
The Consumer Chapter 11

Joseph A. Baldi

Joseph A. Baldi & Associates, PC; Chicago

David P. Leibowitz

Lakelaw; Waukegan, Ill.

Hon. Jack B. Schmetterer

U.S. Bankruptcy Court (N.D. Ill.); Chicago

American Bankruptcy Institute
Chicago Consumer Bankruptcy Seminar
October 12, 2009

Individual Chapter 11 Cases Under BAPCPA
A Highly Challenging Proposition

David Leibowitz
Lakelaw
www.lakelaw.com
Chicago – Waukegan – Kenosha
© 2009

Joe Baldi's Top 10 (or more) Trouble Spots for Individual Chapter 11 Cases

1. Your client just flunked the means test and is not eligible for chapter 13 – welcome to chapter 11
2. Your client's post petition income just became property of the estate.
3. You now have to get your client to file monthly UST reports
4. Your client may have to give up the country club while the case is pending – what expenses are ordinary?
5. Your fees may not be allowed for advising on individual debtor issues – will you get “*Lamie'd*” – allowance of fees to chapter 11 individual debtor's counsel
6. You have to report on all of your client's business interests – Rule 2015.3 and the controlled entity
7. You still can't modify a mortgage secured by the debtor's house – anti-modification provisions in chapter 11 for residential mortgages
8. You have to get Citicorp to vote on your plan and not object to the plan

9. You have to figure out what “disposable income” is in chapter 11 – and how much needs to be paid under the plan. – does the means test apply in chapter 11 under 1129(a)(15). Compare to “projected disposable income” under *Turner*
10. You have to figure out what the Best Interest Test is in chapter 11 and how to value the estate on liquidation – is post petition income included or not?
11. You have to figure out how the Absolute Priority Rule works for individual chapter 11 debtors – what property can the debtor retain?
12. Your client makes more money, creditors can ask for bigger payments – modification after confirmation
13. Your client has to wait for his discharge till all payments are made under the plan – and pay UST fees while doing it.

Some Indicators for Considering and Individual Chapter 11 Case

1. Your client has non-dischargeable debt, significant income and assets and is facing judgment remedies.
2. Your client needs bankruptcy relief but exceeds the debt limits for chapter 13
3. Your client holds in her own name multiple non-residential real estate assets and seeks to modify the terms of the mortgage liens.

**INDIVIDUAL CHAPTER 11 CASES UNDER BAPCPA
COMPARISON AND CONTRAST TO CHAPTER 13 UNDER BAPCPA**

by
James W. McNeilly, Jr. and David P. Leibowitz
© 2007

Introduction

All bankruptcy petitioners know that the centerpiece of BAPCPA was to require debtors who could afford to make payments to creditors to do so. The mechanism of this congressional intent is initially found in Section 109 of the Bankruptcy Code, 11 USC § 109, setting forth eligibility requirements to be a debtor. We know that individuals may bring cases under Chapters 7, 11, 12 or 13. We also know that Chapter 12 is limited to family farmers, a topic of specialized importance which we do not propose to discuss today.

Code Section 109 (e) in turn informs us that:

(e) Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$307,675 and noncontingent liquidated secured debts of less than \$922,975 or an individual with regular income and such individual's spouse, except a stockbroker or a commodity broker, that owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$307,675 and noncontingent liquidated secured debts of less than \$922,975 may be a debtor under Chapter 13 of this title.¹

Even if a debtor is eligible to seek relief under Chapter 7, however, that debtor's filing is subject to dismissal if the debtor has the means to make payments under a plan. We assume that you are very familiar with the means test and its interpretation and implementation. It is important

¹ These amounts increased in 2007 and will increase again in 2010

to note, however, that a Chapter 7 case may now be converted to a case under Chapter 11 or Chapter 13 on a finding of abuse under the means test, with the debtors consent. This is a highly significant departure from former practice and raises many interesting questions.

Comparison and contrast between Chapter 13 and Chapter 11 under BAPCPA

As an overview of the significant differences in Chapter 13 and Chapter 11, consider the following two tables. The first sets forth comparisons and contrasts between Chapter 11 and Chapter 13 under BAPCPA. The second sets forth differences between Chapter 11 under BAPCPA compared to former practice. It is important to note that these tables are not exhaustive.

CHAPTER 13 BAPCPA	CHAPTER 11 BAPCPA
Monetary limitations for eligibility. 11 USC §109	No monetary limitations for eligibility
Enhanced dischargeability. 11 USC §1328	No discharge at confirmation. No enhanced dischargeability. New §1141(d)(5)(A) provides that an individual Chapter 11 debtor generally cannot obtain a discharge until all plan payments have been made except under very limited circumstances.
Commitment period determined by the means test. 11 USC §707 and 11 USC §1322(d) (three or five years)	Five year commitment period if creditors object to other treatment in order to confirm plan over objection. 11 USC §1129(a)(15). “Projected disposable income” uses definition in 11 USC §1325(b)(2)
Post petition income is property of the estate. 11 USC §1306(a)	Post petition income is property of the estate. 11 USC §1115((a)
Post petition income submitted to the control of trustee as necessary for execution of plan. 11 USC §1322	Post petition income must be devoted to the plan to the extent necessary for its execution. 11 USC §1123(8).
Supervision by Chapter 13 trustee	Supervision by United States Trustee
No creditors committee	Possibility of a creditors committee
No special small business requirements	Special small business requirements. 11 USC §1116
No voting	Voting by creditors; plan confirmation over objection by creditors as provided by 11 USC § 1129 and particularly 11 USC § 1129(a)(15)
No disclosure statement required	Plan and disclosure statement required. 11 USC §1121
All disposable income must be contributed to plan	No similar provision in 11 USC §1123 - however plan must provide for such income

Chicago Consumer Bankruptcy Conference 2009

	to be contributed to plan as “necessary for the execution of the plan”
Unsecured creditor or Chapter 13 trustee may seek to modify plan at anytime before completion of plan payments. 11 USC § 1329	Unsecured creditor or UST may seek to modify confirmed plan any time before completion of plan payments. 11 USC §1127
Filing fee under \$300	Filing fee over \$1,000
Possible automatic stay for co-debtor 11 USC §1301	No automatic stay for co-debtor – however, it might be possible to provide for this in a plan under section 105
Statutory classification of debts for which Debtor is liable with a co-debtor 11 USC §1322(b)(1)	No such statutory authorization; possible under a plan
Retail valuation 11 USC §506(a)(2)	Retail valuation does not apply in Chapter 11
11 USC §1325(a) limits cramdowns	No analogous provision in Chapter 11
Financial management course required 11 USC §1328(g)	No financial management course required except in limited circumstances. ²

Chapter 11 Pre-BAPCPA	Chapter 11 Post-BAPCPA
Post petition earnings were not property of the estate	Post-petition earnings are property of the estate. 11 USC §1115
Plan could be confirmed on consent of	Code requires post-petition earnings to be

² Individual chapter 11 debtors are s required to have the post-petition debtor education course in order to obtain a discharge in limited circumstances. Under Section 1141(d)(3) if an individual debtor is liquidating all or substantially all of his or her assets, is not continuing in the operation of a business, and would be denied a discharge under Section 727(a), then the Chapter 11 debtor would not be entitled to discharge. Section 727(a)(11) provides that the failure to complete debtor education after the filing of the petition is grounds for denial of a discharge. Therefore, in situations where the individual debtor is liquidating all or substantially of his or her assets, not operating a business, then the individual debtor will need to meet the post-petition debtor education.

creditors or under section 1129 cram-down provisions – new value from some outside source.	devoted to the plan 11 USC §1123(a)(8); 1129(a)(15)
No particular parameters for payment of claims	Claims must be paid in full or “projected disposable income” as defined in 11 USC §1325(b)(2) must be paid for up to 5 years following the date of the first payment under the plan.
No prior provision	Domestic support obligations must be current as of date of confirmation. 11 USC §1129(a)(14)
No prior provision	All tax information requested must have been provided prior to confirmation. BAPCPA §1228(b) (not codified in Bankruptcy Code).
No prior provision	Disclosure statement must provide a meaningful explanation of federal tax consequences of the plan. 11 USC §1125(a)(1)
Discharge occurred at substantial consummation of plan	Discharge delayed until plan has been fully executed. 11 USC §1141(d)(5)
Plan modification was limited	Plan modification is available on motion of debtor, creditor, trustee or UST, “whether or not the plan has been substantially consummated.” 11 USC §1127(e)

Practice Considerations

1. When to file an individual Chapter 11?

Historically, it wasn’t even clear that an individual could file a Chapter 11 case. Not until 1991 did the Supreme Court finally rule that individuals engaged in business could file a Chapter 11 case.³ According to statistics compiled by Judge Bruce A. Markell, between 680 and 2448

³ *Toibb v. Radloff*, 501 US 157 (1991)

individuals filed Chapter 11 cases in 2005 out of a total of 6800 Chapter 11 filings as opposed to only 80 public companies which filed in that year.⁴

Individuals tended to file Chapter 11 cases when their debts exceeded the limitations of Chapter 13. Celebrities such as Kim Basinger filed Chapter 11 cases when they sought to avoid burdensome executory contracts. Many Chapter 11 cases were filed in California to save debtors' equity in very expensive houses.

Today, individuals need to consider carefully when and why they should file a Chapter 11 case. Chapter 7 for an individual engaged in business often is a reasonable option now. The means test only applies to individuals whose debts are "primarily consumer debts" under 11 USC §707(b). The question of what constitutes a "consumer debt" is quite interesting and complex but beyond the scope of this presentation. Judge Pepper of the Eastern District of Wisconsin has written an interesting opinion on this point holding that a debtor who does not have primarily consumer debts need not file a form 22 with the court.⁵

Chapter 11 now requires a debtor to commit post-petition income to a plan for up to five years. 11 USC §1129(a). In addition, the Code has substantially changed the treatment of executory contracts in Chapter 11. Further, the Code has dramatically changed treatment of income tax obligations, so that the interest rate to be paid now can no longer be reduced as a result of a confirmed plan. Rather, the interest rate in effect as of the time of confirmation will apply. 11 USC §1129(a)(9). Moreover, just as in Chapter 13, domestic support obligations must be current at confirmation of the plan and at all times thereafter. 11 USC §1129(a)(14).

⁴ Markell, Bruce A., *The Sub Rosa Subchapter: Individual Debtors in Chapter 11 After BAPCPA*, University of Illinois Law Review, Vol 2007 67, 68

⁵ *In re Kinne*, 06-21356 (Bankr. E.D. WI. May, 2006)

Because of this and many other onerous provisions of Chapter 11, attorneys for individuals engaged in business should consider whether it is in their best interests to file a Chapter 7 case. Your liquidation analysis should consider whether the value of the debtor's estate in liquidation compares favorably or not to the debtor's projected income over the next five years.

Individual Chapter 11 cases would seem to be indicated when:

- Debtors are facing immediate enforcement of judgments. Chapter 11 might be a reasonable substitute to the posting of an appeal bond through the invocation of the automatic stay.
- Debtors need time to resolve payment on non-dischargeable debt such as taxes, domestic support obligations or otherwise non-dischargeable debt.
- Debtors might face serious economic, personal or tax consequences as a result of the liquidation of property in order to satisfy debt.

Considerations which might have militated in favor of Chapter 11, particularly in case of executory personal service contracts are no longer favorable. Debtors under Chapter 11 would now be required to pay rejection damages in full as a part of the confirmed plan under Chapter 11 thus seriously attenuating the benefit sought to be derived from the filing.

2. Constitutional Considerations

One of the more interesting aspects of Chapter 11 under BAPCPA is that Section 707 of the Code now affords a creditor or the United States Trustee the opportunity to move to convert to Chapter 11 but only in the case of a debtor whose debts are "primarily consumer debts?" Why is it that a debtor whose debts are not "primarily consumer debts" may seek relief under Chapter 7 without regard to his projected disposable income whereas a debtor whose debts are "primarily consumer debts" can be forced into a Chapter 11? In addition, can the debtor actually be required

to work? Would this constitute involuntary servitude in violation of the 13th Amendment to the United States Constitution? What about an involuntary Chapter 11? Scholars have raised this question⁶ but the courts have not yet considered it under BAPCPA.⁷

⁶ Keach, Robert J., *Dead Man Filing Redux: Is the New Individual Chapter 11 Unconstitutional?* 13 Am Bankr. Inst. L. Rev. 483 (Winter, 2005).

⁷ *In re Noonan* 17 BR. 793 (Bankr. S.D. NY 1982) considered this question in context of prior law.

3. Pre-Confirmation Issues – Administrative Expenses

Debtor's personal expenses

While the Code does reasonably inform us that projected disposable income is to be determined by reference to “current monthly income” as set out in form B22B, the Code does not address at all how to deal with payment of necessary and ordinary expenses of the debtor prior to confirmation as does 11 USC §1325. We suggest that the debtors in individual Chapter 11 cases ought to establish a budget for their “operations” during Chapter 11, including their personal expenses with a request that normal expenses of the debtor be deemed to be “in the ordinary course of business” and incurred on a monthly basis without further order of court. Presumably the debtor’s monthly “operating reports” will reflect income and expense. And any creditor or other party in interest who objects could bring the matter to the Court’s attention. Ultimately, we suggest that these matters will be handled more or less consensually in the same manner as are cash collateral orders.

Attorneys Fees

This is potentially a trouble spot. As Judge Markell points out,⁸ Chapter 13 does provide for payment of attorneys fees for post-filing matters from property of the estate. Chapter 11 does not (at least for attorneys for the Debtor, as opposed to attorneys for the Debtor in Possession). The implication is that the Chapter 11 attorney for an individual needs a substantial retainer.⁹

⁸ Markell, Bruce A., *The Sub Rosa Subchapter: Individual Debtors in Chapter 11 After BAPCPA*, University of Illinois Law Review, Vol 2007 67, 83

⁹ *Lamie v. United States Trustee*, 540 US 526 (2004)

Cash Collateral

Many chapter 11 debtors will have granted security interests in cash collateral to one or more secured creditors. This might especially be in the form of an assignment of rents in the case of real estate investors. Such debtors must be especially careful to comply with Bankruptcy Code section 363 or risk running afoul with both the creditor and the court.

Borrowing

Many chapter 11 debtors will have the need to borrow during the course of their chapter 11 cases, even if only to purchase a replacement vehicle. All debtors must be especially careful to comply with Bankruptcy Code section 363 or risk running afoul with the court.

