense Claim in the amount of \$55,000.00,
- Third to Claims of Class 1 and 2 Creditors, if any,
- Fourth to Claims of Class 3 Creditors.

Distributions shall be made from time to time as receipt of Net Recoveries allow. All distributions of Net Recoveries shall be made by the Plan Administrator within a reasonable time after receipt, provided that the corresponding distributions are not de minimis. The Creditors' Trust shall hold all Net Recoveries until such time as a meaningful distribution can be made. The Initial Distribution to Allowed Administrative Expense Claims shall be made on the Effective Date, with periodic subsequent distributions made thereafter.

E. Chapter 11 Trustee

Upon the Effective Date of the Plan, the Chapter 11 Trustee shall be discharged from his duties as Chapter 11 Trustee of the Johnson and Sabbatical Estates. The Chapter 11 Trustee shall cooperate and turn over all document and records to the Plan Administrator, not otherwise privileged and file any reports as required by the Court's Local Rules, including but not limited to SDLR 3022-1.

F. Plan Administrator

The Plan shall be implemented and administered by the Plan Administrator of the Creditors' Trust, as applicable, and funded by the Bank or from the Assets of the Johnson Estate, as described herein. The Plan Administrator shall be a person selected by the Bank and the Chapter 11 Trustee. The Plan Administrator shall be deemed the representative of the Johnson Estate in accordance with section 1123 of the Bankruptcy Code and shall have all powers, authority, and responsibilities specified in the Plan, including, without limitation, the powers of a trustee under sections 704 and 1106 of the Bankruptcy Code and all of the Johnson Estate's Assets shall vest with the Creditors' Trust for purposes of carrying out the provisions of this Plan. The Plan Administrator shall be the Trustee of the Creditors' Trust.

G. Class 3 Advisory Committee

The Plan Administrator shall offer the holders of the five (5) largest Allowed Class 3 Claims in each Case who vote in favor of the Plan the opportunity to participate on the Class 3 Advisory Committee. If fewer than five (5) holders of Allowed Class 3 Claims in each Case vote, the Plan Administrator shall offer the opportunity to participate on the Class 3 Advisory Committee to all holders of Allowed Class 3 Claims that vote in that specific Case. The

Committee may advise the Plan Administrator to file and prosecute any appropriate objections to Class 3 Claims. The Plan Administrator shall not file any objections to Class 3 Claims unless advised by a decision of a majority of the members of the Class 3 Advisory Committee. The members of the Class 3 Advisory Committee shall receive no compensation or reimbursement of expenses for their work on the Class 3 Advisory Committee. If no holders of Allowed Class 3 Claims vote in favor of the Plan or elect to participate on the Class 3 Advisory Committee, then the Plan Administrator shall have the sole authority and final decision to file and prosecute any objections to Class 3 Claims.

H. Causes of Action

1. Generally.

The Creditors' Trust will employ counsel ("Trust Counsel") to pursue all Causes of Action, including but not limited to all adversary proceedings, actions under chapter 5 of the Bankruptcy Code, and any other Cause of Action the Plan Administrator deems appropriate to pursue. The Creditors' Trust will compensate Trust Counsel pursuant to a reasonable fee arrangement agreed to by the Plan Administrator and Trust Counsel. The Bank may make one or more Discretionary Contributions to enable the Plan Administrator to compensate Trust Counsel or for related expenses. Unless otherwise agreed by the Bank in writing, any such Discretionary Contribution shall be repaid by the Plan Administrator prior to making any further Distributions or payments from any funds recovered in either case. "Causes of Action" means any and all actions, causes of action, liabilities, obligations, rights, suits, debts, sums of money, damages, judgments, claims, remedies (including without limitation any remedy based on theories of equitable subordination or similar equitable relief) and demands whatsoever, whether known or unknown, existing or hereafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Bankruptcy Cases, belonging to the Sabbatical and Johnson Debtors and their Estates, including through the Effective Date.

