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**UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SANTA ROSA DIVISION**

In re:

LEFEVER MATTSON, a California
 corporation, *et al.*,¹

Debtors.

Lead Case No. 24-10545 (CN)
 (Jointly Administered)

Chapter 11

**NOTICE OF FILING OF COMPARISONS
 OF AMENDED CHAPTER 11 PLAN AND
 DISCLOSURE STATEMENT**

¹ The last four digits of LeFever Mattson's tax identification number are 7537. The last four digits of the tax identification number for KS Mattson Partners, LP ("KSMP") are 5060. KSMP's address for service is c/o Stapleton Group, 514 Via de la Valle, Solana Beach, CA 92075. The address for service on LeFever Mattson and all other Debtors is 6359 Auburn Blvd., Suite B, Citrus Heights, CA 9562. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://veritaglobal.com>

1 In re

2 KS MATTSON PARTNERS, LP,

3 Debtor.
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6 **TO THE UNITED STATES BANKRUPTCY COURT, THE OFFICE OF THE UNITED
STATES TRUSTEE, AND OTHER PARTIES IN INTEREST:**

7 **PLEASE TAKE NOTICE** that on September 5, 2025, the above-captioned debtors and
8 debtors in possession (collectively, the “Debtors”)² and the Official Committee of Unsecured
9 Creditors (the “Committee” and together with the Debtors, the “Plan Proponents”) filed the *Joint
Chapter 11 Plan of Liquidation* [Docket No. 2226] (the “Original Plan”).

10 **PLEASE TAKE FURTHER NOTICE** that, on September 17, 2025, the Plan Proponents
11 filed the *Disclosure Statement in Support of Joint Chapter 11 Plan of Liquidation* [Docket
No. 2364] (the “Original Disclosure Statement”).

12 **PLEASE TAKE FURTHER NOTICE** that on October 15, 2025, the Plan Proponents
13 filed the *First Amended Joint Chapter 11 Plan of Liquidation* [Docket No. 2561] (the “Amended
Plan”) and the *Amended Disclosure Statement in Support of First Amended Joint Chapter 11 Plan
of Liquidation* [Docket No. 2567] (the “Amended Disclosure Statement”).

14 **PLEASE TAKE FURTHER NOTICE** that attached hereto as **Exhibit A** is a comparison
15 of the Original Plan to the Amended Plan (changed pages only and exhibits omitted).

16 **PLEASE TAKE FURTHER NOTICE** that attached hereto as **Exhibit B** is a comparison
17 of the Original Disclosure Statement to the Amended Disclosure Statement (changed pages only
and exhibits omitted).

18 **PLEASE TAKE FURTHER NOTICE** that copies of all plan-related documents can be
19 obtained at no cost by contacting counsel for the Committee at LMCommittee@pszjlaw.com or
by visiting <https://www.veritaglobal.net/LM>.

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² Live Oak Investments, LP is not a Plan Proponent and excluded from the definition of Debtors.

1 Dated: October 20, 2025

2 **KELLER BENVENUTTI KIM LLP**

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17 Richard L. Wynne

18 Erin N. Brady

19 Edward J. McNeilly

20 *Counsel to Debtor KS Mattson Partners, LP*

EXHIBIT A

Comparison of Original Plan to Amended Plan

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION

In re
LEFEVER MATTSON,
a California corporation, *et al.*,

Debtors.

Case No. 24-10545 CN (Lead Case)

(Jointly Administered)

Chapter 11

In re
KS MATTSON PARTNERS, LP,

Debtor.

FIRST AMENDED JOINT CHAPTER 11
PLAN OF LIQUIDATION

Date: ~~September 5~~ October 15, 2025

JOINT PLAN PROPONENTS

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EXHIBITS

- Exhibit A – Defined Terms
- Exhibit B – Excluded Parties
- Exhibit C – LFM Debtors

INTRODUCTION¹

The LFM Debtors, ~~the~~² KSMP ~~Debtors~~, and the Committee jointly hereby propose the Plan, which provides for the resolution of the outstanding Claims asserted against and Equity Interests asserted in the Debtors. Provided herewith as a separate enclosure is a brief summary of the Plan, which all Investors are encouraged to read in its entirety in conjunction with the Plan and other documents referenced herein.³

This Plan, together with the Investor Settlement Amount Procedures Order, represents a global settlement (the “Global Settlement”) of the complex issues in these Chapter 11 Cases, including (a) substantive consolidation of the Debtors and the KSMP Investment Entities, (b) the Ponzi determination, and (c) the allowance and treatment of all claims of Investors Claims and other third parties. The Global Settlement, which was negotiated by the LFM Debtors, ~~the~~ KSMP ~~Debtors~~, and the Committee, provides for a “single pot,” such that all assets and liabilities of all Debtors and the KSMP Investment Entities are pooled and consolidated for distribution purposes, through substantive consolidation under this Plan. Pursuant to applicable law, all Investors and other holders of Investor Claims are treated the same, as holders of tort claims, regardless of the type of documentation or instrument held. Pursuant to the Global Settlement, each Investor will receive a claim for money (or value of property) it invested in the Debtors and the KSMP Investment Entities over time less any distributions the Investor received over the seven years prior to the Petition Date. This claim will receive a *pro rata* distribution of available assets and, only after such claim is paid in full, will there be any recovery on claims for ~~expected~~ profits, pursuant to the principles of “netting” in Ponzi scheme cases. However, as part of the Global Settlement, rather than netting from the suspected Ponzi scheme start date, the proposed Investor Settlement Amount Procedures Order will provide that only payments made to Investors seven years prior to September ~~17~~¹², 2024, will be offset/netted in calculating the Investor Claims.⁴

The Plan further provides that Trade Claims are separately classified in Class 6. If Class 6 (Trade Claims) votes to accept the Plan, holders of Trade Claims will receive their *pro rata* share of the Trade Claims Settlement Fund (up to 100% of the amount of their Allowed Trade Claim). If Class 6 votes to reject the Plan, the Trade Claims Settlement Fund will not be established and holders of Trade Claims will receive their *pro rata* beneficial interest in the Plan Recovery Trust, which will be treated *pari pasu* with Investor Tranche 1 Claims.

Further reference is made to the Disclosure Statement for (i) a discussion of the Debtors’ history, businesses, assets, results of operations, and other financial information; (ii) a summary and analysis of the Plan; and (iii) certain related matters, including risk factors relating to the consummation of the Plan and Distributions to be made under the Plan.

¹ A capitalized term used but not defined in this Introduction shall have the meaning ascribed to it in Article I and Exhibit A.

² Debtor Live Oak Investments, LP is not a Plan Proponent; however, the Plan provides for the substantive consolidation of Debtor Live Oak Investments, LP with the other Debtors and its creditors and investors will be entitled to vote on the Plan.

³ In the event of any inconsistencies between the terms of the Plan and the information and descriptions in the above-referenced Plan summary, the terms of the Plan shall control.

⁴ Investors will also receive *pro rata* distributions from the Investor Forfeiture Fund in the event that there is any Forfeiture Property obtained by the DOJ, the SEC, or another Governmental Unit.