Taxes and Domestic Support Obligations

Congress clearly intended that the Bankruptcy Code be a vehicle for the enforcement of tax and domestic support obligations. As a consequence, failure to have these matters current at the time of filing is grounds for dismissal and failure to keep these matters current is grounds for denial of confirmation.¹⁰

4. Plan Issues

A Chapter 11 plan for an individual must meet all of the requirements formerly in place for any Chapter 11 case together with the additional requirements now imposed by 11 USC §1123(a)(8). This provides that debtors are to utilize “all or a portion of” their post-petition earnings for the execution of their plan. How much? Section 1129(a)(15) requires “disposable income” to be utilized for the plan unless unsecured creditors are to be paid in full. How much of the disposable income?

¹⁰ 11 USC §1129(a)(9)(A) and 11 USC §1129(a)(14) respectively

If the debtor is earning money at a fast pace, must the plan be paid in full on an accelerated basis?
Or may the debtor pay over a five year period?

5. Confirmation Issues

Projected Disposable Income

As discussed earlier, projected disposable income applies for Chapter 11 purposes. This suggests that income and expense as permitted in form B22B is to be utilized to determine the amount of monthly payments under a plan. To confirm a plan, claims must be paid in full or the value of property to be distributed under the plan must be not less than the projected disposable income of the debtor over a five year period.

Can a debtor exempt a portion of the debtor's income under a State exemption? Most income related exemptions are time period based. If a debtor can claim an income exemption, for what time period(s) can it be claimed?

What happens if the debtor has been underemployed or did not have a great deal of "current monthly income," but has a lot of property? Could the debtor satisfy the requirements of the Code by liquidating enough of his property to pay a value equal to five years worth of projected disposable income even if he would have property left over? Or would such a plan fail to meet the "best interests of creditors test" resulting in conversion to Chapter 7.

Even more strangely, in the event of conversion from Chapter 11 to Chapter 7, Section 1115(a)(2) would no longer apply and all post-petition income would revert to the Debtor, no longer being property of the Estate.

Feasibility

Feasibility becomes a serious question under Chapter 11 for individuals, particularly for those who have substantial non-dischargeable debts. Although debtor is not entitled to his plan discharge until full performance of Chapter 11 plan obligations in an individual case, the deadlines for filing complaints under Code Sections 523 or 727 are still 60 days after the Section 341 meeting unless extended.¹¹ Accordingly, it is anticipated that creditors will have to act quickly or else seek protracted extensions of these deadlines.

Cramdown

Code seems to incorporate the Chapter 13 means test analysis by referring to 11 USC §1325 for purposes of determining projected disposable income, it is not crystal clear that Congress intended every reference from Section 1325 to be incorporated by reference for purposes of Chapter 11. Much litigation can be anticipated in this respect. In addition, what if the debtor actually earns more during the five year commitment period than projected? Might the debtor keep those assets even if the plan is not modified? And what if the debtor receives post-petition income not from services? Suppose the debtor wins the World Series of Poker or a jackpot at a slot-machine or in the lottery. Suppose the debtor wins the Nobel Prize. Suppose the debtor wins a big prize on Jeopardy. Is this “income from services?” Must all post-petition income be committed to a plan? Clearly, income from an inheritance would not, because only inheritances within 180 days after the date of filing are part of the estate.¹²

¹¹ BAPCPA 321(d), 119 Stat at 95-96; see 11 USC § 1141(d)(2),(5)

¹² 11 USC §541(a)(5)

6. Post-Confirmation Issues

Plan Modification

Chapter 13 practitioners know that a confirmed plan may be modified on the motion of the debtor, an unsecured creditor or the trustee. However, in practice, they know that the plan modification is most often instigated by the debtor and rarely by a creditor or a trustee. An analogous provision has now been enacted for Chapter 11 individual debtors.¹³ Oddly, the Chapter 11 debtor doesn't have the right to pay new health insurance premiums as might a Chapter 13 debtor under 11 USC §1329.

Creditor Practice

It is conceivable that a creditor might periodically seek to modify a plan during the course of the five year commitment period based upon the debtor's increased earnings during that time. As a result, it is likely that interested creditors will negotiate plan provisions requiring periodic proof concerning the debtor's post-petition income from services.

7. Tax Issues

It is unclear whether the debtor and the debtor's estate continue to be unitary for income tax purposes. Although it did issue Notice 2006-83, on October 2, 2006 I IRB 2006-40, which gives some guidance, the IRS has not yet issued rules, regulations or procedures for treatment of individuals who file Chapter 11 cases under BAPCPA.

¹³ 11 USC § 1127(c)

8. Small Business Cases

Debtors engaged in commercial or business activities with less than \$2 million in debt in a case where there is no creditors committee, or where the court has determined the committee is not sufficiently active¹⁴, are now subject to different rules as “small business debtors.” We anticipate that many individual Chapter 11 debtors will be “small business debtors.” While the small business case rules appear to be less rigorous for disclosure statements,¹⁵ they include additional reporting and filing requirements¹⁶, and provide for stricter deadlines for filing and confirmation of a plan.¹⁷ While a complete discussion of how the new small business case rules affect an individual Chapter 11 debtor is beyond the scope of this discussion, the practitioner must bear them in mind when counseling a potential or actual individual Chapter 11 debtor.

¹⁴ 11 USC §101(51D)

¹⁵ 11 USC §1125(f)

¹⁶ 11 USC §1116

¹⁷ 11 USC §1121(e) and 1129(e)

Conclusion

Individual Chapter 11 cases should not be considered to be a Jumbo Chapter 13. As in other aspects of BAPCPA, the new law not only changes the old law, but it is also an overlay with respect to existing unchanged old law. An individual Chapter 11 debtor not only must fulfill all requirements of Chapter 11 as it was, but also must also overcome many obstacles presented by the Code as it has become. The practitioner should be acutely aware and alert to all nuances of Chapter 11 for individuals under BAPCPA before undertaking representation in such a case. Cited below is a compendium of resource materials which we believe practitioners will find helpful in analyzing their individual chapter 11 cases.¹⁸

¹⁸ See also *Individual Chapter 11 Cases after BAPCPA*, *ABI Caribbean Insolvency Symposium, 2006*, <http://www.abiworld.org/committees/newsletters/consumer/vol4num2/CISchapter11article.pdf>; Landry, R.J. , *Individual Chapter 11 Reorganizations, Big Problems with the New "Big Chapter 13"*, *University of Arkansas at Little Rock Law Review*, Vol. 29, February 2007, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=922516# The latter work is highly recommended for its scholarly approach to the issues raised in individual chapter 11 cases. *Individual Chapter 11 Cases, Desert Sanctuary or Prickly Pear Trap for Debtors (and Counsel)*, NCBJ 82nd Annual Meeting, Scottsdale, Arizona, September 24-27, 2008, Hon. Mike K. Nakagawa, James E. Bailey, III, and Sally Neely, Panelists, Hon. Paul W. Bonapfel, Moderator [http://www.law.mercer.edu/academics/handouts/NCBJ%20\(08\)%20Materials%20\(Final\).pdf](http://www.law.mercer.edu/academics/handouts/NCBJ%20(08)%20Materials%20(Final).pdf), citing materials from other sources

Sample Documents for Individual Chapter 11 Cases

Liquidating Plan

(Kretchmar Plan – sent by PDF)

Disclosure Statement

(Kretchmar Disclosure Statement – sent by PDF)

100 % Plan

(Serwin Plan – sent by PDF)

Disclosure Statement

(Serwin Disclosure Statement – Sent by PDF)

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In Re:)	Chapter 11
John Kretchmar)	No. 08 B 24430
Debtor)	Hon. Jack B. Schmetterer

DEBTOR’S SECOND AMENDED LIQUIDATING PLAN OF REORGANIZATION

General Description of the Plan

The Plan provides for the liquidation of 100% of the Debtor’s non-exempt assets with the proceeds of such liquidation being used to partially pay Creditors’ Claims in the order of priority provided by law.

In order to raise cash to fund the payment of Administrative Claims, the Debtor will (a) use the funds from a life insurance claim that he received post-petition, and (b) sell to his wife (i) his interest in Carlo Lopez Kretchmar, LLC (an Illinois limited liability company that owns Class B shares in a company that owns and operates a 110-unit independent living low to moderate income senior housing project), and (ii) his 1/3rd membership interest in Chanhassen Venture, Ltd. (an Illinois corporation that owns a weather station).

The Debtor will also attempt to sell (a) three of his four vehicles, (b) his 50% membership interest in Chestnut Meadows, LLC (a limited liability company that hold title to a real estate development located in Tinley Park, IL), and (c) his Utah timeshare. On August 1, 2009, the Debtor will conduct an auction sale of any of these assets that have not as of that time been sold.

Until the Debtor’s interest is extinguished at a court approved sheriff’s sale pursuant to a foreclosure, the Debtor, who is a licensed real estate broker, will attempt to sell eight (8) of the nine (9) pieces of the Debtor’s Real Estate listed on **Exhibit 3**, including the Debtor’s Residence, for

amounts equal to or greater than the amounts owed to the Creditors holding liens upon the Debtor's Real Estate. The proceeds from any such sales will be used to pay the Secured Creditors holding liens upon the Debtor's Real Estate. The Debtor will retain \$15,000 from the net proceeds of the sale of his Residence, representing his homestead exemption in the property, and any other surplus amounts realized from the sale of the Debtor's Real Estate will be used to otherwise fund the Plan. The automatic stay has been lifted with regard to the Debtor's condominium units located at 5415 N. Sheridan Road #C1, Chicago, IL and 400 E. Randolph #1001, Chicago, IL to allow Park National Bank¹ and National City Bank respectively to foreclose upon their liens against the property. On June 1, 2009 the automatic stay will be lifted with respect to the rest of the Debtor's Real Estate to allow the Secured Creditors holding liens upon any then unsold Debtor's Real Estate to foreclose upon those liens.

Because the Debtor believes that his 50% interest in Indian Village Development Corporation, his 100% interest in JJF Enterprises, LLC, and his 100% interest in Harbour Town Ventures II, LLC are worth less than the amounts owed to the Creditors holding liens upon those interests, the automatic stay has been lifted or will be lifted to allow the Secured Creditors to foreclose upon them.

The Debtor's 100% interest in the stock of Lakeside Real Estate Ventures, Inc. (the corporation under which the Debtor operates his real estate business) has no value. As such, this interest will be retained by the Debtor along with his exempt assets, comprised of one automobile, his clothing, miscellaneous household goods, his Merrill Lynch IRA, and \$15,000 from the sale of his Residence.

1 Park National Bank has completed the foreclosure sale of the Park Tower Condominium.

An Initial Distribution will be made to Creditors on September 1, 2009, and a Final Distribution will be made to Creditors on June 1, 2010, after all Secured Claims have been liquidated and deficiency amounts have been determined.

As used in the Plan, the capitalized terms set forth herein will have the respective meanings specified in **Exhibit 1** hereto.

**ARTICLE I
DESIGNATION OF CLASSES OF CLAIMS AND INTERESTS**

For the purpose of the Plan, the Claims are hereby classified as follows:

1.1 Class 1 [Administrative Expense Claims]: Allowed Administrative Expense Claims entitled to priority pursuant to the provisions of Section 503 (b) of the Code, and the United States Trustee fees.

1.2 Class 2 [Deposit Claims]: Allowed Deposit Claims held by Buzz Sawyer and Kyle Mitchell entitled to priority pursuant to the provisions of 507(a)(7) of the Code.

1.3 Class 3 [Tax Claims]: Allowed Tax Claims held by taxing agencies entitled to priority pursuant to the provisions of Section 507(a) (8) of the Code.

1.4 Class 4 [Puritan's Secured Claim]: Allowed Claim of Puritan Financial Corporation, which holds liens upon certain of the Debtor's Real Estate.

1.5 Class 5 [House Secured Claims]: Allowed Claims of House Investments Real Estate Opportunity Fund III and House Investments Real Estate Opportunity Fund IV, which hold liens upon the Debtor's 50% of the stock Harbour Town Ventures II, LLC and Indian Village Development Corporation respectively.

1.6 Class 6 [First Midwest's Secured Claim]: Allowed Claim of First Midwest Bank, which holds a lien upon certain of the Debtor's Real Estate known as Plaza 31 located at 3150 N. Vermillion, Danville, Illinois.

1.7 Class 7 [Park National's Secured Claim]: Allowed Claim of Park National Bank, which holds a lien upon certain of the Debtor's Real Estate known as the Park Tower Condominium located at 5415 N. Sheridan Rd., Chicago, Illinois.

1.8 Class 8 [National City's Secured Claim]: Allowed Claim of National City Bank, which holds a lien upon certain of the Debtor's Real Estate located at 400 E. Randolph St., Unit 1001, Chicago, IL 60601.

1.9 Class 9 [Other Secured Claims]: Allowed Claims of any Other Secured Creditor that holds a valid and enforceable lien upon any of the Debtor's assets.

1.10 Class 10 [General Unsecured Claims]: Allowed Claims against the Debtor that arose or that are deemed by the Code to have arisen prior to the Petition Date, and which are not (a) Secured Claims pursuant to Section 506 of the Code, or (b) Claims entitled to priority under Sections 503 or 507 of the Code; and Claims arising from the Debtor's rejection of executory contracts and leases.

ARTICLE II TREATMENT OF CLAIMS

2.1 Class 1 [Administrative Expense Claims]: Allowed Administrative Expense Claims shall be paid in cash on the Effective Date except to the extent that the holder of such a Claim agrees otherwise, or in the case of any administrative Claim that requires Bankruptcy Court

approval, upon the entry of an order by the Bankruptcy Court in these proceedings approving same. Class 1 Claims are not impaired unless the Class 1 Creditors agree to be impaired.

2.2 Class 2 [Deposit Claims]: In full and complete satisfaction of all Class 2 Claims, on the Initial Distribution Date, the Class 2 Creditors will be paid 100% of the allowed amount of their Class 2 Claims from the proceeds of the liquidation of the Debtor's assets as provided in the priority schedule set forth in **Exhibit 2** hereto. The Class 2 Claims are impaired.

2.3 Class 3 [Tax Claims]: In full and complete satisfaction of all Class 3 Claims, the Class 3 Creditors will be paid 100% of the allowed amount of their Class 3 Claims (including interest that will continue to accrue on the allowed Class 3 Claims at the applicable statutory rate for such tax Claims) from the proceeds of the liquidation of the Debtor's assets as provided in the priority schedule set forth in **Exhibit 2** hereto. The Class 3 Claims are impaired.

2.4 Class 4 [Puritan's Secured Claim]: Puritan's Allowed Class 4 Claim will be paid from the sale or refinancing of any of the Debtor's Real Estate upon which Puritan holds liens. The automatic stay will also be lifted on the Effective Date with regard to the Debtor's interest in JJF Enterprises, LLC, upon which Puritan holds a lien. If the Class 4 Claim has not been paid in full by September 1, 2009, Puritan will be paid a Pro Rata distribution according to the priority schedule as set forth in **Exhibit 2** and the disbursement procedure set forth in paragraph 5.7 below. The Class 4 Claim is impaired.