The Plan Administrator shall retain the exclusive right to enforce any and all Recovery Actions and/or Estate Litigation against any person or entity. The Plan Administrator may pursue, abandon, or release any or all Recovery Actions as it deems appropriate, without the need to obtain approval or any or other further relief from the Bankruptcy Court. The Plan Administrator, in its sole discretion, may offset any such claim held against a person or entity, against any payment due such person or entity under the Plan. The Plan Administrator preserves and reserves all rights herein to any and all causes of action it may pursue, including, but not limited to the following: (a) any and all claims against professionals arising in and from and related to the Bankruptcy Cases, (b) any and all actions arising under Chapter 5 of the Bankruptcy Code, including that certain fraudulent transfer action against

the Denise Johnson Trust as otherwise set forth herein, and (c) any and all pending litigation the Trustee has filed as of the Effective Date of this Plan. With respect to the foregoing, all actions currently pending initiated by the Trustee as of the Effective Date of the Plan are transferred and assigned to the Plan Administrator upon Confirmation.

2. Known Causes of Action

- a. The Plan Proponents are aware of the following known potential Causes of Action: Turnover and/or fraudulent conveyance or avoidable transfer claims against Denise Johnson;
- b. Turnover and/or fraudulent conveyance or avoidable transfer claims against trusts established by Johnson for his children and spouse. See Exhibit B
- c. Claims against entities or individuals still in possession of estate assets or liability for improperly disposing of estate assets;
- d. Litigation involving unresolved insurance claims;
- e. Avoidance actions against creditors receiving preferences or fraudulent transfers prior to the filing of the bankruptcy cases.

The Plan Proponents estimate that that the Debtor, Dennis Johnson, transferred \$12 million of real estate to family trusts prior to his bankruptcy filing. The Trustee has filed an adversary proceeding to avoid the transfer. The Plan Proponents estimate net equity in the transferred properties totaling at least \$1.5 million.

3. Reservation of Rights Related to Causes of Action

The above described Causes of Action are not the only potential Causes of Action, and the Plan Proponents, and the Plan Administrator explicitly reserve all rights to pursue all Causes of Action, whether known or unknown, existing or hereafter arising, against any party for the benefit of the Johnson Case and Sabbatical Case and their respective Estates, the Creditors' Trust, and the holders of Allowed Claims.

4. Other Assets of the Estates.

The Trustee holds approximately \$40,000 from the sale of real estate located in Wyoming County. The Trustee also expects to recover \$37,000 from the Moussie Processing bankruptcy case. The Trustee is also investigating other possible sources of funds.

III. CLAIM INFORMATION

A. Class 1: Secured Claims

Class 1 shall consist of Allowed Secured Claims in the Johnson Case. All holders of Class 1 Secured Claims have either (i) received their collateral or payment for their claim through the course of the Bankruptcy Case, or (ii) will receive possession of their collateral upon the Effective Date to dispose of in accordance with applicable non-bankruptcy law. To the extent that any holder of a Class 1 Secured Claim seeks a deficiency claim, all deficiency claims will be considered Class 3 General Unsecured Claims and treated accordingly.

The Johnson Case has the following filed Class 1 Claims:

Claimant	Debtor	Claim Number	Amount	Treatment
Ally Financial	Johnson	45-1	\$ 15,735.35	All holders of Class 1 Secured Claims have either (i) received their collateral or payment for their claim through the course of the Bankruptcy Case, or (ii) will receive possession of their collateral upon the Effective Date to dispose of in accordance with applicable non-bankruptcy law. To the extent that any holder of a Class 1 Secured Claim seeks a deficiency claim, all deficiency claims will be considered Class 3 General Unsecured Claims and treated accordingly.
			\$	
Chase Bank	Johnson	Schedule	\$ 181,386.64	
	Johnson	Schedule	\$ 697,977.02	
	Johnson	Schedule	\$ 47,865.14	
Chase Records Center	Johnson	33-1	\$ 47,197.81	
			\$	
			\$	
		L		
First Sentry Bank	Johnson	27-1	\$ 140,005.97	
		23-1	\$ 38,511.57	
		19-1	\$ 121,784.63	
		18-2	\$ 25,403.36	
First Surety Corp.	Johnson	44-1	\$ 114,896.00	
JPMorgan Chase Bank, NA	Johnson	43-1	\$ 680,914.79	