CLASS	DESCRIPTION	IMPAIRED STATUS	VOTING STATUS
Class 1	Priority Claims	Unimpaired	Not Entitled to Vote (deemed to accept)
Class 2	Other Secured Claims	Unimpaired	Not Entitled to Vote (deemed to accept)
Class 3	Sold Property Secured Lender Claims ⁵	Impaired	Entitled to Vote
Class 4	Retained Property Secured Lender Claims ⁶	Impaired	Entitled to Vote
<u>Class 5</u>	<u>Settled Secured Lender Claims⁷</u>	<u>Impaired</u>	<u>Entitled to Vote</u>
Class 5 <u>6</u>	Trade Claims	Impaired	Entitled to Vote
Class 6 <u>7</u>	Investor Claims	Impaired	Entitled to Vote
Class 7 <u>8</u>	Intercompany Claims	Impaired	Not Entitled to Vote (deemed to reject)
Class 8 <u>9</u>	Equitably Subordinated Claims	Impaired	Not Entitled to Vote (deemed to reject)
Class 9 <u>10</u>	Equitably Subordinated Interests	Impaired	Not Entitled to Vote (deemed to reject)

NOTWITHSTANDING ANY OTHER TERM OR PROVISION OF THE PLAN, NO DISTRIBUTIONS WILL BE MADE ON ACCOUNT OF ANY CLAIM THAT IS NOT AN ALLOWED CLAIM, AND NO RIGHTS WILL BE RETAINED ON ACCOUNT OF ANY CLAIM THAT IS A DISALLOWED CLAIM. IN ADDITION, THE PROPOSED CLASSIFICATION AND TREATMENT OF ANY CLAIMS AND EQUITY INTERESTS SET FORTH HEREIN, INCLUDING, WITHOUT LIMITATION, THE DESIGNATION OF ANY CLASS AS IMPAIRED OR UNIMPAIRED, SHALL NOT BE DEEMED A WAIVER OR RELEASE OF ANY CAUSE OF ACTION OR AVOIDANCE ACTION AGAINST ANY HOLDER OF A CLAIM OR ANY OTHER PARTY, INCLUDING, WITHOUT LIMITATION, THE DEBTORS' OR THE PLAN RECOVERY TRUSTEE'S RIGHT TO SEEK SUBORDINATION OF ANY CLAIM AND RECLASSIFY SUCH CLAIM INTO CLASS 9, AND ALL SUCH CAUSES OF ACTION AND AVOIDANCE ACTIONS ARE HEREBY PRESERVED UNDER THE PLAN.

⁵ For voting purposes and to comply with section 1122(a) of the Bankruptcy Code, each Allowed Sold Property Secured Lender Claim shall be deemed to be in its own subclass.

⁶ For voting purposes and to comply with section 1122(a) of the Bankruptcy Code, each Allowed Retained Property Secured Lender Claim shall be deemed to be in its own subclass.

⁷ For voting purposes and to comply with section 1122(a) of the Bankruptcy Code, each Allowed Settled Secured Lender Claim shall be deemed to be in its own subclass.

ARTICLE III. TREATMENT OF CLAIMS AND EQUITY INTERESTS

3.1 Comprehensive Settlement of Claims and Controversies.

Pursuant to sections 1123(a)(5), 1123(b)(3), and 1123(b)(6) of the Bankruptcy Code, as well as Bankruptcy Rule 9019, and in consideration for the Distributions and other benefits provided under the Plan, the provisions of the Plan will constitute a good-faith compromise and settlement of all claims and controversies relating to the rights that a Holder of a Claim or an Equity Interest may have against any Debtor with respect to any Claim, any Equity Interest, or any Distribution on account thereof, as well as of all potential Intercompany Claims, Intercompany Liens, and Causes of Action against any Debtor. The entry of the Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise and settlement of all such claims or controversies and the Bankruptcy Court's finding that all such compromises and settlements are (i) in the best interest of the Debtors, the Estates, the KSMP Investment Entities, and their respective stakeholders; and (ii) fair, equitable, and reasonable. This comprehensive compromise and settlement is a critical component of the Plan and is designed to provide a resolution of myriad disputed Claims, Liens, and Causes of Action that otherwise could take years to resolve, which would both delay and reduce the Distributions ultimately available for Creditors.

As discussed above, the Global Settlement embodied in this Plan resolves the complex issues in these Chapter 11 Cases, including (a) substantive consolidation of the Debtors and the KSMP Investment Entities, (b) the Ponzi determination, and (c) the allowance and treatment of the Investor Claims. The Global Settlement, which was negotiated by the LFM Debtors, ~~the KSMP Debtors~~, and the Committee, provides for a "single pot," such that all assets and liabilities of all Debtors and the KSMP Investment Entities are pooled and consolidated for distribution purposes, through substantive consolidation under this Plan. Pursuant to applicable law, all Investors are treated the same, as holders of tort claims, regardless of the type of documentation or instrument held. Pursuant to the Global Settlement, each Investor will receive a claim for money (or value of property) it invested in the Debtors and the KSMP Investment Entities over time less any distributions the Investor received over the seven years prior to the Petition Date. This claim will receive a *pro rata* distribution of available assets and, only after such claim is paid in full, will there be any recovery on claims for expected profits, pursuant to the principles of "netting" in Ponzi scheme cases. However, as part of the Global Settlement, rather than netting from the suspected Ponzi scheme start date, the proposed Investor Settlement Amount Procedures Order will provide that only payments made to Investors seven years prior to September 17, 2024, will be offset/netted in calculating Investor Claims. Further reference is made to the Disclosure Statement for (i) a discussion of the Debtors' history, businesses, assets, results of operations, and other financial information; (ii) a summary and analysis of the Plan; and (iii) certain related matters, including risk factors relating to the consummation of the Plan and Distributions to be made under the Plan.

3.2 Special Provisions Relating to Investor-Specific Claims.

Nothing in the Plan will impair the right of an Investor to independently pursue claims against third parties for which it has independent legal standing that are unique to such Investor ("Investor-Specific Claims"). By way of example, and not limitation, such unique claims include claims based on loss of lien or loss of lien priority, claims against an Investor's own professional advisors, claims against retirement servicers, and similar claims that may be asserted based on such Investor's particular circumstances. The Investor-Specific Claims do not include (i) Claims common to all Investors, (ii) Claims to recover commissions or referral fees paid by the Debtors

to third parties in connection with an Investor's investment with the Debtors or the KSMP Investment Entities, or (iii) Contributed Claims.

3.3 Unclassified Claims

3.3.1 Administrative Expense Claims

Except as otherwise provided for herein, and subject to the requirements of the Plan, on or as soon as reasonably practicable after the later of (a) the Effective Date, (b) thirty (30) calendar days following the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, (c) the date on which such Allowed Administrative Expense Claim is otherwise due and payable, or (d) such other date as may be mutually agreed to by the Plan Recovery Trustee and the Holder of such Allowed Administrative Expense Claim, the Holder of such Allowed Administrative Expense Claim shall receive, in full satisfaction, settlement, and release of and in exchange for such Allowed Administrative Expense Claim, (a) Cash equal to the unpaid portion of such Allowed Administrative Expense Claim or (b) such other less favorable treatment as to which such Holder and the Plan Recovery Trustee shall have agreed upon in writing.

All requests for payment of an Administrative Expense Claim must be Filed with the Bankruptcy Court no later than the Administrative Expense Claims Bar Date. In the event of an objection to Allowance of an Administrative Expense Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Expense Claim. Notwithstanding anything to the contrary contained herein, postpetition statutory tax claims shall not be subject to any Administrative Claims Bar Date.

THE FAILURE TO FILE A MOTION REQUESTING ALLOWANCE OF AN ADMINISTRATIVE EXPENSE CLAIM ON OR BEFORE THE ADMINISTRATIVE EXPENSE CLAIMS BAR DATE, OR THE FAILURE TO SERVE SUCH MOTION TIMELY AND PROPERLY, SHALL RESULT IN THE ADMINISTRATIVE EXPENSE CLAIM BEING FOREVER BARRED AND DISALLOWED WITHOUT FURTHER ORDER OF THE BANKRUPTCY COURT.