2.5 Class 5 [House Secured Claims]: The automatic stay will be lifted with respect to the Debtor's interest in Harbour Town Ventures II, LLC and the Debtor's stock of Indian Village Development Corporation, upon which House III and House IV hold liens respectively. If the Class 5 Claims have not been paid in full by September 1, 2009, House III and House IV will be paid a Pro

Rata distribution according to the priority schedule as set forth in **Exhibit 2** and the disbursement procedure set forth in paragraph 5.7 below. The Class 5 Claims are impaired.

2.6 Class 6 [First Midwest Secured Claim]: First Midwest's Allowed Class 6 Claim will be paid from the sale or refinancing of Plaza 31, upon which First Midwest holds a lien. If the Class 6 Claim has not been paid in full by September 1, 2009, First Midwest will be paid a Pro Rata distribution according to the priority schedule as set forth in **Exhibit 2** and the disbursement procedure set forth in paragraph 5.7 below. In addition, First Midwest will be entitled to continue to receive the rental income as described in the adequate protection order entered on December 18, 2008 until its Claim is paid in full. The Class 6 Claim is impaired.

2.7 Class 7 [Park National's Secured Claim]: Park National's Allowed Class 7 Claim has been paid in full by operation of Park National's purchase of the Park Tower Condominium at the foreclosure sale which Park National conducted on March 30, 2009. Since the Class 7 Claim has been paid in full, it is not impaired.

2.8 Class 8 [National City's Secured Claim]: National City's Allowed Class 8 Claim will be paid from the sale or refinancing of the real estate located at 400 E. Randolph St., Unit 1001, Chicago, IL 60601, against which National City holds a lien. If the Class 8 Claim has not been paid in full by September 1, 2009, National City will be paid a Pro Rata distribution according to the priority schedule as set forth in **Exhibit 2** and the disbursement procedure set forth in paragraph 5.7 below. The Class 8 Claim is impaired.

2.9 Class 9 [Other Secured Claims]: The holders of any other Allowed Secured Claims will be paid from the sale or refinancing of the Debtor's Real Estate upon which they hold a lien. If the holders of any Class 9 Claims have not been paid in full by September 1, 2009, they will be paid a Pro Rata distribution according to the priority schedule as set forth in **Exhibit 2** and the disbursement procedure set forth in paragraph 5.7 below. The Class 9 Claims are impaired.

2.9 Class 10 [General Unsecured Claims]: The holders of any Class 10 Claims will be paid a Pro Rata distribution according to the priority schedule as set forth in **Exhibit 2**. The Class 10 Claims are impaired.

ARTICLE III UNCLAIMED DISTRIBUTIONS

Any unclaimed payment made to any Creditor, including without limitation, unnegotiated checks or drafts, shall be redistributed to other Creditors according to the priority schedule as set forth in **Exhibit 2** after one hundred eighty (180) days of issuance as if the amount due the Creditors, which is unclaimed, constituted a Claim that was disallowed.

ARTICLE IV EXECUTORY CONTRACTS

Upon the Effective Date of the Plan, the Reorganized Debtor will be deemed to have assumed each of the leases set forth on **Exhibit 4** hereto. Any and all other executory contracts and/or leases not theretofore rejected or assumed during the Chapter 11 Proceedings will be deemed rejected, and the opposite party to the rejection shall have 30 days after the entry of the Confirmation Order to file a rejection Claim.

**ARTICLE V
MEANS FOR EXECUTION OF THE PLAN**

The Plan shall be executed as follows:

5.1 Initial Plan Funds. The Plan will initially be funded from the following sources. The Debtor has received \$28,184.77 from the proceeds of a life insurance claim and the Debtor and has also received \$2,472.00 as a distribution from his interest in Carlo Lopez Kretchmar, LLC. On the Effective Date, the Reorganized Debtor will sell (a) his interest in Carlo Lopez Kretchmar, LLC (an Illinois limited liability company that owns Class B shares in Senior Suites New City, LLC, which owns and operates a 110-unit independent living low to moderate income senior housing project) and (b) his 1/3rd membership interest in Chanhassen Venture, Ltd. (an Illinois corporation that owns a weather station) to his wife for \$20,000. All of the forgoing funds will be used to initially fund the Plan.

5.2 Liquidation of Other Personal Property. After the Effective Date the Debtor will attempt to sell his (a) 2005 Cadillac Escalade, (b) 1954 Ford Pickup Truck, (c) 1955 Oldsmobile, (d) 50% membership interest in Chestnut Meadows, LLC (a limited liability company that hold title to a real estate development located in Tinley Park, IL), and (e) Utah timeshare. The Debtor will procure Court authorization before doing so. On August 1, 2009, the Debtor will conduct an auction sale of any of these assets that have not as of that time been sold.

5.3 Liquidation of Real Estate. After the Effective Date, the Reorganized Debtor, who is a licensed real estate broker, will attempt to sell or refinance each of eight (8)² of his nine (9) real estate holdings. The Reorganized Debtor will be authorized to sell such Debtor's Real Estate for any

² The ninth holding has been sold at foreclosure.

amounts equal to or greater than the amount owed to the Creditors holding liens upon such Debtor's Real Estate. The surplus proceeds realized from the sale of any such Debtor's Real Estate will be used to fund the Plan. On June 1, 2009 the automatic stay will be lifted to enable the Secured Creditors holding liens upon any of the remaining unsold Debtor's Real Estate to foreclose upon such unsold Debtor's Real Estate.

5.4 Retained Assets. The only assets that will be retained by the Reorganized Debtor will be his (a) 2004 Volkswagen automobile, (b) personal clothing, (c) household goods, (d) office equipment, (e) worthless interest in Lakeside Real Estate Ventures, Inc., (f) Merrill Lynch IRA and (g) \$15,000 of the proceeds of the sale of his Residence.

5.5 Abandoned Assets. The automatic stay has been lifted to allow the Secured Creditors holding liens upon the Debtor's 50% interest in Indian Village Development Corporation, and his 100% interest in Harbour Town Ventures II, LLC to foreclose on those assets. On the Effective Date the automatic stay will be lifted to allow the Secured Creditor holding liens upon the Debtor's 100% interest in JJF Enterprises, LLC, to foreclose on that asset.

5.6 Retention of Professionals. The Reorganized Debtor has hired an accountant, per the Bankruptcy Court's order dated February 3, 2009, to assist in reviewing and likely objecting to the Claim of the IRS. The Reorganized Debtor will also retain the services of licensed real estate brokers or enter into cooperative listing agreements with such brokers in connection with the liquidation of the Debtor's Real Estate.

5.7 Plan Disbursements. On September 1, 2009, an Initial Distribution will be made to holders of Allowed Claims on a Pro Rata basis according to the priority schedule as set forth in **Exhibit 2**. For purposes of calculating amounts that will be paid in the Initial Distribution to

Creditors, the Claims of the Holders of Allowed Secured Claims whose collateral has yet to be liquidated, will be allowed in the full amount of their Claims, without regard to the anticipated recoveries that the Secured Creditors will receive from the liquidation of their collateral.

However, the distributions to such Secured Creditors will be withheld until each such Secured Creditor has liquidated its collateral and the amount of its Deficiency Claim against the Debtor, if any, has been determined. When the deficiency amounts have been determined and the Secured Creditors file an amended Claim with the Court in the amount of such Deficiency Claim, the Secured Creditor will receive a distribution based upon its reduced Claim.

On June 1, 2010 the remaining Plan Funds, including the portions of the amounts originally withheld for distribution to Secured Creditors that were not distributed to them and any surplus proceeds realized and remitted to the Reorganized Debtor from the Secured Creditors' liquidation of their collateral, will be distributed to holders of Allowed Claims on a Pro Rata basis according to the priority schedule as set forth in **Exhibit 2**. For purposes of participating in the Initial or Final Distribution, any Secured Creditor who fails to file an amended Claim on or before May 1, 2010 reflecting the amount it realized from the liquidation of its collateral and its remaining Deficiency Claim against the Debtor, will be deemed to have been fully satisfied from the liquidation of its collateral and to have waived its right to participate in the Initial or Final Distribution.

5.7 Plan Disbursing Agent. John Kretchmar will serve as the Disbursing Agent for the Plan and will administer the Plan and the payments called for in accordance with the provisions of the Plan. No compensation will be paid to the Disbursing Agent for performing the services called for under the Plan.

5.8 Initiation of Additional Actions. The Reorganized Debtor will conduct such investigations and inquiries into its pre-petition affairs as he deems appropriate, and may initiate and prosecute actions to recover any preferences, transfers, assets or damages to which it may be entitled under applicable provisions of the Code or other federal, state, or local law; provided that any such action will be commenced within the later of two (2) years of the date of the filing of his voluntary petition for relief or the statutory limitations period otherwise applicable to such action. Notwithstanding the foregoing, the Reorganized Debtor may not initiate any actions seeking to set aside or vacate any findings of fact or conclusions of law agreed to by the Reorganized Debtor or entered by the Court in connection with the various orders entered during the Debtor's Bankruptcy Proceedings.

ARTICLE VI ACCEPTANCE OR REJECTION OF PLAN

6.1 Impaired Classes To Vote. Each Class of Creditors holding impaired Claims, to wit: Classes 2 through 9, as of the date hereof, shall be entitled to vote as a class to accept or reject the Plan.

6.2 Acceptance by Class of Creditors. A Class of Creditors shall have accepted the Plan if the Plan is accepted by Creditors of such class that hold at least two-thirds in the aggregate dollar amount and more than one-half in the number of the Allowed Claims of Creditors of such class that vote to accept or reject the Plan.

6.3 Confirmation Notwithstanding Lack of Acceptance. In the event that any Class of Creditors holding impaired Claims as of the date hereof shall fail to accept the Plan in accordance with Section 1129(a) of the Code, the Debtor intends to seek confirmation of the Plan pursuant to the provisions of Sections 1129(b)(2)(A), (B) and (C) of the Code.

ARTICLE VII MODIFICATION OF THE PLAN

7.1 Modification before Substantial Consummation. The Reorganized Debtor may modify this Plan at any time after the Confirmation of and before substantial consummation of this Plan, but may not modify the Plan so that the Plan as modified fails to meet the requirements of Sections 1122 and 1123 of the Code. The Plan as modified under this subsection becomes the Plan only if the Bankruptcy Court, after notice and a hearing, confirms such Plan as modified, under Section 1129 of the Code, and circumstances warrant such modification.

7.2 Non-Material Modification. The Reorganized Debtor may, with approval of the Bankruptcy Court, and so long as it does not materially and adversely affect the interest of any Creditors, remedy any defect or omission, or reconcile any inconsistencies in the Plan or amend the Plan in such manner as it may be necessary to carry out the purposes and effect of the Plan, or sever a clause or provision of the Plan if necessary to satisfy Bankruptcy Code requirements.

7.3 Modification to Comply With Section 1129(b) of the Code. At the Confirmation Hearing, if the Bankruptcy Court determines that the Plan does not comply with Section 1129(b) of the Code with respect to one or more class or classes, the Debtor reserves the right to amend or modify the treatment of that or any other class or classes, even if the effect of such amendment is to

render such treatment less favorable, so as to provide the treatment necessary to correct any noncompliance with Section 1129(b).

**ARTICLE VIII
PROCEDURES FOR RESOLVING
CONTESTED CLAIMS AND INTERESTS**

8.1 Prosecution of Pending Objections to Claims. All timely filed objections to Claims shall continue to be prosecuted after the Effective Date. Subject to Bankruptcy Court approval, the Reorganized Debtor shall have the discretion to litigate to judgment, settle or withdraw objections to contested Claims.

8.2 Objections to Claims Waived if Not Timely Filed. Any objection to a Claim not timely filed by 60 days after the Effective Date is waived.

**ARTICLE IX
DISCHARGE OF DEBTOR**

Pursuant to provisions of 11 U.S.C 1141(d) upon the completion of the payments under the Plan, the Debtor will be discharged from any debt that arose before the Petition Date and any debt of a kind specified in section 502(g), 502(h), or 502(i) of the Code.

**ARTICLE X
PAYMENT OF US TRUSTEE FEES**

Until the Debtor's bankruptcy case is closed, the Debtor will continue to pay all statutory fees due and owing to the office of the United States Trustee.

**ARTICLE XI
RETENTION OF JURISDICTION**

Retention of Jurisdiction. The Bankruptcy Court shall retain and have jurisdiction over the Reorganized Debtor and the Plan for the following purposes:

- a. To enable the Reorganized Debtor to consummate the Plan and to resolve any disputes arising with respect thereto;
- b. To enable the Reorganized Debtor to consummate any and all proceedings that were brought prior to the entry of the Confirmation Order;
- c. To set aside liens and encumbrances, and to recover any preferences, transfers, assets or damages to which the Reorganized Debtor or its Estate may be entitled under applicable provisions of the Code or other federal, state, or local law;
- d. To adjudicate all controversies concerning the classification or allowance of any Claims or Interests;
- e. To hear and determine all Claims arising from the rejection of any executory contracts or unexpired leases;
- f. To liquidate and/or defend against any Claims that are disputed, contingent, or unliquidated;
- g. To determine any and all objections to the allowance of Claims or Interests;
- h. To adjudicate all Claims to a security or ownership interest in any property of the Debtor or in any proceeds thereof;
- i. To adjudicate all Claims or controversies arising out of any purchases, sales or contracts made or undertaken by the Debtor during the pendency of these proceedings;
- j. To recover all assets and properties of the Debtor wherever located;

k. To adjudicate and determine any cause of action provided for under the Plan, provided that any such action for the purpose of adjudication of the Code shall be commenced within two (2) years of the date of the filing of the Debtor's voluntary petition;

l. To make such orders as are necessary or appropriate to carry out the provisions of the Plan;

m. To consider any modifications of the Plan, remedy any defect or omission or reconcile any inconsistency in the Plan or in any order of the Bankruptcy Court, including the Confirmation Order;

n. To consider and act on the compromise and settlement of any Claim against or cause of action by or against the Reorganized Debtor or his estate;

o. To adjudicate and determine any adversary proceeding permitted under the Code;

p. To hear and determine all fee applications and fee disputes; and

q. To confirm the sale of any of the Debtor's assets as called for under the Plan.