Toyota Motor Corp.	Johnson	3-1	\$ 28,092.10
United Bank	Johnson	Schedule	\$ 72,234.00

Class 1 is Impaired, and each holder of a Class 1 Claim is entitled to vote to accept or reject the Plan.

B. Class 2: Priority Claims

Class 2 shall consist of all Allowed Priority Claims. Class 2 Claims shall receive in full satisfaction of and in exchange for such Claims, their pro rata share of distributions from the Asset liquidation and litigation conducted by the Creditors' Trust, as described more fully in Article VIII of the Plan. Class 2 is Impaired, and each holder of a Class 2 Claim is entitled to vote to accept or reject the Plan.

Claimant	Debtor	Claim No.	Amount	Treatment
Dept of Treasury - IRS	Johnson	1-2	\$ 408,433.76	Allowed Class 2 Claims shall receive in full satisfaction of and in exchange for such Claims, their pro rata share of distributions from the proceeds of liquidation and litigation conducted by the Creditors' Trust. These claims are disputed and the Plan Proponents reserve all rights to object to the claim

C. Class 3: General Unsecured Claims

Class 3 shall consist of Allowed Unsecured Claims in the Johnson Case and Sabbatical Case. Class 3 claims shall be paid pro rata from the Creditors' Trust. Class 3 is Impaired, and each holder of a Class 3 Claim is entitled to vote to accept or reject the Plan.

Claimant	Debtor	Claim No.	Amount
Caterpillar Financial Services Corp.	Johnson	32-1	\$ 857,368.91
City National Bank	Johnson	2-1	\$ 2,856,098.11
Community Trust Bank	Johnson	37-1	\$ 64,039.20
		36-1	\$ 88,915.03
		35-1	\$ 86,026.14
		34-1	\$ 2,114,160.75
Dennis R. Johnson, Sr.	Johnson	46-1	Unknown
Dept of Treasury - IRS	Johnson	1-2	\$ 408,433.76
First Sentry Bank	Johnson	26-1	\$ 2,649.21
		25-1	\$ 666,460.84
		24-1	\$ 470,818.52
		22-1	\$ 1,449,615.31
		21-1	\$ 129,282.35
		20-1	\$ 132,253.98
		18-2	\$ 76,622.53
		17-1	\$ 203,947.36
		16-1	\$ 270,680.31
		15-1	\$ 149,259.86
		14-1	\$ 278,268.88
		13-1	\$ 413,222.10
		12-1	\$ 120,429.45
		11-1	\$ 122,158.75
		10-1	\$ 336,908.45
		9-1	\$ 288,275.37
8-1	\$ 106,579.10		
7-1	\$ 138,642.18		
6-1	\$ 62,587.13		
First Surety Corporation	Johnson	43-1	\$ 556,394.00
James River Coal Sales, Inc.	Johnson	41-1	\$ 1,937,733.00
			\$
JPMorgan Chase Bank, N.A.	Johnson	42-1	\$ 3,282,871.30
MVB Bank, Inc.	Johnson	40-1	\$ 603,643.30
		39-1	\$ 124,808.34
		38-1	\$ 929,656.18

Ohio Valley Bank	Johnson	4-1	\$ 636,342.30
Peoples's Bank	Johnson		\$12,000,000.00

2. Potential Objections

The Plan Proponents recommend that the Plan Administrator object to claims that may fall in to the following categories, including but not limited to, late-filed claims, claims filed with a lack of supporting evidence, redundant claims, and duplicative claims. The Plan Administrator reserves all rights to object to any claim for any reason under the Bankruptcy Code or other applicable law.