3.3.2 DIP Facility Claims

The DIP Facility Claims shall be deemed to be Allowed Claims in the full amount outstanding under the DIP Credit Agreements as of the Effective Date (including any unpaid accrued interest and unpaid fees, expenses, and other obligations under the DIP Credit Agreements as of the Effective Date). On the Effective Date, in full and complete satisfaction of the DIP Facility Claims, the DIP Lender will receive Cash equal to the unpaid portion of the DIP Facility Claims.

3.3.3 Professional Fee Claims

All final requests for payment of Professional Fee Claims pursuant to sections 327, 328, 330, 331, 363, 503(b), or 1103 of the Bankruptcy Code must be made by application Filed with the Bankruptcy Court no later than forty-five (45) calendar days after the Effective Date. Objections to such applications must be Filed and served on counsel to the Plan Recovery Trustee, counsel to the U.S. Trustee, and the requesting Professional in accordance with the Local Rules. All Professional Fee Claims shall be promptly paid from the Plan Recovery Trust to the extent approved by Final Order of the Bankruptcy Court. On the Effective Date, the Plan Recovery Trust shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Plan Recovery Trust and shall be maintained by the Plan Recovery Trustee in accordance with the Plan. The Plan Recovery Trust shall fully fund the Professional Fee Reserve on the Effective Date in an amount that is determined by the Plan Proponents prior to the Confirmation Hearing and that

3.5 Class 2: Other Secured Claims

Classification. Class 2 consists of all Other Secured Claims.

Treatment. In full and final satisfaction, settlement, release, and discharge of any Allowed Class 2 Claim, except to the extent that the Plan Recovery Trustee and a holder of an Allowed Class 2 Claim agree to a less favorable treatment of such Claim, each holder of an Allowed Class 2 Claim shall, at the option of the Plan Recovery Trustee, (i) retain its Class 2 Claim and the Collateral securing such Claim; (ii) receive Cash in an amount equal to such Allowed Class 2 Claim, including the payment of any interest due and payable under section 506(b) of the Bankruptcy Code, on the Effective Date or as soon as reasonably practicable thereafter, but in no event later than thirty (30) days after the later to occur of (A) the Effective Date and (B) the date such Claim becomes an Allowed Claim; or (iii) receive treatment of such Allowed Class 2 Claim in any other manner that is necessary to satisfy the requirements of section 1124 of the Bankruptcy Code. In the event a Class 2 Claim is treated under clause (ii) of this Section 3.5, the Liens securing such Class 2 Claim shall be deemed released immediately upon payment.

Impairment and Voting. Class 2 is Unimpaired. Holders of Class 2 Claims (Other Secured Claims) are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

3.6 Class 3: Sold Property Secured Lender Claims

Classification. Class 3 consists of all Sold Property Secured Lender Claims.

Treatment. In full and final satisfaction, settlement, release, and discharge of any Allowed Class 3 Claim, except to the extent that the Plan Recovery Trustee and a holder of an Allowed Class 3 Claim agree to a less favorable treatment of such Claim, each holder of an Allowed Class 3 Claim shall receive Cash in an amount equal to such Allowed Class 3 Claim on the Effective Date or as soon as reasonably practicable thereafter.

Impairment and Voting. Class 3 is Impaired and entitled to vote to accept or reject the Plan, and the votes of such Holders will be solicited with respect to such Allowed Class 3 Claims; provided that the Plan Proponents reserve the right to assert that the treatment provided to the Holders of Class 3 Claims pursuant to this Plan renders such Claims unimpaired.

3.7 Class 4: Retained Property Secured Lender Claims

Classification. Class 4 consists of all Retained Property Secured Lender Claims.

Treatment. On the Effective Date, or as soon as practicable thereafter, each Holder of an Allowed Class 4 Claim shall receive, subject to the terms of this Plan, in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, a Replacement Secured Note with a present value equal to the Allowed amount of such Holder's Allowed Class 4 Claim.

Impairment and Voting. Class 4 is Impaired under the Plan and entitled to vote to accept or reject the Plan, and the votes of such Holders will be solicited with respect to such Allowed Class 4 Claims; *provided that* the Plan Proponents reserve the right to assert that the treatment provided to the Holders of Class 4 Claims pursuant to this Plan renders such Claims unimpaired.

3.8 Class 5: Settled Secured Lender Claims

Classification. Class 5 consists of all Settled Secured Lender Claims. Each Settled Secured Lender Claim will be in its own subclass.

Treatment. On the Effective Date, or as soon as practicable thereafter, each Holder of an Allowed Class 5 Claim shall receive, subject to the terms of this Plan and the applicable Secured Lender Settlement Agreement, in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, the treatment expressly provided for the Settling Secured Lender in the Secured Lender Settlement Agreement.

Impairment and Voting. Class 5 is Impaired under the Plan and entitled to vote to accept or reject the Plan, and the votes of such Holders will be solicited with respect to such Allowed Class 5 Claims.

3.9 Class 6: Trade Claims

Classification. Class ~~5~~6 consists of all Trade Claims.

Treatment. On the Effective Date, or as soon as practicable thereafter, each Holder of an Allowed Class ~~5~~6 Claim will receive:

(i) If Class 6 votes to accept the Plan, each Holder of an Allowed Trade Claim shall receive its Pro Rata share of the Trade Claims Settlement Fund, in full and final satisfaction, settlement, and release of and in exchange for such Allowed Trade Claims; or

(ii) If Class 6 votes to reject the Plan, each Holder of an Allowed Trade Claim shall receive from the Plan Recovery Trust on account of its Allowed Class ~~5~~6 Claim ~~-(without postpetition or post-Confirmation interest)~~, its Pro Rata distribution of the Class A Plan Recovery Trust Units. The issuance of the Class A Plan Recovery Trust Units is in full and complete satisfaction of Allowed Class ~~5~~6 Claims in the event Class 6 rejects the Plan.

Impairment and Voting. Class ~~5~~6 is Impaired under the Plan and entitled to vote to accept or reject the Plan, and the votes of such Holders will be solicited with respect to such Allowed Class 6 Claims.

3.10 ~~3.9~~Class ~~6~~7: Investor Claims

Classification. Class ~~6~~7 consists of all Investor Claims.

Treatment.

(i) Plan Recovery Trust Units. On the Effective Date, or as soon as practicable thereafter, in full satisfaction, settlement, and release of and in exchange for such Investor Claims, each Holder of an Allowed Class ~~6~~7 Claim will receive its (i) Pro Rata distribution of Class ~~BA~~ Plan Recovery Trust Units on account of its Allowed Investor Tranche 1 Claim (Pro Rata with Holders of Allowed Trade Claims if Class 6 votes to reject the Plan) and (ii) Pro Rata distribution of Class ~~CB~~ Plan Recovery Trust Units on account of its Allowed Investor Tranche 2 Claim ~~-, if any; and~~

(ii) Investor Forfeiture Fund. The Plan Recovery Trustee shall distribute the Cash proceeds in the Investor Forfeiture Fund to (a) the Holders of Allowed Investor Tranche 1 Claims on account of such Claims on a Pro Rata basis, and (b) after all Allowed Investor Tranche 1 Claims have been paid in full, the Holders of Allowed Investor Tranche 2 Claims on account of such Claims on a Pro Rata basis.