Dated: April 27, 2009

John Kretchmar

By: s/ Chester H. Foster, Jr.
One of His Attorneys

Chester H. Foster, Jr.
Foster, Kallen & Smith
3825 W. 192nd Street
Homewood, IL 60430
708-799-6300
ARDC # 03122632

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In Re:) Chapter 11
John Kretchmar) No. 08 B 24430
Debtor) Hon. Jack B. Schmetterer

DISCLOSURE STATEMENT RELATING TO
DEBTOR'S FIRST AMENDED LIQUIDATING PLAN OF REORGANIZATION

I. INTRODUCTION

John Kretchmar (the "Debtor"), the Debtor and Debtor-in-Possession in the captioned Chapter 11 Case, submits this Disclosure Statement (the "Disclosure Statement") pursuant to Section 1125 of the Bankruptcy Code, to all of the Debtor's known Creditors in order to disclose material information sufficient to enable them to make an informed decision in exercising their right to vote for acceptance or rejection of the Debtor's First Amended Liquidating Plan of Reorganization attached hereto as **Exhibit A**, (the "Plan") dated April 20, 2009. On _____, 2009 at _____, a hearing to consider approval of this Disclosure Statement will be held by the Court or by any other judge sitting in the Court's place, in Courtroom 682, of the United States Courthouse, 219 S. Dearborn, Chicago, Illinois. If, at the conclusion of said hearing, this Disclosure Statement is approved by the Court, the Court will immediately hold a hearing to consider confirmation of the Plan. A copy of the Plan is being disseminated along with this Disclosure Statement. Throughout this Disclosure Statement, the Debtor refers to terms that have been specifically defined in **Exhibit 1** of the Plan. Those definitions are incorporated by reference into this Disclosure Statement. Therefore, to fully understand this Disclosure Statement, Creditors must review the Plan.

II. PLAN SUMMARY

The Plan provides for the liquidation of 100% of the Debtor's non-exempt assets with the proceeds of such liquidation being used to partially pay Creditors' Claims in the order of priority provided by law.

In order to raise cash to fund the payment of Administrative Claims, the Debtor will (a) use the proceeds from a life insurance claim he received post-petition, and (b) sell to his wife (i) his interest in Carlo Lopez Kretchmar, LLC (an Illinois limited liability company that owns Class B shares in a company that owns and operates a 110-unit independent living low to moderate income senior housing project) and (ii) his 1/3rd membership interest in Chanhassen Venture, Ltd. (an Illinois corporation that owns a weather station).

The Debtor will also attempt to sell (a) three of his four vehicles, (b) his 50% membership interest in Chestnut Meadows, LLC (a limited liability company that hold title to a real estate development located in Tinley Park, IL), and (c) his Utah timeshare. On August 1, 2009, the Debtor will conduct an auction sale of any of these assets that have not as of that time been sold.

Until the Debtor's interest is extinguished at a court approved sheriff's sale pursuant to a foreclosure, the Debtor, who is a licensed real estate broker, will attempt to sell eight (8) of the nine (9) pieces of the Debtor's Real Estate listed on **Exhibit 3** of the Plan¹, including the Debtor's Residence, for amounts equal to or greater than the amounts owed to the Creditors holding liens upon the Debtor's Real Estate. The proceeds from any such sales will be used to pay the Secured Creditors holding liens upon the Debtor's Real Estate. The Debtor will retain \$15,000 from the net proceeds of the sale of his Residence, representing his homestead exemption in the property, and any

1 The ninth property has been sold at a foreclosure sale.

other surplus amounts realized from the sale of the Debtor's Real Estate will be used to otherwise fund the Plan. The automatic stay has been lifted with regard to the Debtor's condominium units located at 5415 N. Sheridan Road #C1, Chicago, IL and 400 E. Randolph #1001, Chicago, IL to allow Park National Bank² and National City Bank respectively to foreclose upon their liens against the property. On September 1, 2009 the automatic stay will be lifted with respect to the rest of the Debtor's Real Estate to allow the Secured Creditors holding liens upon any then unsold Debtor's Real Estate to foreclose upon those liens.

Because the Debtor believes that his 50% interest in Indian Village Development Corporation, his 100% interest in JJF Enterprises, LLC, and his 100% interest in Harbour Town Ventures II, LLC are worth less than the amounts owed to the Creditors holding liens upon those interests, the automatic stay has been lifted³ or will be lifted to allow the Secured Creditors to foreclose upon them.

The Debtor's 100% interest in the stock of Lakeside Real Estate Ventures, Inc. (the corporation under which the Debtor operates his real estate business) has no value. As such, this interest will be retained by the Debtor along with his exempt assets, comprised of one automobile, his clothing, miscellaneous household goods, his Merrill Lynch IRA, and \$15,000 from the sale of his Residence.

An Initial Distribution will be made to Creditors on September 1, 2009, and a Final Distribution will be made to Creditors on June 1, 2010, after all Secured Claims have been liquidated and deficiency amounts have been determined.

² Park National Bank has completed the foreclosure sale of the Park Tower Condominium.

³ A previous court order has already lifted the automatic stay with respect to Indian Village Development Corporation and Harbour Town Ventures II, LLC.

Chicago Consumer Bankruptcy Conference 2009

Case 08-24430 Doc 122 Filed 04/20/09 Entered 04/20/09 12:10:11 Desc Main Document Page 4 of 20

The Plan provides for the classification of claims and distributions as follows:

Creditors & Claim Amounts	Proposed Treatment Under Plan
Class 1 Admin. Expenses \$50,000	To be paid in full on the Effective Date.
Class 2 Deposit Claims \$1,565	To be paid from the liquidation of the Debtor's assets according to the priority schedule set forth in Exhibit 2 of the Plan of the Plan.
Class 3 Tax Claims \$243,757	To be paid from the liquidation of the Debtor's assets according to the priority schedule set forth in Exhibit 2 of the Plan.
Class 4 Puritan's Secured Claim \$793,856	To be paid from the sale or refinancing of any of the Debtor's Real Estate upon which Puritan holds liens. The automatic stay will also be lifted on the Effective Date with regard to the Debtor's interest in JFF Enterprises, LLC, upon which Puritan holds a lien. If the Class 4 Claim has not been paid in full by 9/1/09, Puritan will be paid a Pro Rata distribution according to the priority schedule as set forth in Exhibit 2 of the Plan.
Class 5 House Secured Claims \$7,444,929	On the Effective Date, the automatic stay will be lifted with respect to the Debtor's stock of Indian Village Development Corporation, upon which House holds a lien. If the Class 5 Claim has not been paid in full by 9/1/09, House will be paid a Pro Rata distribution according to the priority schedule as set forth in Exhibit 2 of the Plan.
Class 6 First Midwest's Secured Claim \$676,558	To be paid from the sale or refinancing of Plaza 31, upon which First Midwest holds a lien. If the Class 6 Claim has not been paid in full by 9/1/09, First Midwest will be paid a Pro Rata distribution according to the priority schedule as set forth in Exhibit 2 of the Plan. In addition, First Midwest will be entitled to continue to receive the rental income as described in the adequate protection order entered on 12/18/08 until its Claim is paid in full.
Class 7 Park National's Secured Claim \$96,686.60	Has been paid in full by operation of Park National's purchase of the Park Tower Condominium at the foreclosure sale which Park National conducted on 3/30/09.
Class 8 National City's Secured Claim \$181,243	To be paid from the sale or refinancing of the real estate at 400 E. Randolph St., Unit 1001, Chicago, IL 60601, against which National City holds a lien. If the Class 8 Claim has not been paid in full by 9/1/09, National City will be paid a Pro Rata distribution according to the priority schedule as set forth in Exhibit 2 of the Plan.
Class 9 Other Secured Claims \$1,590,465	To be paid from the sale or refinancing of the Debtor's Real Estate upon which any Class 9 Creditors hold liens. If the holders of any Class 9 Claims have not been paid in full by 9/1/09, they will be paid a Pro Rata distribution according to the priority schedule as set forth in Exhibit 2 of the Plan.
Class 10 General Unsecured Claims \$17,311,836	To be paid a Pro Rata distribution according to the priority schedule as set forth in Exhibit 2 of the Plan.

Attached hereto as **Exhibit B** are the Debtor's estimates of claims to be treated under the Plan.

III. DESCRIPTION OF THE PLAN

A. **General Description of Treatment of Claims.** In general, the Plan provides that Administrative Expenses and other priority Claims will be paid as specified in the Bankruptcy Code and that the Claims of all of the Debtor's other Creditors will be paid from the liquidation of the Debtor's assets.

B. **Specific Treatment of Claims.** The Plan provides for the following specific treatment of the Claims of the Debtor's Creditors:

1. **Administrative Expense Claims.** Allowed Administrative Expense Claims shall be paid in cash on the Effective Date except to the extent that the holder of such a Claim agrees otherwise, or in the case of any Administrative Claim that requires Bankruptcy Court approval, upon the entry of an order by the Bankruptcy Court in these proceedings approving same.

2. **Deposit Claims.** In full and complete satisfaction of all Class 2 Claims, on the Initial Distribution Date, the Class 2 Creditors will be paid 100% of the allowed amount of their Class 2 Claims from the proceeds of the liquidation of the Debtor's assets as provided in the priority schedule set forth in **Exhibit 2** of the Plan.

3. **Tax Claims.** In full and complete satisfaction of all Class 3 Claims, the Class 3 Creditors will be paid 100% of the allowed amount of their Class 3 Claims (including interest that will continue to accrue on the allowed Class 3 Claims at the applicable statutory rate for such tax Claims) from the proceeds of the liquidation of the Debtor's assets as provided in the priority schedule set forth in **Exhibit 2** and the disbursement procedure set forth in paragraph 5.7 of the Plan.

4. **Secured Claims.** The Allowed Claims of Puritan, which currently holds liens upon certain of the Debtor's Real Estate has been classified as Class 4. The Allowed Claim of House III and House IV, which currently holds a lien upon the Debtor's Harbour Town Ventures II, LLC and Indian Village Development Corporation respectively have been classified as Class 5. First Midwest, which currently holds a lien upon Plaza 31 has been classified as Class 6. Park National, which held a lien upon Park Tower Condominium, has been classified as Class 7. National City, which currently holds a lien upon the Debtor's real estate at 400 E. Randolph St., Unit 1001, Chicago, IL, has been classified as Class 8. The Allowed Claim of any other Creditors holding a lien upon any of the Debtor's other assets, have been classified as Class 9. The Plan provides that First Midwest will continue to receive the rental income as described in the adequate protection orders entered on December 18, 2008 until its Claim is paid in full. Park National conducted a foreclosure sale of Park Tower Condominium and its claim was satisfied from the proceeds of the foreclosure sale. Other Secured Creditors entitled to cash collateral will have that cash collateral held in escrow until a subsequent cash collateral order is entered by the Bankruptcy Court. The automatic stay was lifted with respect to National City on April 24, 2009. The automatic stay will be lifted on the rest of the Debtor's Real Estate on June 1, 2009. Secured Creditors with a lien upon any of the Debtor's Real Estate will be paid from any sale or refinancing of that real estate prior to the automatic stay being lifted. Any Secured Creditors that have not been paid in full by September 1, 2009 will be paid from the liquidation of the Debtor's assets as provided by the priority schedule set forth in **Exhibit 2** and the disbursement procedure set forth in paragraph 5.7 of the Plan.

5. **General Unsecured Claims.** The Allowed Claims of the Debtor's other Creditors, have been classified as Class 10. The Plan provides that the Class 10 Creditors will be paid from the

proceeds of the liquidation of the Debtor's assets according to the priority schedule set forth in **Exhibit 2** of the Plan.

C. **Executory Contracts.** Upon the Effective Date, the Reorganized Debtor will be deemed to have assumed each of the leases set forth on **Exhibit 4** of the Plan. Any and all other executory contracts and/or leases not theretofore rejected or assumed during the Chapter 11 Proceedings will be deemed rejected, and the opposite party to the rejection shall have 30 days after the entry of the Confirmation Order to file a rejection Claim.

D. **Means For Execution of the Plan.** The Plan will be executed as follows:

1. **Initial Plan Funds.** The Plan will initially be funded from the following sources. On the Effective Date, the Reorganized Debtor will (a) use the \$28,184.77 in insurance proceeds the Debtor has received and the \$2,472 distribution the Debtor received from his interest in Carlo Lopez Kretchmar, LLC (see description below), and (c) sell his interest in Carlo Lopez Kretchmar, LLC and his 1/3rd membership interest in Chanhassen Venture, Ltd. (see description below) to his wife for \$20,000.

Debtor's Interest in Carlo Lopez Kretchmar, LLC.

Carlo Lopez Kretchmar, LLC ("CLK") is an Illinois limited liability company that owns Class B shares in Senior Suites New City, LLC, which owns and operates a 110-unit independent living low to moderate income senior housing project located at 4940 S. Western Chicago. CLK receives an annual dividend on its Class B shares, which CLK is entitled to receive so long as the underlying senior housing project generates income. The amount of this dividend decreases each year. The 2009 dividend, in the amount of \$2,472, has been received. Under the terms of the proposed sale of the Debtor's interest in CLK to his wife, the 2009 dividend will be retained by the Debtor to fund the

Plan. The Debtor has offered his interest in CLK to his other business partners and none of them were interested in purchasing the Debtor's interest.

Debtor's 1/3 Interest in Chanhassen Venture, Ltd.

Chanhassen Venture, Ltd. ("CVL") is an Illinois corporation that owns the Chanhassen Weather Station. The Debtor owns 1/3 of the CVL stock. The weather station was developed for a sale/lease-back to the US Weather Service, which leases the property under a lease that expires in December 2014. GE Financial holds a mortgage on the weather station in the approximate amount of \$3,040,000 maturing in February of 2018. In February of 2007 the property was valued at approximately \$3,950,000. However, due to the recent downturn in the real estate market, an appraisal done on March 6, 2009 valued the property at a value of \$3,050,000. A copy of this appraisal is attached hereto as **Exhibit E**. Accordingly, there is little if any equity in the property. The weather station generates cash flow of approximately \$18,000 a year or \$1,500 a month. The weather station was refinanced in February of 2007 and each of the three shareholders received a \$350,000 distribution, which, for tax purposes, was characterized as a loan from CVL and which is being repaid from the income being generated by the weather station. As of January 1, 2009 the Debtor's indebtedness to CVL was approximately \$310,000. The Debtor also received an additional \$50,000 loan in January of 2008. In December of 2008 CVL made a one-time distribution of \$5,000 to its shareholders and the Debtor's portion of this distribution was applied as a payment toward the \$50,000 loan granted to the Debtor. Approximately \$27,000 is still due and owing on the original \$50,000 loan. CVL is entitled to recover the \$310,000 balance of the \$350,000 advance and the unpaid amount of \$50,000 loan before making any distributions to the Debtor or the holder of the

Debtor's 1/3 interest in CVL. Thus, the Debtor believes his 1/3 of the interest in CVL has little value.

2. Liquidation of Other Personal Property. The Debtor will attempt to sell his (a) 2005 Cadillac Escalade, (b) 1954 Ford Pickup Truck, (c) 1955 Oldsmobile, (d) his 50% membership interest in Chestnut Meadows, LLC (see description below), and (e) Utah timeshare. The Debtor will procure Court authorization before doing so. On August 1, 2009, the Debtor will conduct an auction sale of any of these assets that have not as of that time been sold.