F. Class 4: Equity Holders

On the Effective Date, all Equity Interests of the Johnson and Sabbatical Debtors shall be canceled, annulled and voided, and holders thereof shall be entitled to no distribution whatsoever under this Plan or in the Bankruptcy Cases on account of such Equity Interests. Class 4 is Not Impaired, and each holder of a Class 4 Claim is not entitled to vote to accept or reject the Plan.

There are no known Equity Interest in the individual Debtor in the Johnson case. The only known equity holder in Sabbatical, is the Denise Johnson Irrevocable Trust, which such interest is disputed.

IV. CONFIRMATION AND CONSUMMATION OF THE PLAN

A. Balloting and Confirmation

Section 1129 of the Bankruptcy Code specifies the requirements to confirm a chapter 11 plan. Pursuant to section 1129 of the Bankruptcy Code, at least one impaired class of claims must vote to accept the Plan. Classes 1, 2, 3, and 4 are all impaired and are entitled to vote to accept or reject the Plan.

Each holder of a claim in an impaired class will receive a Ballot and is entitled to cast a vote to accept or reject the Plan. Ballots must be received by the law offices of Bernstein-Burkley, PC on or before 5:00 pm on _____, 2019 (the "Ballot Deadline").

The Bankruptcy Code allows creditors and other parties in interest to object to the confirmation of the Plan. Any objection must be made in writing and specify in detail the grounds for the objection. Any such objection must be filed with the Court and served on the Plan Proponents, all Debtors, the Chapter 11 Trustee, and the Office of the United States Trustee on or before 5:00 pm on _____, 2019.

A hearing on the confirmation of the Plan is scheduled for _____, 2018, at _____ .m. before the Honorable Frank W. Volk, Chief Judge of the United States Bankruptcy Court for the Southern District of West Virginia, at the Robert C. Byrd United States Courthouse, 6th Floor, Bankruptcy Courtroom A, 300 Virginia Street East, Charleston, West Virginia 25301.

B. Consummation and Implementation of the Plan

A Plan Administrator shall implement the Plan and administer the Creditors' Trust. The Plan Administrator shall liquidate the assets of the Johnson Estate and the Sabbatical Estate for the benefit of all holders of Allowed Claims and make periodic Distributions.

In lieu of any commission or fees which may be fixed by applicable law for trustees or fiduciaries (and which are hereby waived by the Plan Administrator), the Plan Administrator and his agents, accountants, professionals and any other persons retained by him shall be compensated from the Assets of the Estates, based on his standard hourly rate then in effect (and the standard hourly rates of others in his office then in effect, as applicable), plus reimbursement of reasonable and necessary expenses shall also be compensated. The Plan Administrator shall be entitled to reimbursement from the Assets of the Estates of all out-of-pocket expenses, and costs and expenses of distributions. The Plan Administrator shall exercise its own business judgment to assure that the duties of the Plan Administrator are performed on the most economical basis to the Estates. Such reimbursement shall be paid from the Assets of the Estates as of each month end consummated during the reporting period.

The Plan Administrator will have those responsibilities created by this Plan upon the terms and conditions summarized herein and will, for the benefit of the Claimants, exercise the rights and powers vested in it by this Plan in the same manner, and use the same degree of care and skill in their exercise, as a prudent person would exercise and use under the circumstances in the conduct of its own affairs, notwithstanding Section 345, and further agrees to receive and disburse all of the Assets in accordance with the terms hereof.