Contributed Claim Election. Each Holder of an Investor Claim that **accepts the Plan and does not opt-out of the Contributed Claim Election** shall (i) be deemed to contribute its Contributed Claims to the Plan Recovery Trust and (ii) on the Effective Date, or as soon as practicable thereafter, receive a Pro Rata Distribution of Class ~~DC~~ Plan Recovery Trust Units. The

Pro Rata Distribution of Class ~~DC~~ Plan Recovery Trust Units shall be the ratio of (a) such Holder's Allowed Investor Claim to (b) the total Allowed Investor Claims of all Holders that make the Contributed Claims Election. By accepting the Plan, the Holder of an Investor Claim agrees that, subject to the occurrence of the Effective Date and the formation of the Plan Recovery Trust, it will be deemed, without further action, (i) to have irrevocably contributed its Contributed Claims to the Plan Recovery Trust and (ii) to have agreed to execute any documents reasonably requested to memorialize such contribution. All Causes of Action identified on the Schedule of Disclaimed Contributed Claims will not be Contributed Claims for purposes of the Plan.

Impairment and Voting. Class ~~67~~ is Impaired under the Plan and entitled to vote to accept or reject the Plan.

3.11 ~~3.10~~ Class ~~78~~: Intercompany Claims

Classification. Class ~~78~~ consists of all Intercompany Claims.

Treatment. As of the Effective Date, all Intercompany Claims shall be deemed void, cancelled, and of no further force and effect. On and after the Effective Date, the Holders of Class ~~78~~ Claims shall not be entitled to, and shall not receive or retain, any property or interest in property under the Plan on account of such Allowed Class ~~78~~ Claims.

Impairment and Voting. Class ~~78~~ is Impaired under the Plan, deemed to reject the Plan, and not entitled to vote to accept or reject the Plan.

3.12 ~~3.11~~ Class ~~89~~: Equitably Subordinated Claims.

Classification. Class ~~89~~ consists of all Equitably Subordinated Claims.

Treatment. The Holders of Allowed Class ~~89~~ Claims will retain a residual right to receive Available Cash that remains in the Plan Recovery Trust after the final administration of all Plan Recovery Trust Assets and the complete satisfaction of all senior payment rights within the Plan Recovery Trust Waterfall, including satisfaction of all Investor Claims. Any such recovery will be shared Pro Rata with Holders of Allowed Equitably Subordinated Interests.

Impairment and Voting. Class ~~89~~ is Impaired under the Plan, estimated to receive zero recovery under the Plan and therefore deemed to reject the Plan, and not entitled to vote to accept or reject the Plan.

3.13 ~~3.12~~ Class ~~910~~: Equitably Subordinated Interests

Classification. Class ~~910~~ consists of all Equitably Subordinated Interests in the Debtors.

Treatment. The Holders of Allowed Class ~~910~~ Interests will retain a residual right to receive Available Cash that remains in the Plan Recovery Trust after the final administration of all Plan Recovery Trust Assets and the complete satisfaction of all senior payment rights within the Plan Recovery Trust Waterfall, including satisfaction of all Investor Claims. Any such recovery will be shared Pro Rata with Holders of Allowed Equitably Subordinated Claims.

Impairment and Voting. Class ~~910~~ is Impaired under the Plan, estimated to receive zero recovery under the Plan and therefore deemed to reject the Plan, and not entitled to vote to accept or reject the Plan.

ARTICLE IV.
ACCEPTANCE OR REJECTION OF THE PLAN

4.1 Impaired Classes Entitled to Vote.

Only the votes of Holders of Allowed Claims in Class 3, Class 4, Class 5, [Class 6](#), and Class [67](#) shall be solicited with respect to the Plan.

4.2 Acceptance by an Impaired Class of Claims.

In accordance with section 1126(c) of the Bankruptcy Code, and except as provided in section 1126(e) of the Bankruptcy Code, the Holders of Claims in any Class of Claims (including any subclass) entitled to vote on the Plan shall have accepted the Plan if the Plan is accepted by the Holders of at least two-thirds ($\frac{2}{3}$) in dollar amount and more than one-half ($\frac{1}{2}$) in number of the Allowed Claims in such Class (or subclass) that have timely and properly voted to accept or reject the Plan.

4.3 Presumed Acceptances by Unimpaired Classes.

Class 1 and Class 2 are Unimpaired under the Plan. Under section 1126(f) of the Bankruptcy Code, the Holders of Claims in such Unimpaired Classes are conclusively presumed to have accepted the Plan, and, therefore, the votes of such Holders shall not be solicited.

4.4 Impaired Classes Deemed to Reject Plan.

Holders of Claims in Class [78](#) (Intercompany Claims) are not entitled to receive or retain any property or interests in property under the Plan. Under section 1126(g) of the Bankruptcy Code, such Holders are deemed to have rejected the Plan, and, therefore, the votes of such Holders shall not be solicited.

Holders of Claims in Class [89](#) and Equitably Subordinated Interests in Class [910](#) are estimated to receive zero recovery under the Plan, deemed to have rejected the Plan, and the votes of such Holders shall not be solicited.

4.5 Modifications of Votes.

Following the Voting Deadline, no Holders of Claims entitled to vote on the Plan will be able to change their votes cast on the Plan or any attendant elections or preferences without the written consent of the Plan Proponents, which consent may be given or withheld in the Plan Proponents' reasonable discretion.

4.6 Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code.

Because at least one Impaired Class is deemed to have rejected the Plan, the Plan Proponents will and hereby do request confirmation of the Plan under section 1129(b) of the Bankruptcy Code. The Plan Proponents reserve the right to alter, amend, modify, revoke, or withdraw the Plan, the Plan Supplement, or any schedule or exhibit, including to amend or modify it to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary.

Beneficiaries in conjunction with the filing of the Plan Recovery Trust's income tax returns. Each Plan Recovery Trust Beneficiary shall report income, deductions, gain, or loss on such Plan Recovery Trust Beneficiary's income tax returns. The Plan Recovery Trust shall be governed by the Plan Recovery Trust Agreement and administered by the Plan Recovery Trustee. The powers, rights, and responsibilities of the Plan Recovery Trustee shall be specified in the Plan Recovery Trust Agreement. After an objection to a Disputed Claim is resolved or a Contingent Claim or Unliquidated Claim has been determined in whole or in part by a Final Order or by agreement, the Plan Recovery Trust Units or Cash held in the Disputed Ownership Fund shall be transferred as described in the Plan Recovery Trust Agreement.

5.3.3 Vesting of Plan Recovery Trust Assets.

On the Effective Date, the Plan Recovery Trust shall be automatically vested with all of the Debtors' and the Estates' respective rights, title, and interest in and to all Plan Recovery Trust Assets. Except as specifically provided in the Plan or the Confirmation Order, in accordance with section 1141 of the Bankruptcy Code, the Plan Recovery Trust Assets shall automatically vest in the Plan Recovery Trust free and clear of all Claims, Liens, or interests, subject only to the Plan Recovery Trust Units, the Plan Recovery Trust Expenses, and the Replacement Secured Notes, as provided for in the Plan Recovery Trust Agreement, and such vesting shall be exempt from any stamp, real estate transfer, other transfer, mortgage reporting, sales, use, or other similar tax. The Plan Recovery Trustee shall be the exclusive trustee of the Plan Recovery Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estates appointed pursuant to section 1123(b)(3) of the Bankruptcy Code regarding all Plan Recovery Trust Assets. The Plan Recovery Trust shall hold and distribute the Plan Recovery Trust Assets in accordance with the provisions of the Plan and the Plan Recovery Trust Agreement.