Debtor's 50% Interest in Chestnut Meadows, LLC.

Chestnut Meadows, LLC ("CML") is an Illinois limited liability company that owns Chestnut Meadows of Tinley Park, which is in Phase III (the final phase) of a 82-unit townhome development located at 181st and 94th Avenue in Tinley Park. CML is in the third and final phase consisting of 18 units on 3.1 acres. The first unit, consisting of four units, has been built. The two units in the center were sold and closed in December 2007. One end unit is being used as a model and is on the market at a price of approximately \$369,000 and is 95% complete and could be sold and closed in 30 days. The other end unit has been partially built and is approximately 65% complete. No other foundations have been poured. CML had no sales in 2008, and there has been no buyer traffic for the past five months. Marquette Bank holds a construction loan secured by the property with an outstanding balance of approximately \$762,000. The property is zoned for an additional 14 units consisting of three buildings; two 5 unit buildings and one 4 unit building. There have been no presales. If the project could be completed, which would require substantial additional funding, and if the currently constructed units as well as the additional units to be constructed could be sold at reasonable prices, the Debtor's interest in CML might have some value. However, given the current market conditions,

the Debtor believes that his interest in CML has minimal value. The Debtor has offered his interest in CML to his partner in the project, who is not interested in purchasing it.

2. Liquidation of Real Estate. After the Effective Date, the Reorganized Debtor, who is a licensed real estate broker, will attempt to sell or refinance each of his eight (8) remaining real estate holdings⁴. The Reorganized Debtor will be authorized to sell such Debtor's Real Estate for any amounts equal to or greater than the amount owed to the Creditors holding liens upon such Debtor's Real Estate. The surplus proceeds realized from the sale of any such Debtor's Real Estate will be used to fund the Plan. On June 1, 2009 the automatic stay will be lifted to enable the Secured Creditors holding liens upon any of the remaining unsold Debtor's Real Estate to foreclose upon such unsold Debtor's Real Estate. The Debtor will still be entitled to sell any of the Debtor's Real Estate until the Debtor's interest in the real estate is extinguished pursuant to a foreclosure sale.

3. Retained Assets. The only assets that will be retained by the Reorganized Debtor will be his (a) 2004 Volkswagen automobile, (b) personal clothing, (c) household goods, (d) office equipment, (e) worthless interest in Lakeside Real Estate Ventures, Inc., (f) his Merrill Lynch IRA and (g) \$15,000 of the proceeds of the sale of his Residence.

Debtor's 100% Interest in Lakeside Real Estate Ventures, Inc.

Lakeside Real Estate Ventures, Inc. is an Illinois corporation owned by the Debtor under which the Debtor conducts his real estate business. Lakeside Real Estate Ventures is without assets and has no value.

⁴ Park National Bank has completed the foreclosure sale of the Park Tower Condominium.

4. **Abandoned Assets.** The automatic stay has been lifted to allow the Secured Creditors holding liens upon the Debtor's 50% interest in Indian Village Development Corporation, and his 100% interest in Harbour Town Ventures II, LLC to foreclose on those assets. On the Effective Date the automatic stay will be lifted to allow the Secured Creditor holding liens upon the Debtor's 100% interest in JJF Enterprises, LLC, to foreclose on that asset.

50% of stock of Indian Village Development Corporation ("IVDC")

Indian Village Development Corporation IVDC is an Illinois C corporation that owns 40 parking spaces and the air rights over those spaces, located in Chicago, Illinois. The Debtor owns 50% of the stock of IVDC. The Debtor's shares have been pledged to House Investments of Indianapolis to secure its claims against the Debtor in excess of \$5 million. IVDC is currently indebted to Lakeside Bank in the approximate amount of \$330,000, which indebtedness is secured by a mortgage on the IVDC real estate. The Debtor caused IVDC to borrow the funds from Lakeside Bank and to, in turn, lend the funds to the Debtor. The Debtor personally guaranteed the repayment of the loan to Lakeside Bank. Zeke Zuckerman is the 50% partner in the corporation. The corporation has entered into a contract to sell the air rights for \$3 million. However the buyer's obligations to close on the purchase are contingent upon certain zoning and financing contingencies that have yet to be met. Current value of the corporation is \$1 million, without attributing any value to the air rights and the pending contract to sell the air rights. Thus, gross amount of Debtor's 50% ownership of the corporate stock is \$500,000. However, the \$300,000 indebtedness owed to Lakeside Bank must be deducted from the \$500,000 value of the Debtor's stock, for a net value of the Debtor's stock is \$200,000. House IV holds a lien upon the Debtor's interest in IVDC to secure the Debtor's payment of the \$2,151,751 owed to House IV.

Debtor's Interest in Harbour Town Ventures II, LLC.

Harbour Town Ventures II, LLC ("HTV") is an Indiana corporation that owns Harbour Town Apartments located in Noblesville, IN. HTV acquired 204 units for \$7,750,000. The property was rezoned for 325 units with 220 boat slips. Fifth Third Bank holds a \$6,000,000 acquisition loan on the land and an \$8,400,000 construction loan on building number one. House IV has a second mortgage on HTV's assets with a current balance of approximately \$7,200,000. Thus, the total indebtedness against HTV is approximately \$20,950,000, which is greater than the current value of HTV's assets. House III also holds a lien upon the Debtor's interest in IVDC to secure the Debtor's payment of the \$5,023,653 owed to House III.

Debtor's Interest in JJF Enterprise, LLC

JJF Enterprise, LLC is a Tennessee limited liability company that owned Southland Condominiums in Franklin, Tennessee. The project failed, and JJF has no remaining assets. The Debtor's interest in JJF has been pledged to Puritan to secure its claims against the Debtor of in excess of \$700,000.

5. Retention of Professionals. The Reorganized Debtor has hired an accountant, per a Bankruptcy Court's order dated February 3, 2009, to assist in reviewing and likely objecting to the Claim of the IRS. The Reorganized Debtor will also retain the services of licensed real estate brokers or enter into cooperative listing agreements with such brokers in connection with the liquidation of the Debtor's Real Estate.

6. Plan Disbursements. On September 1, 2009, an Initial Distribution will be made to holders of Allowed Claims on a Pro Rata basis according to the priority schedule as set forth in **Exhibit 2** of the Plan. For purposes of calculating the amounts that will be paid in the Initial

Distribution to Creditors, the Claims of the Holders of Allowed Secured Claims whose collateral has yet to be liquidated, will be allowed in the full amount of their Claims, without regard to the anticipated recoveries that the Secured Creditors will receive from the liquidation of their collateral.

However, the distributions to such Secured Creditors will be withheld until each such Secured Creditor has liquidated its collateral and the amount of its Deficiency Claim against the Debtor, if any, has been determined. When the deficiency amounts have been determined and the Secured Creditors file an amended Claim with the Court in the amount of such Deficiency Claim, the Secured Creditor will receive a distribution based upon its reduced Claim.

On June 1, 2010 the remaining Plan Funds, including the portions of the amounts originally withheld for distribution to Secured Creditors that were not distributed to them and any surplus proceeds realized and remitted to the Reorganized Debtor from the Secured Creditors' liquidation of their collateral, will be distributed to holders of Allowed Claims on a Pro Rata basis according to the priority schedule as set forth in **Exhibit 2** of the Plan. For purposes of participating in the Initial or Final Distribution, any Secured Creditor who fails to file an amended Claim on or before May 1, 2010, reflecting the amount it realized from the liquidation of its collateral and its remaining Deficiency Claim against the Debtor, will be deemed to have been fully satisfied from the liquidation of its collateral and to have waived its right to participate in the Initial or Final Distribution.

7. Plan Disbursing Agent. John Kretchmar will serve as the Disbursing Agent for the Plan and will administer the Plan and the payments called for in accordance with the provisions of the Plan. No compensation will be paid to the Disbursing Agent for performing the services called for under the Plan.

8. Initiation of Additional Actions. The Reorganized Debtor will conduct such investigations and inquiries into its pre-petition affairs as it deems appropriate, and may initiate and prosecute actions to recover any preferences, transfers, assets or damages to which it may be entitled under applicable provisions of the Code or other federal, state, or local law; provided that any such action will be commenced within the later of two (2) years of the date of the filing of his voluntary petition for relief or the statutory limitations period otherwise applicable to such action. Notwithstanding the foregoing, the Reorganized Debtor may not initiate any actions seeking to set aside or vacate any findings of fact or conclusions of law agreed to by the Reorganized Debtor or entered by the Court in connection with the various orders entered during the Debtor's Bankruptcy Proceedings

E. Discharge of Debtor. Pursuant to provisions of 11 U.S.C 1141(d) upon the entry of the Confirmation Order, the Debtor will be discharged from any debt that arose before the Petition Date and any debt of a kind specified in section 502(g) (claims arising from the rejection of executory contracts), 502(h) (claims arising from the post-petition recovery of certain property), or 502(i) (certain tax claims arising after the petition date) of the Code.

F. Payment of US Trustee Fees. Until the Debtor's bankruptcy case is closed, the Debtor will continue to pay all statutory fees due and owing to the office of the United States Trustee.

IV. THE DEBTOR'S HISTORY

A. **Events Leading Up to the Commencement of the Chapter 11 Case.** On September 13, 2005 the Debtor acquired property known as Harbour Town Apartments, which consisted of 205 rental units on 19.1 acres located in Noblesville, Indiana. Fifth Third Bank provided an acquisition loan in the amount of \$5,590,000. On or around December 15, 2005 Fifth Third Bank provided a construction loan in the amount of \$7,400,000. The bank had given an indication that a development loan in the amount of \$1,800,000 would be forthcoming. However, because a May 2006 appraisal appraised the project at a price lower than the bank had anticipated, the bank refused to fund the development loan which was needed to complete the development of the property. In order to keep the project alive, the Debtor personally invested \$1,150,000 into the project and unsuccessfully attempted to find alternate refinancing for the project. The losses that the Debtor sustained in connection with this project as well as the overall decline in the real estate market ultimately forced the Debtor to seek bankruptcy court protection.

B. **Commencement and Administration of Chapter 11 Case.** The Debtor commenced the subject Chapter 11 Case on September 15, 2008. Since the commencement of the Debtor's Chapter 11 Case, the Debtor has operated under the jurisdiction of the Bankruptcy Court pursuant to the provisions of the Bankruptcy Code. Attached hereto as **Exhibit C** is a summary of the monthly operating reports that the Debtor has filed with the Bankruptcy Court for the period he has been operating under Chapter 11.

V. VOTING ON THE PLAN

A. **Purpose of Disclosure Statement.** This Disclosure Statement, the Plan, the Court Order allowing the Plan and Disclosure Statement to be circulated, and a ballot for holders of impaired Claims to vote to accept or reject the Plan are being sent to all known actual or potential holders of Claims, irrespective of the validity of the underlying Claims. The receipt by a Creditor of the Plan and Disclosure Statement does not mean that the recipient has a Claim or that the Claim has been allowed.

The purpose of this Disclosure Statement is to provide each Creditor with a description of the Plan and other information to aid it in making an informed decision as to whether to accept the Plan. Creditors may vote on the Plan by filling out and mailing the accompanying ballot. On _____, 2009 at _____ a hearing to consider approval of this Disclosure Statement will be held by the Court or by any other judge sitting in the Court's place, in Courtroom 682, of the United States Courthouse, 219 S. Dearborn, Chicago, Illinois. If, at the conclusion of said hearing, this Disclosure Statement is approved by the Court, the Court will immediately hold a hearing to consider confirmation of the Plan. That hearing may be continued from time to time with no additional notice except as given in open Court. At the confirmation hearing, the Court will enter an order confirming the Plan if requisite acceptances of the Plan have been received and the full statutory requirements have been met. The information contained in this Disclosure Statement has been submitted by the Debtor unless specifically stated to be from other sources.

This Disclosure Statement contains a brief summary of the Plan and is not intended to take the place of the Plan. The Plan should be read carefully in conjunction with this Disclosure Statement in order for Creditors to formulate an opinion as to the Plan's implications and effect on each Creditor's rights, and in order to formulate an opinion as to whether to accept or reject the Plan. The ability of the Debtor to consummate the Plan is based on certain assumptions regarding future events. Neither the Debtor nor its attorneys represent or warrant the accuracy of any financial projections or of any factual or legal representations contained herein or in the Plan. However, great effort has been made to be cautious and accurate with respect to financial projections and discussions of future events. The financial information contained in this Disclosure Statement and the Plan has not been subject to a certified audit.

B. No Other Plan Information Authorized. The Plan itself and this Disclosure Statement are the only information authorized by the Debtor or the Court to be distributed to Creditors. No representations concerning the Debtor are authorized other than as set forth herein. In deciding whether to accept the Plan, Creditors should not rely upon any representations or inducements made to secure their acceptance other than the representations contained in the Plan and this Disclosure Statement.

C. Voting on the Plan. Code section 1126 provides that at least two-thirds in amount and more than one-half in number of the allowed Claims against the Debtor voting in each Class of impaired Creditors must accept the Plan for the Plan to be confirmed by the Court. Only members of impaired Classes are entitled to vote on a Plan. The impaired Classes are Classes 2 through 6 and 8 through 9. A ballot is enclosed with the Court's order setting the hearing at which the Court will consider confirmation of the Plan and authorizing dissemination of the Plan and this Disclosure

Statement to Creditors. Any Creditor holding an impaired Claim wishing to vote to accept or reject the Plan must complete, date, sign and return the ballot to the clerk of bankruptcy court:

Clerk of Bankruptcy Court
219 South Dearborn Street
Chicago, Il 60604

The ballot must be received by the above clerk by 4:30 p.m. on _____, 2009. Any ballot received after that date and time will not be considered. No ballot, once received, can be changed or withdrawn without a hearing before the Court. In the event that the Plan is not accepted by at least two-thirds in amount and more than one-half in number of the Creditors of the Debtor in each impaired Class, the Debtor intends to request the Court to confirm the Plan pursuant to the "cram-down" provisions of code section 1129(b). In such case, the Court will confirm the Plan if the Court finds that at least one impaired Class of Claims has accepted the Plan, that the Plan is "fair and equitable" to the non-accepting Classes, and that certain other requirements for confirmation have been met. If the Court determines that the Plan does not comply with Section 1129(b) with respect to one or more Class or Classes, the Plan automatically will be amended to modify the treatment of that and any other Class or Classes, even if the effect of such amendment is to render such treatment less favorable, so as to provide the treatment necessary to correct any noncompliance with section 1129(b) found by the Court.

VI. FEASIBILITY OF THE PLAN

Since the Plan calls for the liquidation of all the Debtor's non-exempt assets, the Plan is feasible.