- (a) The Plan Administrator is empowered, in his sole discretion, to:

- i. perform all of the obligations and agreements of the Plan provided for herein;
- ii. control the liquidation and/or disposition of all Assets (including records) after confirmation of the Plan and reduce such assets to Cash or to abandon any such Assets, in the exercise of its reasonable discretion. The Plan Administrator shall have sole discretion as to the disposition of any Assets and may do so without obtaining Bankruptcy Court approval, except where Bankruptcy Court approval is required under a specific provision of this Plan. The Plan Administrator shall cause the distribution of the Assets of the Estates in accordance with the terms of this Plan;
- iii. keep and maintain bank accounts in the name of the Estates into which the Plan Administrator shall deposit all proceeds resulting from the initial receipt or from the sale or other disposition of, or from the income resulting from, all or any part of the Assets of the Estate, without the restrictions of section 345(b) of the Bankruptcy Code. The Plan Administrator shall not permit any person other than a designated representative of the Plan Administrator to have authority to make withdrawals from, or to issue drafts against, any accounts maintained with any bank, unless such bank has been furnished a copy of this Plan. The Plan Administrator may consolidate the Creditor Trust recoveries for each Estate in one or more bank accounts, keeping accurate records of the entitlement of each estate to its recoveries and charging each such fund with its share of expenses related thereto;
- iv. commence or continue Recovery Actions, Estates Litigation and any and all other Causes of Action transferred by the Trustee upon Confirmation for the purpose of liquidating the Assets of the Estates or maximizing the value of the Estate;
- v. terminate or provide for the termination of all employee benefit plans of the Debtor, if any;
- vi. possess the exclusive right to object to any Claims, as directed by the Class 3 Creditors Advisory Board, and to compromise or settle any Claims prior to objection without supervision or approval of the Court, free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules of the Court, and the guidelines and requirements of the United States Trustee, other than those restrictions expressly imposed by the Plan or the Confirmation Order; and/or to seek Bankruptcy Court approval, on a periodic basis, for any Claims settlements made;

- vii. market, negotiate and enter into and perform agreements for the sale or other disposition of the Assets as may be required by the Plan or the United States Bankruptcy Court; as may be required by the Plan;
- viii. seek a determination of tax liability under section 505 of the Bankruptcy Code and to pay taxes, if any, related to the Debtors, Estates or the sale of the Assets of the Debtors or Estates;
- ix. collect, receive, and give receipt for all sums of money or other property due to the Debtors or Estates and, if necessary, foreclose upon any security agreement or the like securing any liability or obligation owed to the Debtors or the Estates or liquidate any securities held by the Plan Administrator as a pledge and/or take any other actions necessary to the collection, receipt or disposition of any Assets of the Estate;
- x. compromise or settle disputes with respect to debt obligations owed to the Debtors or the Estates;
- xi. execute and deliver all releases, satisfactions and termination statements as may be required in connection with full payment of any debt obligation secured by any lien or security interest;
- xii. enter into financing agreements to the extent necessary to supplement the cash flow of the Estates so as to allow the Plan Administrator to maximize the liquidation value of the Assets, maximize the amounts collected pursuant to Recovery Actions and minimize amounts paid to settle liabilities, including but not limited to disputes;
- xiii. engage and compensate professionals, including attorneys, accountants, investment advisors and others, to assist the Plan Administrator in carrying out its duties hereunder which professionals include, without limitation, those retained to assist the Plan Administrator in any litigation related to the liquidation of the Assets as well as the Estates Litigation or the settlement of the Liabilities. All professionals employed by the Plan Administrator shall be compensated by the Estate;
- xiv. file or cause to be filed all required tax returns for the Estates and pay any and all taxes, if any, when due from the Assets of the Estate; and
- xv. in its sole discretion, settle, compromise, litigate to a final judgment, or abandon any Cause of Action, Disputed Claim, or Claim Objection, including but not limited to adversary proceedings brought under Chapter 5 of the Bankruptcy Code. The Plan Administrator must

provide the Bank 15 days prior notice of any settlement or compromise that results in the settlement or compromise of a claim (held either by the Estate or a Creditor) with a face amount greater than one hundred thousand (\$100,000) dollars. In the event that the Bank opposes any such settlement or compromise, the Plan Administrator shall file a motion pursuant to Rule 9019 of the Bankruptcy Rules to consummate settlement of any Causes of Action. The Plan Administrator shall provide the Bank 15 days prior notice to engage counsel other than on a contingency fee basis. If the Bank objects, then the Plan Administrator shall file an appropriate application with the Court to engage such counsel.