5.3.4 Investor Forfeiture Fund.

~~Notwithstanding the foregoing or any other provision in the Plan, in~~ In the event that any Forfeiture Property obtained by the DOJ, the SEC, or another Governmental Unit is transferred to the Plan Recovery Trust ~~receives any monies from the United States or any other governmental unit (as defined in section 101(27) of the Bankruptcy Code), obtained as forfeited assets (or otherwise) by the governmental unit for administration~~ for the benefit of ~~the investor victims of the Debtors' prepetition Ponzi scheme, all such monies~~ Investors, such Forfeiture Property shall be deposited in, and become property of, the Investor Forfeiture Fund. The Investor Forfeiture Fund shall be free and clear of any and all claims and liens, and shall not constitute Estate Assets property of the Debtors or the Plan Recovery Trust. Assets, and All Cash in the Investor Forfeiture Fund shall be distributed solely to Investors on a Pro Rata basis on account of their Allowed Investor Tranche 1 Claims and Investor Tranche 2 Claims, in accordance with the Plan. ‡ The Plan Recovery Trustee is authorized to and shall distribute all ~~such monies~~ Cash in the Investor Forfeiture Fund only to Investors who are Holders of Allowed Class BA Plan Recovery Trust Units or Class CB Plan Recovery Trust Units on account thereof, subject to the Plan and the Plan Recovery Trust Agreement; *provided that* the Plan Recovery Trustee and its agents will be reimbursed from ~~such monies~~ the Investor Forfeiture Fund for reasonable costs and expenses incurred by said parties related to the Plan Recovery Trustee's collection, administration, and distribution of such ~~monies~~ Cash to the applicable Investors.

5.3.5 5.3.4 Purpose of the Plan Recovery Trust.

The Plan Recovery Trust shall be established for the purpose of pursuing, collecting, or monetizing the Plan Recovery Trust Assets and making Distributions from the proceeds of such assets to the Plan Recovery Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

5.3.6 5.3.5 Authority.

1 Subject to the authority and supervision of the Oversight Committee as set forth in the Plan
2 Recovery Trust Agreement, the Plan Recovery Trustee shall have the authority and right on behalf
3 of the Plan Recovery Trust, without the need for Bankruptcy Court approval (in each case, unless
otherwise provided in the Plan and the Plan Recovery Trust Agreement), to carry out and
implement all applicable provisions of the Plan, including to:

- 4 (a) appear on behalf of the Plan Recovery Trust in the Chapter 11 Cases and any
5 proceedings related thereto;
- 6 (b) review, reconcile, compromise, settle, or object to Claims and Equity Interests and
7 resolve such objections as set forth in the Plan, free of any restrictions of the
8 Bankruptcy Code or the Bankruptcy Rules;
- 9 (c) calculate and make Distributions (including, without limitation, to Holders of
10 Allowed Class 6 Claims of the Trade Claims Settlement Fund if Class 6 votes to
11 accept the Plan, and to Investors from the Investor Forfeiture Fund) and calculate
12 and establish reserves under and in accordance with the Plan;
- 13 (d) retain, compensate, and employ professionals and other Persons to represent the
14 Plan Recovery Trustee with respect to and in connection with its rights and
15 responsibilities;
- 16 (e) establish, maintain, and administer documents and accounts of the Debtors as
17 appropriate, which shall be segregated to the extent appropriate in accordance with
18 the Plan;
- 19 (f) maintain, conserve, collect, settle, and protect the Plan Recovery Trust Assets,
20 including, without limitation, any Retained Real Properties, whether wholly or
21 jointly owned (subject to the limitations described herein and in the Plan Recovery
22 Trust Agreement);
- 23 (g) sell, monetize, transfer, assign, distribute, abandon, or otherwise dispose of the Plan
24 Recovery Trust Assets (including, without limitation, any Retained Real Properties,
25 whether wholly or jointly owned) or any part thereof or interest therein upon such
26 terms as the Plan Recovery Trustee determines to be necessary, appropriate, or
27 desirable, subject to the provisions of the Plan and the Plan Recovery Trust
28 Agreement;
- (h) pursue, prosecute, settle, or abandon any Plan Recovery Trust Actions in
Bankruptcy Court or any other court;
- (i) negotiate and enter into litigation or operational funding arrangements upon such
terms as the Plan Recovery Trustee determines to be necessary, appropriate, or
otherwise desirable and in the best interests of Plan Recovery Trust Beneficiaries,
subject to the provisions of the Plan Recovery Trust Agreement;
- (j) negotiate, incur, and pay the Plan Recovery Trust Expenses;
- (k) prepare and file any and all informational returns, reports, statements, returns, and
other documents or disclosures relating to the Debtors that are required under the
Plan, by any governmental unit, or by applicable law;
- (l) compile and maintain the official claims register, including for purposes of making
Distributions under the Plan;

- (m) comply with the Plan, exercise the Plan Recovery Trustee's rights, and perform the Plan Recovery Trustee's obligations; and
- (n) exercise such other powers as deemed by the Plan Recovery Trustee to be necessary and proper to implement the Plan.

To the extent necessary to give full effect to its administrative rights and duties under the Plan, the Plan Recovery Trustee shall be deemed to be vested with all rights, powers, privileges, and authorities of (i) an appropriate corporate, limited liability company, or limited partnership officer or manager of each of the Debtors under any applicable non-bankruptcy law and (ii) a "trustee" of each of the Debtors under sections 704 and 1106 of the Bankruptcy Code.

5.3.7 5.3.6 Limitation of Liability.

The Plan Recovery Trustee and the Oversight Committee shall enjoy all of the rights, powers, immunities, and privileges applicable to a Bankruptcy Code chapter 7 trustee with respect to limitations of liability, subject to the Plan Recovery Trust Agreement. The Plan Recovery Trustee and the Oversight Committee may, in connection with the performance of their respective functions, each in their sole and absolute discretion, consult with their attorneys, accountants, advisors, and agents, and shall not be liable for any act taken, or omitted to be taken, or suggested to be done in accordance with advice or opinions rendered by such Persons, regardless of whether such advice or opinions were in writing. Notwithstanding such authority, neither the Plan Recovery Trustee nor the Oversight Committee shall be under an obligation to consult with any such attorneys, accountants, advisors, or agents, and their determination not to do so shall not result in the imposition of liability on the Plan Recovery Trustee or the Oversight Committee, as applicable, unless such determination is based on willful misconduct, gross negligence, or intentional fraud. Persons dealing with the Plan Recovery Trustee and the Oversight Committee shall look only to the Plan Recovery Trust Assets to satisfy any liability incurred by the Plan Recovery Trustee or the Oversight Committee to such Person in carrying out the terms of the Plan or the Plan Recovery Trust Agreement, and the Plan Recovery Trustee and the Oversight Committee shall have no personal obligation to satisfy such liability.

5.3.8 5.3.7 Indemnification.