VII. LIQUIDATION ANALYSIS

The Plan calls for the liquidation of all of the Debtor's non-exempt assets and therefore, Creditors will receive at least as much as they would receive in a Chapter 7. Attached hereto as **Exhibit D** is the Liquidation Analysis of the Debtor's assets.

VIII. ALTERNATIVES TO THE PROPOSED PLAN

Conversion to Chapter 7. An alternative to the current Plan would be conversion of the Chapter 11 Case to a Chapter 7 Case and the subsequent liquidation of the Debtor's assets by an appointed or elected Trustee. The Debtor would oppose such a conversion. In the event of such a conversion, after the appointed or elected Trustee took office and became familiar with the case, such Trustee would probably attempt to implement essentially the same plan as that being proposed by the Debtor, through a Court approved asset sale. The Debtor believes that any effort by a Chapter 7 Trustee to sell the Debtor's assets would result in considerable additional administrative expense being incurred and substantial delay in the distribution of any dividend to Creditors, without increasing the potential distribution that would be paid to Creditors. Thus, the Debtor believes that the conversion of its Case to a Chapter 7 Case is not in the best interests of the Debtor, his estate or Creditors.

IX. DEBTOR'S RECOMMENDATION

THE DEBTOR BELIEVES THAT IT IS IN THE BEST INTEREST OF HIS ESTATE AND HIS CREDITORS FOR THE PROPOSED PLAN TO BE APPROVED AND, AS SUCH, THE DEBTOR URGES HIS CREDITORS TO CAST BALLOTS TO ACCEPT THE PLAN.

Dated: April 20, 2009

John Kretchmar

By: s/ Chester H. Foster, Jr.
One of His Attorneys

Chester H. Foster, Jr.
Foster, Kallen & Smith
3825 W. 192nd Street
Homewood, IL 60430
708-799-6300
ARDC # 03122632

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)
Nancy Jean Serwin,) Case No. 08-28743
debtor/debtor-in-possession.) Judge Bruce W. Black
Chapter 11

DEBTOR'S PLAN OF REORGANIZATION

DEBTOR'S COUNSEL:

SCOTT R. CLAR, ESQ.

(Atty. No. 06183741)

CRANE, HEYMAN, SIMON, WELCH & CLAR

135 S. LaSalle St., Suite 3705

Chicago, IL 60603

(312) 641-6777

\\mjo2\Serwin\Discl Stmt.wpd

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)
Nancy Jean Serwin,) Case No. 08-28743
debtor/debtor-in-possession.) Judge Bruce W. Black
Chapter 11

DEBTOR’S PLAN OF REORGANIZATION

NANCY JEAN SERWIN, debtor and debtor-in-possession herein (“Debtor”), by and through her attorneys, proposes her Plan of Reorganization (“Plan”) in accordance with Section 1121(a) of the Bankruptcy Code.

INTRODUCTION

On October 24, 2008, the Debtor filed her Voluntary Petition for Relief under Chapter 11 of the United States Bankruptcy Code (the “Petition Date”). Since the Petition Date, the Debtor has managed her financial affairs as a debtor-in-possession pursuant to Section 1101 and 1107 of the Bankruptcy Code. No trustee, examiner or Official Committee of Unsecured Creditors has been appointed in the Debtor’s Chapter 11 case.

The Debtor is the proponent of this Plan. The Plan contemplates distribution to the holders of Allowed Claims, as that term is defined in the Disclosure Statement filed contemporaneously with the Plan, from the sale of real properties located in Akumal, Riviera Maya, Mexico, consisting of a 6,000 square foot residence, and adjoining lot (the “Mexican Properties”). For a further discussion of the mechanics of the Plan, the reader’s attention is directed to the Disclosure Statement filed by the Debtors in connection with their Plan. All holders of Allowed Claims and Interests are encouraged to read the Disclosure Statement and the Plan carefully before voting on the Plan.

Summary of the Plan: The Plan calls for distributions to the Debtor’s various classes of creditors as follows:

1. Costs of administration to be paid in full at time of confirmation unless otherwise agreed to;
2. Priority Claims: to be paid in full in cash on or within sixty (60) days of the Effective Date;
3. Associated Bank ("Bank"): mortgage attaching to property located at 2556 N. Terrace Avenue, Milwaukee, Wisconsin 53211 (the "Prime Residence"). Associated will continue to be paid monthly pursuant to the terms of the mortgage and note executed pre-petition by the Debtor;
4. Unsecured Non-Priority Claims: unsecured non-priority claims will be paid 100% of their allowed claims, upon the sale of the Mexican Properties.¹

ARTICLE I

DEFINITIONS

The following terms, when used herein, shall have the meaning specified below, unless the context otherwise requires:

1.1 Administrative Expense: A cost or expense of administration of this Chapter 11 case, including any actual, necessary expense of preserving or liquidating the estate, or of operating the business of the Debtor and all allowances approved by the Bankruptcy Court in accordance with Section 503 of the Bankruptcy Code.

1.2 Allowed Claim: A "Claim" (as defined below) (i) proof of which has been filed with the Bankruptcy Court within the time fixed by the Bankruptcy Court or applicable rules or statutes, and with respect to which no objection has been timely filed by any party in interest, or (ii) that has been, or hereafter is, listed by the Debtor as liquidated in amount

¹ The Debtor plans to at least object to the claim of Don W. Barnes in the amount of \$250,000 ("Barnes"), as Barnes provided the Debtor with investment advice in her role as Trustee of the Carol Igini Trust, and the Debtor believes she possesses a claim against Barnes for his perceived negligence in advising her on the trust and other financial matters.

and not disputed or contingent, or (iii) that has been allowed by a "Final Order" (as defined below) by the Bankruptcy Court, or (iv) that is allowed by the provisions of this Plan.

1.3 Associated Bank: Associated Bank ("Associated") is the entity holding the first mortgage on property located at 2556 N. Terrace Avenue, Milwaukee, Wisconsin 53211.

1.4 Bankruptcy Code: Title 11 of the United States Code, Section 101 et seq., as amended.

1.5 Bankruptcy Court: The United States Bankruptcy Court for the Northern District of Illinois, Eastern Division.

1.6 Bankruptcy Rules: The Federal Rules of Bankruptcy Procedure.

1.7 Carol Igini: Carol Igini, the Debtor's long term friend with whom she constructed and maintained several philanthropic endeavors.

1.8 Carol Igini Trust: The trust set up by Carol Igini before her death, for the benefit of the Debtor and Robert Anderson, Jr., Nancy Borkowicz and Michael Joseph, for which the Debtor is the Trustee.

1.9 Cash: The term "Cash" means legal tender of the United States of America, which may be conveyed by check or wire transfer.

1.10 Chapter 11: Chapter 11 of the Bankruptcy Code.

1.11 Claim: The term "Claim" shall have the meaning set forth in Section 101(5) of the Bankruptcy Code.

1.12 Class: "Class" means a category of holders of Claims or Interests as set forth in Article II of the Plan.

1.13 Confirmation: The entry by the Bankruptcy Court of a Final Order confirming the Plan in accordance with the provisions of Chapter 11 of the Bankruptcy Code.

1.14 Debtor: Nancy Jean Serwin.

1.15 Debtor's Estate: All of the Debtor's "property of the estate" as defined in Section 541 of the Bankruptcy Code.

1.16 Debtor in Possession: Nancy Jean Serwin

1.17 Disclosure Statement: The Disclosure Statement that relates to this Plan and which is approved by the Bankruptcy Court pursuant to Section 1125 of the Bankruptcy Code, inclusive of any amendments or modifications thereto.

1.18 Effective Date: Thirty (30) days following the date on which the Order confirming this Plan becomes a Final Order.

1.19 Final Order: (I) an order or a judgment that has not been reversed, stayed, modified or amended, and as to which the time to appeal or seek reargument, reconsideration or rehearing has expired and has not been extended and as to which no appeal, petition for certiorari, reargument, reconsideration or rehearing is pending, or (ii) an order or a judgment for which an appeal, reargument, reconsideration, rehearing or certiorari has been sought, and as to which the order or judgment has been affirmed or the request for reargument, reconsideration, rehearing or certiorari has been denied, and the time to take any further appeal, reargument, reconsideration, rehearing or certiorari has expired, so that in the event of either (I) or (ii), such order or judgment shall have become final and non-appealable in accordance with applicable law.

1.20 Interest: Any equity interest held by any shareholder of the Debtor.

1.21 Lien: The term "Lien" shall have the meaning set forth in Section 101(37) of the Bankruptcy Code.

1.22 Mexican Properties: The vacation home and lot in Akumal, Riviera Maya, Mexico.

1.23 The Other Trust Beneficiaries: Michael Joseph, Nancy Borkowicz and Robert Anderson, Jr.

1.24 Month: A calendar month, including the month in which a date or event occurs.

1.25 Other Priority Claims: Any Claim that is entitled to priority under Section 507(a) of the Bankruptcy Code, other than Administrative Claims or Tax Claims.

1.26 Plan: This Plan of Reorganization including any amendments or modifications thereto.

1.27 Primary Residence: The Debtors' residence located at 2556 N. Terrace Avenue, Milwaukee, Wisconsin.

1.28 Pro-rata: With respect to any distribution on account of any claim or matter, in the same proportion as the amount of such claim or matter bears to the aggregate amount of all claims or matters of its class.

1.29 Secured Claim: The portion of any Claim, determined in accordance with Section 506(a) of the Bankruptcy Code, as of the date of Confirmation, which is (a) secured by a valid, perfected and unavoidable lien on property, arising by contract, operation of law, or otherwise to the extent of the value of the creditor's interest in the Debtor's interest in such property or (b) subject to offset.

1.30 Security Interest: The term "Security Interest" shall have the meaning set forth in Section 101(51) of the Bankruptcy Code.

1.31 Tax Claim: Any Claim of a governmental unit of the kind specified in Sections 502(l) and 570(a)(8) of the Bankruptcy Code.

1.32 Unsecured Claim: Any Claim that is not an Administrative Claim, Tax Claim, Other Priority Claim or Secured Claim.

Unless otherwise defined, the words and phrases used herein shall have the meanings ascribed in the Bankruptcy Code and in the Bankruptcy Rules.

ARTICLE II**CLASSIFICATION OF CLAIMS AND INTERESTS**

The following is a designation of the Classes of Claims and Interests established under the Plan. A Claim or Interest shall be deemed classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of the Class and shall be deemed classified in a different Class to the extent that any remainder of the Claim or Interest qualifies within the description of such different Class. In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Tax Claims have not been classified.

A) UNCLASSIFIED CLAIMS

2.1 Administrative Claims: Administrative Claims shall consist of Allowed Claims for Administrative Expenses. The Debtor's only anticipated Administrative Claim, other than those debts which she may incur in the ordinary course of her daily affairs, would be to the law firm of Crane, Heyman, Simon, Welch & Clar, employed as counsel for the Debtor.

2.2 Tax Claims: The Allowed Claims, if any, of the Internal Revenue Service ("IRS"), the Illinois Department of Revenue ("IDR") and any other federal, state or local taxing authority which are entitled to priority under Sections 502(l) and 507(a)(8) of the Bankruptcy Code.²

B) CLASSIFIED CLAIMS AND INTERESTS

2.3 Class 1: The Allowed Claim of Associated Bank arising from the mortgage attaching to the primary residence in the approximate amount of \$200,000.00.

2.4 Class 2: The Allowed Claims of General Unsecured Creditors, including the claims of the Other Trust Beneficiaries, totaling \$900,000.00 and all other unsecured

²The Debtor is unaware of any tax claims.

creditors, totaling \$1,457,409.85, possibly to be reduced by the disallowance of the \$250,000.00 claim of Don Barnes.

ARTICLE III

TREATMENT OF UNCLASSIFIED CLAIMS AND CLAIMS AND INTERESTS NOT IMPAIRED UNDER THE PLAN

Under the terms of the Plan, Administrative Claims and the claim of Associated shall not be impaired. The following sets forth the treatment of such Claims under the Plan.

3.1 Administrative Claims: Except as provided herein, holders of Allowed Administrative Claims shall be paid in cash in accordance with Section 1129(a)(9)(A) of the Bankruptcy Code as follows, unless the holder of an Administrative Claim agrees to a different treatment:

Each holder of an Administrative Claim of the kinds specified in Section 507(a)(1) of the Bankruptcy Code will receive on account of such Claim, cash equal to the allowed amount of such Claim, within thirty (30) days of the Effective Date, except that post-petition trade creditors of the Debtors will be paid according to the terms under which the debt was incurred; provided, however, that all Administrative Claims with respect to the payment of any professional persons shall remain subject to and be paid in accordance with any Final Order of the Bankruptcy Court.

3.2 Tax Claims: Holders of Allowed Tax Claims shall be paid in cash in accordance with Section 1129(a)(9)c) of the Bankruptcy Code as follows, unless the holder of a Tax Claim agrees to a different treatment:

3.3 Class 1 Claim of Associated: Associated shall continue to be paid its monthly mortgage payment pursuant to the terms of the note and mortgage entered into by the Debtor prior to the Petition Date. The Debtor has remained current in her payments to Associated at all times.

ARTICLE IV**TREATMENT OF CLAIMS
IMPAIRED UNDER THE PLAN**

Under the terms of the Plan, Allowed Claims in Class 2 shall be impaired. The following sets forth the treatment of such Claims under the Plan:

4.1 Class 2 Claims: Class 2 Claims of general unsecured creditors: each holder of an Allowed Class 2 Claim shall receive 100% of the Allowed Amount of such Claim and in complete satisfaction of such claim. The aforementioned sum shall be paid upon and out of the proceeds of the sale of the Mexican Properties.

ARTICLE V**IMPLEMENTATION OF PLAN**

5.1 Upon Confirmation, the Debtor shall be re-vested her assets, subject only to the terms and conditions of this Plan. The Debtor shall be entitled to continue to operate and manage her business and financial affairs in the ordinary course without further Order of this Court, except as hereinafter set forth.

5.2 Upon Confirmation, an injunction under Section 524 of the Bankruptcy Code shall arise to prevent any party from foreclosing its Lien or Security Interest in any assets of the Debtor or otherwise enforcing Claims against the Debtor and its assets except in a manner provided for under the terms and conditions of this Plan. This injunction shall remain in effect to prevent said actions until all distributions have been made in accordance with the terms and conditions of the Plan.

5.3 After Confirmation of the Plan, the Debtor will continue to manage her financial affairs and pursue the sale of the Mexican Properties through the real estate broker employed in Mexico, Malù Gûijosa, for one (1) year. Payment to creditors pursuant to the Plan will be made from funds realized from the sale of the Mexico Properties. In the event the Debtor cannot sell or does not possess a contract to sell the Mexican Properties

at the end of the one (1) year period, the Debtor will agree to place the Mexican Properties in a liquidating trust with the Trustee to be mutually agreed upon between the Debtor and the Other Trust Beneficiaries. The Debtor and the Other Trust Beneficiaries shall each have an equal vote with respect to matters concerning the sale and marketing of the Mexican Properties after the expiration of the one (1) year period.