C. Release of the Bank and Trustee Indemnification

Article XIV of the Plan includes several Exculpation, Release, and Injunction Clauses, including the following:

IN CONNECTION WITH THE EXCULPATION PROVISION IN SECTION 13.1 OF THE PLAN, AND IN CONSIDERATION FOR ITS SUBSTANTIAL CONTRIBUTION TO THE CASE, ITS CLAIM WAIVERS AND REDUCTIONS, AND ITS FUNDING OF THE PLAN THE JOHNSON AND SABBATICAL DEBTORS, THEIR ESTATES, THE CHAPTER 11 TRUSTEE, THE PLAN ADMINISTRATOR, THE CREDITORS' TRUST, AND HOLDERS OF CLAIMS, FOR THEMSELVES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, EMPLOYEES, AFFILIATES, PRINCIPALS, PARENTS, SUBSIDIARIES, ASSIGNEES, PREDECESSORS, SUCCESSORS AND ASSIGNS (THE "RELEASING PARTIES"):

(A) UNCONDITIONALLY AND WITHOUT RESERVATION, RELEASE PEOPLES BANK, N.A. AND PEOPLES INSURANCE AGENCY, LLC ("RELEASED PARTIES") AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, EMPLOYEES, PARENTS, SUBSIDIARIES, AFFILIATES, PRINCIPALS, SUBCONTRACTORS, ASSIGNEES, PREDECESSORS, SUCCESSORS AND ASSIGNS, INSURERS, ATTORNEYS, AND LEGAL REPRESENTATIVES OF EACH OF THE FOREGOING, FROM ANY AND ALL MANNER OF CLAIMS, INCLUDING, WITHOUT LIMITATION, ACTIONS, CAUSES OF ACTION, RIGHTS, JUDGMENTS, DEBTS, SET-OFFS, CONTRACTS, PROMISES, REPRESENTATIONS, ALLEGATIONS, DEMANDS, OBLIGATIONS, DUTIES, SUITS, EXPENSES, ASSESSMENTS, PENALTIES, CHARGES, INJURIES, LOSSES, COSTS, DAMAGES AND LIABILITIES OF EVERY KIND, CHARACTER AND MANNER WHATSOEVER, IN LAW OR IN EQUITY, CIVIL OR CRIMINAL, ADMINISTRATIVE OR JUDICIAL, CONTRACT, TORT (INCLUDING NEGLIGENCE OF ALL KINDS AND RICO CLAIMS), FOR INDEMNIFICATION, CONTRIBUTION OR OTHERWISE, WHICH THEY EVER HAD, HAVE OR MAY HAVE, WHETHER OR NOT KNOWN OR UNKNOWN, CLAIMED OR UNCLAIMED, ASSERTED OR UNASSERTED,

SUSPECTED OR UNSUSPECTED, DISCOVERED OR UNDISCOVERED, ACCRUED OR UNACCRUED, ANTICIPATED OR UNANTICIPATED, CONTINGENT OR FIXED, FOR, UPON, OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER ARISING OUT OF ANY RELATIONSHIP OR TRANSACTIONS BETWEEN OR AMONG THE RELEASED PARTIES AND THE RELEASING PARTIES, WHETHER RELATED TO THE JOHNSON AND SABBATICAL CASES OR OTHERWISE, AND IN ANY JURISDICTION OR COURT OF LAW; AND

(B) IRREVOCABLY COVENANT TO REFRAIN FROM, DIRECTLY OR INDIRECTLY, MAKING ANY CLAIM OR DEMAND, CAUSING TO BE COMMENCED OR MAINTAINED, ANY SUIT, ACTION, PROCEEDING OF ANY KIND OR CHARACTER, OR RAISING ANY DEFENSE IN ANY RECOVERY ACTION, WHATSOEVER AGAINST THE RELEASED PARTIES ARISING OUT OF OR IN ANY WAY RELATED, DIRECTLY OR INDIRECTLY, TO ANY RELATIONSHIP, BUSINESS, FINANCIAL, OR OTHERWISE, BETWEEN THE RELEASING PARTIES AND THE RELEASED PARTIES.