The Plan Recovery Trust shall indemnify any Plan Recovery Trust Indemnified Party for, and shall defend and hold it harmless against, any loss, liability, damage, judgment, fine, penalty, claim, demand, settlement, cost, or expense (including the reasonable fees and expenses of the professionals of such Plan Recovery Trust Indemnified Party) incurred without gross negligence, willful misconduct, or intentional fraud on the part of such Plan Recovery Trust Indemnified Party (which gross negligence, willful misconduct, or intentional fraud if any, must be determined by a final, non-appealable order of a court of competent jurisdiction) for any action taken, suffered, or omitted to be taken by such Plan Recovery Trust Indemnified Party in connection with the acceptance, administration, exercise, and performance of its duties under the Plan or the Plan Recovery Trust Agreement, as applicable. An act or omission taken with the approval of the Bankruptcy Court, and not inconsistent therewith, will be conclusively presumed not to constitute gross negligence, willful misconduct, or intentional fraud. In addition, the Plan Recovery Trust shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the Plan Recovery Trust Indemnified Parties, from and against and with respect to any and all liabilities, losses, damages, claims, costs, and expenses, including attorneys' fees arising out of or due to their actions or omissions, or consequences of such actions or omissions, with respect to the Plan Recovery Trust or the implementation or administration of the Plan if the Plan Recovery Trust Indemnified Party acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interest of the Plan Recovery Trust. To the extent the Plan Recovery Trust indemnifies, defends, and holds harmless any Plan Recovery Trust Indemnified Party as provided above, the legal fees and related costs incurred by counsel to the Plan Recovery Trustee in monitoring or

participating in the defense of such claims giving rise to the right of indemnification shall be paid as Plan Recovery Trust Expenses. The costs and expenses incurred in enforcing the right of indemnification in this Section shall be paid from the Plan Recovery Trust.

5.3.9 5.3.8 Insurance.

The Plan Recovery Trustee shall be authorized, but not required, to obtain any insurance coverage that it deems necessary, at the Plan Recovery Trust's sole expense, for itself and its agents, and the Oversight Committee, including coverage with respect to the liabilities, duties, and obligations of the Plan Recovery Trustee and the Oversight Committee, which insurance coverage may, at the sole discretion of the Plan Recovery Trustee, be extended for a reasonable period after the termination of the Plan Recovery Trust.

5.3.10 5.3.9 Tax Reporting.

- (a) The Plan Recovery Trustee shall timely file tax returns for the Plan Recovery Trust treating the Plan Recovery Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a).
- (b) The Plan Recovery Trustee shall be responsible for timely payment of all taxes (if any) imposed on and payable by the Plan Recovery Trust or any Plan Recovery Trust Assets.
- (c) The Plan Recovery Trustee shall distribute such tax-related notices, beneficiary statements, and information returns, as applicable, to the applicable Holders of Allowed Claims as are required by applicable law or that the Plan Recovery Trustee determines are otherwise necessary or desirable.
- (d) The Plan Recovery Trustee is authorized to file a request for expedited determination under section 505(b) of the Bankruptcy Code for any tax returns filed with respect to the Debtors.

5.3.11 5.3.10 Distributions to Plan Recovery Trust Beneficiaries.

- (a) After the payment of or reserve for (i) all administrative and priority claims (including, without limitation, Administrative Expense Claims, Involuntary Gap Claims, Priority Tax Claims, and Priority Claims) in accordance with the Plan and the Plan Recovery Trust Agreement, and (ii) all Plan Recovery Trust expenses, including any litigation financing expenses, the Plan Recovery Trust will make Distributions of Available Cash to the Plan Recovery Trust Beneficiaries pursuant to the following waterfall and related provisions (the "**Plan Recovery Trust Waterfall**"):
 - (i) Class A Plan Recovery Trust Units. *First*, the Plan Recovery Trust shall distribute the proceeds of the Plan Recovery Trust Assets to each Holder of Class A Plan Recovery Trust Units on a Pro Rata basis until all Allowed Trade Claims (if applicable) and Investor Tranche 1 Claims have been paid in full ~~(without postpetition or post-Confirmation interest)~~;
 - (ii) Class B Plan Recovery Trust Units. *Second*, the Plan Recovery Trust shall distribute the proceeds of the Plan Recovery Trust Assets to each Holder of Class B Plan Recovery Trust Units on a Pro Rata basis until all Investor Tranche 12 Claims have been paid in full;

(iii) Class C Plan Recovery Trust Units. ~~Third, the Plan Recovery Trust shall distribute the proceeds of the Plan Recovery Trust Assets to each Holder of Class C Plan Recovery Trust Units on a Pro Rata basis until all Investor Tranche 2 Claims have been paid in full;~~

(iv) Class D Plan Recovery Trust Units. Notwithstanding anything to the contrary contained herein or in the Confirmation Order, the Plan Recovery Trust shall distribute the net proceeds of any Contributed Claims solely to Holders of Class DC Plan Recovery Trust Units on a Pro Rata basis.

(b) The Plan Recovery Trust, in the Plan Recovery Trustee's discretion, may make periodic Distributions to the Plan Recovery Trust Beneficiaries at any time following the Effective Date, provided that such Distributions are otherwise permitted under, and not inconsistent with, the Plan Recovery Trust Waterfall, the other terms of the Plan, the Plan Recovery Trust Agreement, and applicable law.

(c) No later than (i) the first Business Day that is at least 180 calendar days after the Effective Date and (ii) the last Business Day of each subsequent 180-calendar-day period after the Effective Date until the Closing Date, the Plan Recovery Trustee shall calculate the Distributions that could potentially be made to the Plan Recovery Trust Beneficiaries based on the amount of Available Cash as of such date and, based on such calculation, promptly thereafter may make Distributions, if any, of the amount so determined.

5.3.12 5.3.11 Cash Investments.

Except as may be otherwise provided in the Plan Recovery Trust Agreement, the Plan Recovery Trustee may invest Cash of the Plan Recovery Trust, including any earnings thereon or proceeds therefrom and any Cash realized from the monetization of the Plan Recovery Trust Assets, which investments will not be required to comply with section 345(b) of the Bankruptcy Code; *provided, however*, that such investments must be investments that are permitted to be made by a "liquidating trust" within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable guidelines, rulings, or other controlling authorities, except as may be otherwise provided in the Plan Recovery Trust Agreement.

5.3.13 5.3.12 Registration and Transfer of the Plan Recovery Trust Units.

(a) The record holders of the Plan Recovery Trust Units shall be recorded and set forth in a registry maintained by, or at the direction of, the Plan Recovery Trustee expressly for such purpose.

(b) Upon their issuance as of the Effective Date, and thereafter, the Plan Recovery Trust Units will be subject to restrictions on transfer under the Plan Recovery Trust Agreement, which restrictions shall prohibit the Plan Recovery Trust Units from being certificated or transferable except by operation of law or by will or the laws of descent and distribution, in each case following written notice to the Plan Recovery Trustee.

5.3.14 5.3.13 Exemption.

To the extent the Plan Recovery Trust Units are deemed to be "securities," the issuance of such interests under the Plan are exempt, pursuant to section 1145 of the Bankruptcy Code, from registration under the Securities Act and any applicable state and local laws requiring registration of securities.

5.3.15 5.3.14 Contribution of Contributed Claims.

On the Effective Date, all Contributed Claims will be irrevocably contributed to the Plan Recovery Trust. No Person may rely on the absence of a specific reference in the Plan, the Confirmation Order, the Plan Recovery Trust Agreement, or the Disclosure Statement to any Contributed Claims against such Person as any indication that the Plan Recovery Trust will not pursue any and all available Contributed Claims against such Person. The objection to the Allowance of any Claims will not in any way limit the ability or the right of the Plan Recovery Trust to assert, commence, or prosecute any Contributed Claims. Nothing contained in the Plan, the Confirmation Order, the Plan Recovery Trust Agreement, or the Disclosure Statement will be deemed to be a waiver, release, or relinquishment of any Contributed Claims that the Contributing Claimants had immediately prior to the Effective Date. The Plan Recovery Trust shall have, retain, reserve, and be entitled to assert all Contributed Claims fully as if the Contributed Claims had not been contributed to the Plan Recovery Trust in accordance with the Plan and the Plan Recovery Trust Agreement. Contributed Claims shall not include the rights of a Contributing Claimant to receive the Distributions, if any, to which it is entitled under the Plan. In the exercise of its reasonable discretion and in accordance with the Plan Recovery Trust Agreement, the Plan Recovery Trustee shall not be obligated to pursue any Contributed Claim.