5.4 The Debtor will have the right to make any distribution to creditors earlier than required by the Plan, without penalty, according to the priorities set forth herein and under the Bankruptcy Code.

5.5 The Debtor shall be the disbursing agents charged with making the payments required under the Plan.

5.6 The Plan is self-executing. The Debtor shall not be required to execute any newly created documents to evidence the Claims, Liens or terms of repayment to the holder of any Allowed Claim. The terms of this Plan will exclusively govern payments to creditors and any other rights of creditors as against the Debtor and its property. Furthermore, upon the completion of the payments required under this Plan to the holders of Allowed Claims, such Claims, and any Liens and Security Interests that may support such Claims, shall be deemed released and discharged.

5.7 The Debtor shall have the right, power and authority after Confirmation to commence any preference, fraudulent conveyance or other litigation it deems appropriate. The Bankruptcy Court shall retain jurisdiction for such litigation.

ARTICLE VI

EXECUTORY CONTRACTS

6.1 Unless otherwise expressly provided in this Plan, all executory contracts and unexpired leases which exist between the Debtor and any other party, whether such executory contract be in writing or oral, which has not been previously assumed, assigned,

rejected or otherwise terminated by the Debtor shall be deemed assumed upon Confirmation of this Plan pursuant to Sections 365 and 1123(b)(2) of the Bankruptcy Code.

6.2 Any and all Claims asserted by any party arising from the rejection of executory contracts and unexpired leases pursuant to this Plan must be filed on or within thirty (30) days following Confirmation of the Plan.³ Further, with respect to Claims for default relating to any unexpired lease or executory contract that is deemed assumed pursuant to the Plan, any and all such Claims must also be filed on or within thirty (30) days following the assumption. Allowed Claims emanating from the rejection of unexpired leases and executory contracts will be treated as Class 7 Claims. Allowed Claims for default emanating from the assumption of unexpired leases and executory contracts will be treated as Class 7 Claims. Any person failing to file such a Claim within the time provided herein shall be forever barred from asserting such Claim and shall not receive any distribution under this Plan.

6.3 The provisions set forth herein shall be equally applicable to executory contracts and unexpired leases of real and personal property.

ARTICLE VII

BANKRUPTCY COURT'S RETENTION OF JURISDICTION

7.1 The Bankruptcy Court shall retain jurisdiction after Confirmation to: (i) consider applications for fees and allowances for professional persons; (ii) supervise the implementation of this Plan; (iii) consider objections to Claims against the Debtors and Debtors' Estate; (iv) consider applications for the assumption, assignment and/or rejection of executory contracts; (v) hear and conclude all adversary proceedings or contested matters; (vi) resolve disputes regarding interpretation of this Plan; (vii) allow Administrative Claims; (viii) enter Orders to further consummation of the Plan; (ix) approve modification

³ The Debtor is unaware of any possible claims arising from the rejection of executory contracts or unexpired leases.

of the Plan upon motions brought before the Bankruptcy Court in accordance with Section 1127 of the Bankruptcy Code; (x) consider all applications and matters pending before the Bankruptcy Court on the date of Confirmation; (xi) enter any order, including injunctions, necessary to enforce title, rights and powers of the Debtor, and to impose such limitations, restrictions, terms and conditions of such title, rights and powers as the Bankruptcy Court may deem necessary; (xii) enforce terms of Plan; (xiii) hear and conclude all matters brought by the Debtor under Article V, Section 5.7; and (xiv) enter an Order concluding and terminating this Chapter 11 case.

ARTICLE VIII

INVALIDATION OF LIENS AND DISCHARGE

8.1 The provisions of the confirmed Plan shall bind all creditors and other parties in interest, whether or not such persons accept the Plan. The distributions provided under the Plan shall be in exchange for and in complete satisfaction and release of all Liens, Security Interests and Claims against the Debtor and any of the assets or properties of Debtor's Estate. Unless otherwise specifically provided to the contrary herein or in the Confirmation Order, on and after Confirmation, all holders of Claims shall be precluded from asserting any Lien, Security Interest or Claim against the Debtor.

ARTICLE IX

INTEREST AND PENALTIES

9.1 Except as otherwise provided herein, or required by the Bankruptcy Code, no interest or penalties accruing on or after September 12, 2005, shall be paid on any Allowed Claim nor shall any creditor claiming any such interest or penalty be entitled to have its Claim for interest or penalty allowed for payment pursuant to the Plan.

ARTICLE X

**CONFIRMATION OF PLAN UNDER
SECTION 1129(b) OF THE BANKRUPTCY CODE**

10.1 The Debtor reserves the right, pursuant to Section 1129(b) of the Bankruptcy Code, to request the Bankruptcy Court to confirm the Plan if all applicable requirements of Section 1129(a) of the Bankruptcy Code, other than Section 1129(a)(8), are met.

ARTICLE XI

UNCLAIMED PROPERTY

11.1 In the event that any distribution made to a claimant by the Debtor under this Plan remains unclaimed thirty (30) days after such distribution is made, this distribution shall become property of the Debtor and shall not be recouped by any claimant in subsequent distributions. Once the distribution is recouped by the Debtor, the claimant shall forfeit any and all legal and equitable right to such distribution and the proceeds thereof.

ARTICLE XII

CLAIMS OBJECTIONS

12.1 The Debtor plans to file objections to the allowance of certain Claims, and the Bankruptcy Court retains jurisdiction to rule on these objections.

ARTICLE XIII

DISPUTED CLAIMS

13.1 No distribution shall be made to the holders of disputed Claims until the dispute is resolved either by agreement or by Order of the Bankruptcy Court. Distributions to the holders of Allowed Claims shall not be held back pending resolution of disputed Claims. However, in the event a distribution is made to the holders of Allowed Claims before all disputed Claims have been resolved, sufficient funds shall be held back to pay

the pro rata share due the holders of disputed Claims in the event the dispute is resolved against the Debtors.

ARTICLE XIV

RETENTION OF CAUSES OF ACTION

14.1 The Debtor shall retain any and all claims and causes of action it has against third parties, including but not limited to any claims against Don Barnes. Such claims and causes of action shall survive and be unaffected by Confirmation of this Plan. Any funds realized from such retained claims and causes of action shall be property of the Debtor and may be used to make the payments to the holders of Allowed Claims pursuant to the Plan.

ARTICLE XV

GENERAL PROVISIONS

15.1 Rules of Construction. Unless otherwise specified herein or the context clearly indicates otherwise, the rules of construction applicable to the Bankruptcy Code and the Bankruptcy Rules are applicable to this Plan.

15.2 Definitions. A term used in the Plan that is not defined in the Plan but that is used in the Bankruptcy Code or the Bankruptcy Rules has the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules.

15.3 Amendment and Modification. The Debtor may alter, amend or modify the Plan before or after Confirmation in accordance with the applicable provisions of the Bankruptcy Code.

15.4 Severability. Should any provision of this Plan be determined to be unenforceable, such determination shall not impair, limit or otherwise affect the enforceability of any other provision of this Plan.

15.5 Successors and Assigns. The rights and obligations of any person or entity referred to in this Plan shall be binding upon, and shall inure to the benefit of the successors and assigns of any such person or entity.

15.6 Headings. The headings of the Articles, Paragraphs and Sections of this Plan are inserted for convenience only and shall not affect the interpretation therein.

15.7 Effect of Appeals. Unless the Confirmation Order is stayed pending appeal, the Debtor may consummate this Plan notwithstanding the pendency of an appeal from the Confirmation Order, or the timely service of the filing of a Motion under Bankruptcy Rules 7052, 8002(b), 8002(c), 8003, 8015, 9023 or 9024.

15.8 Computation of Time. Unless expressly provided otherwise in this Plan, in computing any period of time prescribed or allowed by this Plan, the provisions of Rule 9006(a) of the Bankruptcy Rules shall apply.

15.9 Insurance Preservation. Nothing in the Plan, including any releases, shall diminish or impair the enforceability of any policies of insurance that may cover any claims against the Debtor or any other person.

15.10 Terms Binding. On the Effective Date, all provisions of the Plan, including all agreements, instruments and other documents filed in accordance with the Plan and executed by the Debtor in connection with the Plan, shall be binding upon the Debtor, all creditors and shareholders and all other entities that are affected in any manner by the Plan. All agreements, instruments and other documents filed in connection with Plan shall have full force and effect, and shall bind all parties thereto as of Confirmation.

15.11 Inconsistencies. In the event that there is any inconsistency between the Plan and Disclosure Statement, any exhibit to the Plan or other instrument or document created or executed pursuant to the Plan, the Disclosure Statement shall govern.

15.12 Compliance With Applicable Law. It is intended that the provisions of the Plan (including the implementation thereof) shall be in compliance with all applicable laws and any rules and regulations promulgated thereunder. If the Debtor concludes that the Plan may not comply with applicable law, then in such event the Debtor intend to amend

the Plan in such respects as she deems necessary to bring the Plan into compliance therewith.

Respectfully submitted,
NANCY JEAN SERWIN,
debtor and debtor-in-possession

By: /s/Scott R. Clar
One of her attorneys

DEBTOR'S COUNSEL:
SCOTT R. CLAR, ESQ.
(Atty. No. 06183741)
CRANE, HEYMAN, SIMON, WELCH & CLAR
135 S. LaSalle St., Suite 3705
Chicago, IL 60603
(312) 641-6777
\\mjo2\Serwin\Plan.wpd

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)
Nancy Jean Serwin,) Case No. 08-28743
) Judge Bruce W. Black
debtor/debtor-in-possession.) Chapter 11

DEBTOR'S DISCLOSURE STATEMENT

DEBTOR'S COUNSEL:
SCOTT R. CLAR, ESQ.
(Atty. No. 06183741)
CRANE, HEYMAN, SIMON, WELCH & CLAR
135 S. LaSalle St., Suite 3705
Chicago, IL 60603
(312) 641-6777
\\mjo2\Serwin\Discl Stmt.wpd

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)
Nancy Jean Serwin,) Case No. 08-28743
debtor/debtor-in-possession.) Judge Bruce W. Black
Chapter 11

DEBTOR'S DISCLOSURE STATEMENT

Nancy Jean Serwin, debtor/debtor-in-possession herein ("Debtor"), by and through her attorneys, files this Disclosure Statement ("Disclosure Statement") pursuant to Section 1125 of the Bankruptcy Code and in conjunction with her Plan of Reorganization ("Plan"). A copy of the Plan is attached to this Disclosure Statement as **Exhibit "A."**

CHART OF TREATMENT OF CLAIMS UNDER PLAN

<u>CLASS</u>	<u>AMOUNT OF CLAIM</u>	<u>TREATMENT</u>
Administrative Claims	approx. \$30,000	paid in full in cash on Effective Date, unless otherwise agreed
Priority Claims	-0-	paid over a six (6) year period after confirmation. ¹
Associated Bank	approx. \$200,000	to be paid monthly according to the terms of the mortgage and note executed by the Debtor, pre-petition, and attaching to her residence located at 2556 Terrace Ave., Milwaukee, Wisconsin 53211

¹ The Debtor has not scheduled and is not aware of any tax claims.

Unsecured Creditors	approx. \$1,457,409.85 ²	100% distribution, based upon proceeds of the sale of real property located in Akumal, Riviera Maya, Mexico known as Casa Magna (the "Mexican Properties").
---------------------	-------------------------------------	---

INTRODUCTION

The Debtor filed her Voluntary Petition for Relief under Chapter 11 of the United States Bankruptcy Code on October 24, 2008 (the "Petition Date"). Since the Petition Date, the Debtor has been managing her financial affairs pursuant to Sections 1101 and 1107 of the Bankruptcy Code. No trustee or examiner and no Official Committee of Unsecured Creditors has been appointed. On July 29, 2009, the Debtor filed her Plan. The Debtor is the proponent of the Plan. The Plan provides for distribution to creditors with Allowed Claims³ from funds realized from the Debtor's sale of the Mexican Properties.

SUMMARY OF TREATMENT OF CLAIMS UNDER THE PLAN

The Plan has one (1) category of Administrative Claims, one (1) category of Tax Claims and two (2) categories of creditors. The Claims set forth in the Plan consist of the following:

Administrative Claims

Administrative Claims are unclassified and unimpaired under the Plan and primarily consist of Allowed Claims for fees and expenses of bankruptcy counsel employed pursuant

² The Debtor anticipates objecting to the claim of Don Barnes in the amount of \$250,000 based upon the Debtor's counter-claim against Barnes for his alleged negligence in advising the Debtor in her role as trustee of the Carol Igini Trust.

³ Capitalized terms are defined in Article I of the Plan.

to Order entered by this Court, Crane, Heyman, Simon, Welch & Clar ("CHSW&C"). These fees and expenses are approximately \$30,000.00.⁴

The amount projected to CHSW&C, anticipated to be the only Allowed Administrative Claimant, is in addition to a \$25,000 pre-petition retainer paid by the Debtor. CHSW&C shall not be paid unless and until the Bankruptcy Court has entered an appropriate order allowing the compensation and reimbursement of expenses requested by CHSW&C.

Also included in the category of Administrative Claims are post-petition current expenses and statutory fees due to the United States Trustee. Under the Plan, post-petition current expenses will be paid in the ordinary course pursuant to the terms existing at the time the claims were incurred. The statutory fees to the United States Trustee will be paid when such come due until the entry of a final decree.

Other than statutory fees to the United States Trustee, all Allowed Administrative Claims, to the extent allowed, will be paid in full in cash on the Effective Date or as otherwise agreed upon. The source of funds for payment of such Administrative Claims will be the cash resources of the Debtor, including her \$60,000 per year salary paid by the Squirm Foundation, a charitable organization engaged in various philanthropic projects.

Tax Claims

The Plan has a specific provision for the payment of taxes which are of the type entitled to priority under Section 507(a)(8) of the Bankruptcy Code. These Tax Claims are unclassified and unimpaired under the Plan. Again, the Debtor is not aware of and has not scheduled any Tax Claims.

⁴ This amount is merely the Debtor's estimate and is, therefore, subject to change.

Other Priority Claims

Holders of Allowed Claims entitled to priority under Section 507(a) of the Bankruptcy Code, other than Administrative Claims and Tax Claims, comprise the category of Other Priority Claims. The Debtor estimates that there are no claimants in this category.

To the extent that holders of Other Priority Claims shall emerge in the Debtor's Chapter 11 case, they shall be paid in full in cash on or within sixty (60) days of the Effective Date, except to the extent that said holders of Allowed Other Priority Claims agree to a later date of payment. The source of funds for payment of any emergent Other Priority Claims will also be the Debtor's cash resources.