IN CONNECTION WITH THE EXCULPATION PROVISION IN SECTION 14.1, ABOVE, THE BANK, THE DEBTORS, THE ESTATES, AND THE CREDITORS' TRUST FOR THEMSELVES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, EMPLOYEES, AFFILIATES, PRINCIPALS, PARENTS, SUBSIDIARIES, ASSIGNEES, PREDECESSORS, SUCCESSORS AND ASSIGNS (THE "RELEASING PARTIES"):

UNCONDITIONALLY AND WITHOUT RESERVATION RELEASE THE TRUSTEE AND TRUSTEE COUNSEL, SUPPLE LAW OFFICE, PLLC FROM ANY AND ALL MANNER OF CLAIMS, INCLUDING, WITHOUT LIMITATION, ACTIONS, CAUSES OF ACTION, RIGHTS, JUDGMENTS, DEBTS, SET-OFFS, CONTRACTS, PROMISES, REPRESENTATIONS, ALLEGATIONS, DEMANDS, OBLIGATIONS, DUTIES, SUITS, EXPENSES, ASSESSMENTS, PENALTIES, CHARGES, INJURIES, LOSSES, COSTS, DAMAGES AND LIABILITIES OF EVERY KIND, CHARACTER AND MANNER WHATSOEVER, IN LAW OR IN EQUITY, FOR INDEMNIFICATION, CONTRIBUTION OR OTHERWISE, WHICH THEY EVER HAD, HAVE OR MAY HAVE, WHETHER OR NOT KNOWN OR UNKNOWN, CLAIMED OR UNCLAIMED, ASSERTED OR UNASSERTED, SUSPECTED OR UNSUSPECTED, DISCOVERED OR UNDISCOVERED, ACCRUED OR UNACCRUED, ANTICIPATED OR UNANTICIPATED, CONTINGENT OR FIXED, FOR, UPON, OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER ARISING OUT OF THE RELATIONSHIP OR TRANSACTIONS BETWEEN OR AMONG THE TRUSTEE, SUPPLE LAW OFFICE, PLLC AND THE RELEASING PARTIES.

V. ALTERNATIVES TO THE PLAN: CHAPTER 7 LIQUIDATION ANALYSIS

The Plan provides for a greater recovery for creditors than if the Case is converted to chapter 7 under the Bankruptcy Code and liquidated by a chapter 7 trustee. If the case is

converted and liquidated, the chapter 7 trustee(s) would incur additional time and administrative expenses, preventing the holders of Class 3 General Unsecured Claims to receive much, if any, distribution. Therefore, the Plan Proponents believes that the proposed percentage of Net Recoveries going to Class 3 Creditors provides for a greater recovery to creditors and in a more expeditious manner than would cases under chapter 7 of the Bankruptcy Code.

VI. CONCLUSION AND RECOMMENDATION

The Plan Proponents recommend confirmation of the Plan because they believe that the Plan provides for the greatest recovery to creditors than would any of the alternatives. The Plan provides for an eliminated Secured Claim for the Bank, waiver of certain of the Bank's claims and a shared pool of Net Recoveries for all creditors. Other alternatives would involve significant delay, uncertainty, and additional administrative expenses. The Plan Proponents urge all holders of claims in Classes 1, 2, and 3, to submit their ballots accepting the Plan by the Ballot Deadline.

IN WITNESS WHEREOF, the undersigned has submitted this Disclosure Statement as of the date first above written.

PEOPLES BANK, NATIONAL ASSOCIATION

By: /s/ Kevin F. Garvey
Plan Proponent

THOMAS H. FLUHARTY,
CHAPTER 11 TRUSTEE

By: /s/ Thomas H. Fluharty
Plan Proponent