A Cause of Action identified on the Schedule of Disclaimed Contributed Claims will not be a Contributed Claim for purposes of the Plan.

5.3.16 5.3.15 Pursuit and Resolution of Plan Recovery Trust Actions.

The Plan Recovery Trust, as a successor in interest to the Debtors, the Estates, the KSMP Investment Entities, and the Contributing Claimants, may and will have the exclusive right, power, and interest on behalf of itself, the Debtors, the Estates, the KSMP Investment Entities, and the Contributing Claimants, subject to the Plan Recovery Trust Agreement, to institute, commence, file, pursue, prosecute, enforce, abandon, settle, compromise, release, waive, dismiss, or withdraw, as appropriate, any and all Plan Recovery Trust Actions without any further order of the Bankruptcy Court, except as otherwise provided in the Plan Recovery Trust Agreement. From and after the Effective Date, the Plan Recovery Trust, in accordance with section 1123(b)(3) of the Bankruptcy Code, shall serve as a representative of the Estates with respect to any and all Plan Recovery Trust Actions that were Estate Assets and shall retain and possess the right to institute, commence, file, pursue, prosecute, enforce, abandon, settle, compromise, release, waive, dismiss, or withdraw, as appropriate, any and all Plan Recovery Trust Actions in any court or other tribunal.

5.3.17 5.3.16 Termination of the Plan Recovery Trust.

The Plan Recovery Trustee and the Plan Recovery Trust shall be discharged or terminated, as the case may be, at such time as: (a) the Plan Recovery Trustee determines that the pursuit of additional Plan Recovery Trust Actions is not likely to yield sufficient additional proceeds to justify further pursuit of such Plan Recovery Trust Actions; and (b) all Distributions required to be made from the Plan Recovery Trust to the Holders of Allowed Claims and to the Plan Recovery Trust Beneficiaries under the Plan and the Plan Recovery Trust Agreement have been made, but in no event shall the Plan Recovery Trust be terminated later than five (5) years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such fifth anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made within the six-month period before the end of the preceding extension), determines that a fixed-period extension (subject to the terms of the Plan Recovery Trust Agreement) is necessary to facilitate or complete the recovery on, and monetization of, the Plan Recovery Trust Assets. Notwithstanding the foregoing, and without further order of the Bankruptcy Court, upon the fifth anniversary of the Plan Recovery Trust, and continuing each year thereafter, the termination date of the Plan Recovery Trust shall automatically extend by 1-year if any Plan Recovery Trust Actions are pending as of such anniversary date. Upon termination of the Plan

Recovery Trust, any remaining Plan Recovery Trust Assets that exceed the amounts required to be paid under the Plan may be transferred by the Plan Recovery Trustee to a non-profit organization of its choosing.

5.3.18 5.3.17 Control Provision.

To the extent there is any inconsistency between the Plan as it relates to the Plan Recovery Trust and the Plan Recovery Trust Agreement, the specific provisions in the Plan Recovery Trust Agreement shall control.

5.4 Preservation of Privileges and Defenses.

The actions taken by the Debtors, the Plan Recovery Trust, or any of their respective Related Parties in connection with the Plan shall not be (or be deemed to be) a waiver of any privilege or defense of the Debtors, the KSMP Investment Entities, or the Plan Recovery Trust, as applicable, including any attorney-client privilege or work-product doctrine. Notwithstanding any Debtors providing any privileged information related to any Plan Recovery Trust Actions to the Plan Recovery Trustee, the Plan Recovery Trust, or any Person associated with any of the foregoing, such privileged information shall be without waiver in recognition of the joint, common, or successor interest in prosecuting the Plan Recovery Trust Actions and shall remain privileged. The Plan Recovery Trust shall retain the right to waive its own privileges. Only the Plan Recovery Trustee shall have the right to waive the attorney-client privilege, work-product doctrine, or other protections as to the Debtors, the KSMP Investment Entities, and the Plan Recovery Trust.

5.5 Preservation of Rights of Action.

5.5.1 Maintenance of Avoidance Actions and Causes of Action.

Except as otherwise provided in the Plan or the Confirmation Order, from and after the Effective Date, the Plan Recovery Trust will retain all rights to institute, commence, file, pursue, prosecute, enforce, abandon, settle, compromise, release, waive, dismiss, or withdraw, as appropriate, any and all of the Debtors' ~~or~~ Estates', or KSMP Investment Entities' Causes of Action and Causes of Action that are Contributed Claims (whether existing as of the Petition Date or thereafter arising), and all Avoidance Actions, all as Plan Recovery Trust Actions, in each case in any court or other tribunal, including in an adversary proceeding Filed in the Chapter 11 Cases, subject to the requirements set forth in the Plan and the Plan Recovery Trust Agreement. The Plan Recovery Trust shall have the exclusive right, power, and interest on behalf of itself, the Debtors, the Estates, the KSMP Investment Entities, and the Contributing Claimants to enforce, sue on, settle, compromise, transfer, or assign (or decline to do any of the foregoing) any or all of the Plan Recovery Trust Actions without notice to or approval from the Bankruptcy Court, subject to the Plan Recovery Trust Agreement. In accordance with the Plan, and pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019, without any further notice to or action, order, or approval of the Bankruptcy Court, from and after the Effective Date, the Plan Recovery Trust may compromise and settle Plan Recovery Trust Actions, subject to the Plan Recovery Trust Agreement.

5.5.2 Preservation of All Plan Recovery Trust Actions Not Expressly Settled or Released.

The failure to specifically identify in the Disclosure Statement (including the exhibits and schedules thereto) or the Plan any potential or existing Avoidance Action or Cause of Action as a Plan Recovery Trust Action is not intended to and shall not limit the rights of the Plan Recovery Trust to pursue any such Avoidance Action or Cause of Action. Unless a Plan Recovery Trust Action is expressly waived, relinquished, released, compromised, or settled in the Plan or any Final

Order (including the Confirmation Order), the Debtors expressly reserve such Plan Recovery Trust Action for later resolution by the Plan Recovery Trustee (including any Avoidance Action or Cause of Action not specifically identified or of which the Debtors may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtors at this time or facts or circumstances that may change or be different from those the Debtors now believe to exist). As such, no preclusion doctrine, including the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable, or otherwise), or laches will apply to any such Avoidance Action or Cause of Action upon or after Confirmation of the Plan based on the Disclosure Statement, the Plan, or the Confirmation Order, except when such Avoidance Action or Cause of Action has been expressly released. In addition, the right to pursue or adopt any claims alleged in any lawsuit in which any Debtor or the Plan Recovery Trust is a plaintiff, defendant, or interested party is fully reserved as against any Person or Entity, including the plaintiffs or co-defendants in such lawsuits.

5.6 Cancellation of Instruments.

Except as otherwise provided in the Plan, and except with respect to any executory contracts and unexpired leases that are assumed and assigned pursuant to a Final Order, any agreement, bond, certificate, contract, indenture, lease, note, security, warrant, or other instrument or document evidencing or creating any indebtedness or obligation of the Debtors shall be deemed cancelled on the Effective Date, and all Liens, mortgages, pledges, grants, trusts, and other interests relating thereto shall be automatically cancelled, and all obligations of the Debtors thereunder or in any way related thereto shall be discharged.