Class 1 Claim:

Associated Bank ("Associated") is the Debtor's mortgage holder with respect to the Primary Residence. Associated is owed \$200,000, according to the Debtor's schedules and is the holder of the Allowed Class 1 Claim. Associated's Class 1 Claim is not impaired under the Plan. Associated will be paid according to the terms of the mortgage and note previously executed by the Debtor. The Debtor was current prior to the Petition Date and has remained current after the Petition Date.

Class 2 Claim:

Class 2 is comprised of those general unsecured creditors with Allowed Claims. The majority of Class 2 claims are comprised of the claims of Michael Joseph, Nancy Borkowicz and Robert Anderson, Jr. (collectively, the "Other Trust Beneficiaries"). The Debtor and the Other Trust Beneficiaries agreed to a settlement of a potential cause of action prior to the Petition Date, whereby the Debtor agreed to pay the Other Trust Beneficiaries the sum of \$900,000. Each holder of an Allowed Class 2 Claim shall receive 100% of the Allowed Amount of such Claim in full and complete satisfaction of such Claim. Payout to Class 2 Claimants shall be upon the sale of the Mexican Properties.

Claims Objections

The Debtor will file Claims Objections, including, but not limited to, objecting to the Claim of Don Barnes. No distributions will be made to claimants whose Claims are the subject of objections until resolution of the objections.

PURPOSE OF DISCLOSURE STATEMENT

This Disclosure Statement is provided to all of the known holders of Claims against the Debtor who are entitled to vote their acceptance or rejection of the Plan. This Disclosure Statement is disseminated in connection with the solicitation of acceptances of the Plan filed by the Debtor. The purpose of this Disclosure Statement is to provide such information as would enable a hypothetical, reasonable investor, typical of the holder of Claims which are impaired under the Plan, to make an informed judgment about the Plan.

The information contained in this Disclosure Statement has been submitted by the Debtor unless specifically stated to be from other sources. No representations concerning the Debtor or this Plan, other than those set forth in this Disclosure Statement, have been authorized by the Debtor.

The Debtor believes that all of the information contained in this Disclosure Statement is accurate. However, the Debtor is unable to warrant that there are no inaccuracies.

Under the Bankruptcy Code, a Class of Claims is considered to have accepted the Plan if both a majority in number and two-thirds (2/3) of the dollar amount of those actually voting vote to accept the Plan. The Claims of those who do not vote are not counted in determining whether the requisite statutory majority in number and dollar amount have voted for acceptance. Acceptance by the statutory majority will bind the minority who dissent and those who fail to vote.

The Plan requires that the holders of Claims in Class 2 vote on Confirmation of the Plan.

HISTORY AND BACKGROUND

The Debtor is an individual residing in Milwaukee, Wisconsin. The Debtor's Chapter 11 case was filed in the Northern District of Illinois, due to the location of the Carol Igini Trust (the "Trust"), of which the Debtor is the Trustee, and contains assets of the Debtor's estate. The Debtor is, by trade, a video producer and meeting planner. She was last employed four (4) years ago as a freelance video producer for a period of twenty (20) years.

The Debtor ceased her career as a video producer approximately four (4) years ago, in order to care for and tend to the financial affairs of a long time friend living in Mexico, Carol Igini ("Carol"), who had become ill. The Debtor and Carol met in college at the University of Wisconsin, Oshkosh, in the 1970s. The Debtor and Carol became friends with the Other Trust Beneficiaries over the course of time. Approximately fifteen (15) years ago, the Debtor and Carol became reacquainted, and resumed their close friendship, including Carol's request that the Debtor head several charitable organizations that Carol had founded. Included in these are the Squirm Foundation, which operates an animal rescue project, and "Clothes Closet," among other projects. The Debtor's duties in connection with these charitable projects included directing a marketing campaign for a homeless shelter in Milwaukee, overseeing the Carol Igini Charitable Lead Trust and other philanthropic projects. Carol resided in Mexico, requiring the Debtor to travel back and forth to Mexico in order to provide Carol with the advice and other assistance that Carol needed. Carol's medical condition continued to deteriorate throughout this time.

Carol died on February 19, 2005, leaving the Debtor as Trustee of the Carol Igini Trust, of which the Other Trust Beneficiaries also shared a beneficial interest. In addition, the Debtor inherited the Mexican Properties and other personal property from Carol after

her death. With the Mexican Properties came the obligation to maintain the real estate in all aspects including, repair, security and a myriad of other matters, requiring Nancy to continually travel to and from Mexico throughout the next few years up through and including the present time.

A substantial portion of the Trust assets were comprised of Midwest Bank securities, which was to be distributed to the Debtor and the Other Trust Beneficiaries. At the time of Carol's death, the Midwest Bank stock was worth approximately \$24 per share. Later, when distribution was to be made, the stock had dropped to \$16 per share. The Debtor offered to liquidate the Midwest Bank Stock, but that offer was refused by the Other Trust Beneficiaries. Instead, the Other Trust Beneficiaries threatened to bring suit against the Debtor for perceived negligence in failing to diversify the Trust holdings, even though the Other Trust Beneficiaries knew full well that the majority of their inheritance was contained in Midwest Bank stock.

Distraught over her long time friend's death, and overwhelmed with the responsibilities of tending to her friend's estate, the Debtor agreed to settle with the Other Trust Beneficiaries for the sum of \$900,000, representing \$300,000 to each of them. According to the terms of the settlement, the Debtor was to make an initial payment of approximately \$550,000 (the "Initial Payment"). The Debtor had contacted Associated Bank (the lender holding the mortgage attaching to the Primary Residence, in the approximate amount of \$200,000), and was told by Associated Bank that if she sold another parcel of real property owned by her at the time Associated would fund the Initial Payment through refinancing. The Debtor did, in fact, sell the other parcel of real property, unrelated to either her Primary Residence or the Mexican Properties, at a considerable loss to the Debtor, only to be told by Associated that they would not extend the necessary credit.

Left with no other alternatives, the Debtor was forced to file a Chapter 11 case. Since the Petition Date, the Debtor has retained a real estate broker, Malù Gùijosa ("Broker"), to sell the Mexican Properties. The original listing price for the Mexican Properties was \$4.8 million. On November 14, 2008, the Debtor instructed the Broker to change the price to \$3.9 million for the house and \$900,000 for the lot (only if purchased with the house). The Mexican Properties consist of a 6,000 square foot home and adjoining lot in the desirable Riviera Maya area of Mexico, on the Caribbean coast. The total list price is now \$4.8 million. The Debtor has shown the Mexican Properties on several occasions and has hosted two (2) parties, inviting possible purchasers to inspect the Mexican Properties. The Debtor has also allowed a local artist to do a show in the home with the hope of selling the Mexican Properties. As of this date, no offers have been received to purchase the Mexican Properties, but the Debtor is encouraged that a small reduction in the purchase price may result in offers being received.

The Debtor's time away from video producing due to her dedication to the Trust and other matters before and after Ms. Igini's death have rendered her unemployable in her chosen profession. Therefore, the Debtor's hopes of reorganization lie in the sale of the Mexican Properties. Sale of the Mexican Properties, even at a reduced price, will enable the Debtor to fully fund the Plan. A copy of the online brochure detailing the Mexican Properties is attached hereto as **Exhibit B**, and is by express reference made a part hereof.

The Debtor has been constructing a website for the Mexican Properties to link with the Broker and is also working with a realtor from Chicago (Rick Gutierrez), who will be entitled to a split of the commission with the Broker if Mr. Gutierrez can bring a customer to the broker for a sale. The Debtor and Mr. Gutierrez are also looking at other ideas and strategies designed to entice certain traffic to the website.

POST-PETITION ACTIVITIES

Since the Petition Date, the Debtor has endeavored to oversee the various charitable organizations set up by Carol, as well as attempt to sell the Mexican Properties. These activities require the Debtor to travel to Mexico on a regular basis. As referenced previously, the Debtor is currently being paid \$60,000 per year by the Squirm Foundation to oversee its various philanthropic projects, allowing her to meet her monthly expenses.

OTHER ASPECTS OF THE PLAN

The Debtor will assume of role of disbursing agent under the Plan. Upon Confirmation of the Plan, the Debtor shall be revested with her assets, subject only to the terms and conditions of the Plan. The Debtor shall be entitled to continue to operate her business and manage her financial affairs without further order of this Court, except as otherwise set forth in the Plan. After confirmation of the Plan, the Debtor will continue to manage her financial affairs in the ordinary course. Payments to creditors pursuant to the Plan will be made from the sale of the Mexican Properties.

Upon confirmation, an injunction under Section 524 of the Bankruptcy Code shall arise to prevent any party from foreclosing its Lien or Security Interest or otherwise enforcing its Claims against the Debtor and her assets in this Bankruptcy case except as authorized in the Plan. This injunction will remain in effect until all distributions under the Plan have been made.

The Plan is self executing. The Debtor shall not be required to execute any newly created documents to effectuate the terms of the Plan. Upon payment of the amounts as required by the Plan, any Liens and Security Interests supporting such claims shall be deemed released and discharged. All executory contracts and unexpired leases which exist between the Debtor and any other party, whether such executory contracts in writing, or oral, which have not been previously assumed, signed, rejected, or otherwise terminated by the Debtor shall be deemed assumed. Any and all claims asserted by any party arising

from the rejection of executory contracts and unexpired leases pursuant to the Plan must be filed on or within thirty (30) days following confirmation of the Plan, unless a prior order of the Bankruptcy Court establishes a different date for the filing of such claims. Further, with respect to Claims for Defaults relating to any unexpired lease or executory contract that is assumed pursuant to the Plan, any and all such Claims must also be filed on or within thirty (30) days following the assumption. Allowed Claims emanating from the rejection of unexpired leases and executory contracts will be treated as Class 2 Claims. Allowed Claims for Defaults emanating from the assumption of unexpired leases and executory contracts shall be treated as administrative claims. Any person failing to file such a claim within the time provided in the Plan shall be forever barred from asserting such claim and shall not receive any distribution under the Plan. The provisions for assumption, assignment and rejection shall be equally applicable to executory contracts and unexpired leases of real and personal property.⁵

The Bankruptcy Court shall retain jurisdiction for certain specified purposes. Any distribution under the Plan that remains unclaimed thirty (30) days after the distribution is made will become property of the Debtors, and will not be recouped in subsequent distributions.

The Debtor will have the right to make any distribution to creditors earlier than required by the Plan without penalty. The Debtor shall have the right, power and authority after Confirmation of the Plan to commence any preference, fraudulent conveyance or other litigation it deems appropriate.⁶ Any funds realized from such claims and retained

⁵ The Debtor is unaware of any Claims which will flow from the rejection of unexpired leases and executory contracts.

⁶ The Debtor has not completed an analysis of potential preference and/or fraudulent conveyance claims. Therefore, the Debtor is presently unable to quantify the extent to which, if at all, she has claims for such preferences and fraudulent conveyances. It is, however, unlikely any such avoidance claims exist.

causes of action may be used to make the payments under the Plan. The Bankruptcy Court shall retain jurisdiction for such litigation.

The provisions of the Plan shall bind all creditors, Interest holders and parties in interest. Except as expressly provided in the Plan, no interest or penalties shall accrue or be paid to any creditor. Finally, in the event that all applicable requirements of Section 1129(a) of the Bankruptcy Code, other than in Section 1129(a)(8) are met, the Debtor reserves the right, pursuant to Section 1129(b) of the Bankruptcy Code, to request that the Bankruptcy Court conduct a Confirmation hearing.

LIQUIDATION ANALYSIS

The Debtor's assets and their value as estimated by the Debtor is attached hereto as **Exhibit C**. Exhibit C is comprised of Schedule B of the Debtor's bankruptcy schedules. According to Exhibit C, the estimate of the total liquidation value of the Debtor's assets, consisting of the Primary Residence, the Mexican Properties and personal property including valuable jewelry and art work, is listed in Exhibit C to be approximately \$4.2 million.

The Debtor's liabilities may be summarized as follows:

<u>Liabilities</u>	<u>Amount</u>
Associated Bank	\$ 200,000.00
Unsecured Creditors	\$1,257,409.85 ⁷
Administrative Claims	\$ 30,000.00
Other Priority Claims	<u>-0-</u>
Total	\$1,487,409.85

⁷ The Unsecured Creditor amount includes the Debtor's purported debt owed to Don Barnes in the amount of \$250,000, which the Debtor believes can be objected to and offset by the Debtor's claim against Barnes for poor advice and possible negligence in his role as financial consultant and accountant to the Trust and the Debtor, as Trustee of the Trust.

In the event of a forced liquidation, creditors would likely receive 100% of their Claims, assuming that the Mexican Properties value is as anticipated.⁸ Since the Debtor's Plan is offering a 100% distribution, the distribution is as much or more than creditors would receive if the Debtor's assets were liquidated either in or out of a Chapter 7 bankruptcy case.

IMPLEMENTATION AND FEASIBILITY OF THE PLAN

As discussed throughout this Disclosure Statement, distributions under the Plan shall be made from the sale of the Mexican Properties. The Debtor does not intend to borrow funds in order to fund the Plan payments. The Debtor's Plan anticipates a one (1) year period from the Effective Date to her efforts to sell the Mexican Properties. After expiration of the one (1) year period, the Debtor will transfer the Mexican Properties to a liquidating trust, the trustee of which to be mutually acceptable to the Debtor and the Other Trust Beneficiaries. All decisions with respect to the marketing and sale of the Mexican Properties after one (1) year from the Effective Date will be made by both the Debtor and the Other Trust Beneficiaries.

The Debtor believes that the Plan is feasible given the appraised value of the Mexican Properties.

The Debtor believes that the Plan represents an opportunity for the holders of Allowed Claims to receive as much or more than such claimants would receive in a forced liquidation. The Plan is also fair.

⁸ The Debtor utilized a conservative approach in compiling her bankruptcy schedules. It is likely that an orderly liquidation of her assets, which include substantial equity in the Primary Residence, the Mexican Properties (which are owned free and clear of liens by the Debtor), and other personal property would result in a greater number than \$4.2 million.

RECOMMENDATION

The Debtor recommends that those persons entitled to vote, vote to accept the Plan.

Respectfully submitted,

NANCY JEAN SERWIN,
debtor and debtor-in-possession

By: /s/Scott R. Clar
One of her attorneys

DEBTOR'S COUNSEL:

SCOTT R. CLAR, ESQ.

(Atty. No. 06183741)

CRANE, HEYMAN, SIMON, WELCH & CLAR

135 S. LaSalle St., Suite 3705

Chicago, IL 60603

(312) 641-6777

\\mjo2\Serwin\Discl Stmt.wpd