5.7 Substantive Consolidation.

(a) On the Effective Date, all Debtors [and the KSMP Investment Entities](#) (collectively, the “**Consolidated Estates**”) shall be substantively consolidated pursuant to sections 105(a), 541, 1123, and 1129 of the Bankruptcy Code into debtor LeFever Mattson, a California corporation. As a result of the substantive consolidation, on the Effective Date, all property, rights, and claims of the Consolidated Estates and all Claims against the Consolidated Estates shall be deemed to be pooled for purposes of distributions under the Plan. Further, as a result of this substantive consolidation, all claims between and among the Consolidated Estates shall be cancelled. Holders of Allowed Claims shall be entitled to only one satisfaction on account of such Claims, and any contingent or otherwise duplicative Claims against one or more of the Consolidated Estates based upon claims for which one or more of the Consolidated Estates are also liable shall be disallowed.

(b) Entry of the Confirmation Order shall constitute the approval, pursuant to sections 105(a), 541, 1123, and 1129 of the Bankruptcy Code, of the substantive consolidation of all of the Debtors and [the KSMP Investment Entities](#) and in the manner set forth in this Section; *provided, however*, that (i) while all Debtors [and the KSMP Investment Entities](#) shall be substantively consolidated for purposes of Distribution to creditors, such that all Investors shall have claims against a single pool of the Debtors’ [and the KSMP Investment Entities](#)’ consolidated assets, the actual substantive consolidation of entities, particularly for tax purposes, shall be at the option of the Debtors or the Plan Recovery Trustee and (ii) any and all TIC Interests in the Real Properties that are held by any Debtor shall not be substantively consolidated. Notwithstanding the substantive consolidation to be implemented under the Plan, fees payable pursuant to 28 U.S.C. § 1930 shall be due and payable by each individual Debtor through the Effective Date.

(c) The substantive consolidation effected pursuant to the Plan shall not affect, without limitation, (i) the Debtors’, [the KSMP Investment Entities](#)’, or the Plan Recovery

Trust's defenses to any Claim, Avoidance Action, or other Cause of Action, including the ability to assert any counterclaim; (ii) the Debtors', the KSMP Investment Entities', or the Plan Recovery Trust's setoff or recoupment rights; (iii) requirements for any third party to establish mutuality prior to substantive consolidation in order to assert a right of setoff against the Debtors, the KSMP Investment Entities, or the Plan Recovery Trust; or (iv) distributions to the Debtors, the Estates, the KSMP Investment Entities, or the Plan Recovery Trust out of any insurance policies or proceeds of such policies.

(d) Notwithstanding anything to the contrary contained herein, the substantive consolidation of the Debtors and the KSMP Investment Entities shall not: (i) affect the separate legal existence of the Debtors and the KSMP Investment Entities for purposes other than implementation of the Plan pursuant to its terms, including the ability of the Plan Recovery Trustee to bring any Plan Recovery Trust Action in the name of an individual Debtor or KSMP Investment Entity; (ii) impair, prejudice, or otherwise affect any individual Debtor's or KSMP Investment Entity's Causes of Action, including Avoidance Actions, against any Person that vest in the Plan Recovery Trust; (iii) constitute or give rise to any defense, counterclaim, or right of netting or setoff with respect to any Cause of Action vesting in the Plan Recovery Trust that could not have been asserted against the consolidated Debtors and KSMP Investment Entities; or (iii) give rise to any right under any executory contract, insurance contract, or other contract to which a consolidated Debtor or KSMP Investment Entity is party, except to the extent required by section 365 of the Bankruptcy Code in connection with the assumption of such contract by the applicable Debtors.

(e) The Disclosure Statement and the Plan shall be deemed to be a motion requesting that the Bankruptcy Court approve the substantive consolidation contemplated by the Plan. Unless an objection to the proposed substantive consolidation is made in writing by any Creditor purportedly affected by such substantive consolidation on or before the deadline to object to Confirmation of the Plan, or such other date as may be fixed by the Bankruptcy Court, the substantive consolidation contemplated by the Plan may be approved by the Bankruptcy Court at the Confirmation Hearing.

ARTICLE VI.

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

6.1 Assumption of Certain Executory Contracts and Unexpired Leases.

6.1.1 Assumption of Agreements.

On the Effective Date, the Debtors shall assume all executory contracts and unexpired leases that are listed on the Schedule of Assumed Agreements and shall assign such contracts and leases to the Plan Recovery Trust or its designee. The Confirmation Order will constitute a Bankruptcy Court order approving the assumption and assignment or rejection, as applicable, of executory contracts and unexpired leases consistent with the foregoing.

The Plan Proponents reserve the right to amend the Schedule of Assumed Agreements at any time prior to the Effective Date (i) to delete any executory contract or unexpired lease and provide for its rejection under the Plan or otherwise, or (ii) to add any executory contract or unexpired lease and provide for its assumption and assignment under the Plan. The Plan Proponents will provide notice of any amendment to the Schedule of Assumed Agreements to the party or parties to those agreements affected by such amendment.

Unless otherwise specified on the Schedule of Assumed Agreements, each executory contract and unexpired lease listed or to be listed therein shall include any and all modifications, amendments, supplements, restatements, or other agreements made directly or indirectly by any agreement, instrument, or other document that in any manner affects such executory contract or unexpired lease, without regard to whether such agreement, instrument, or other document is also listed on the Schedule of Assumed Agreements.

6.1.2 Cure Payments.

Any amount that must be paid under section 365(b)(1) of the Bankruptcy Code to cure a default under and compensate the non-debtor party to an executory contract or unexpired lease to be assumed under the Plan is identified as the "Cure Payment" on the Schedule of Assumed Agreements. Unless the parties mutually agree to a different date, such payment shall be made in Cash within thirty (30) days following the later of: (i) the Effective Date and (ii) entry of a Final Order resolving any disputes regarding (A) the amount of any Cure Payment, (B) the ability of the Debtors or the Plan Recovery Trustee to provide "adequate assurance of future performance" within the meaning of section 365 of the Bankruptcy Code with respect to a contract or lease to be assumed, to the extent required, or (C) any other matter pertaining to assumption and assignment.

Pending the Bankruptcy Court's ruling on any such dispute, the executory contract or unexpired lease at issue shall be deemed assumed by the Debtors, unless otherwise agreed by the parties or ordered by the Bankruptcy Court.

6.1.3 Objections to Assumption or Cure Payments.

Any party to an executory contract or unexpired lease that is proposed to be assumed, or assumed and assigned, under the Plan that objects to such assumption, or assumption and assignment (including the proposed Cure Payment), must File with the Bankruptcy Court and serve on parties entitled to notice a written objection with any factual contentions therein supported by declarations or references to the record. Such objection must be Filed and served on or before the deadline established by the Solicitation Procedures Order. Any Person that fails to timely File and serve such objection shall be deemed to waive any and all objections to the proposed assumption, or assumption and assignment (including the proposed Cure Payment), of its contract or lease.

In the absence of a timely objection by a party to an executory contract or unexpired lease, the Confirmation Order shall constitute a conclusive determination regarding the amount of any Cure Payment and compensation due under the applicable executory contract or unexpired lease, as well as a conclusive finding that adequate assurance of future performance with respect to such executory contract or unexpired lease has been demonstrated, to the extent required.

6.1.4 Resolution of Claims Relating to Assumed Executory Contracts ~~and~~ Unexpired Leases.

Payment of the Cure Payment established under the Plan, by the Confirmation Order, or by any other order of the Bankruptcy Court, with respect to an assumed, or assumed and assigned, executory contract or unexpired lease, shall be deemed to satisfy, in full, any prepetition or post-petition arrearage or other Claim (including any Claim asserted in a Filed proof of claim or listed on the Schedules) with respect to such contract or lease (irrespective of whether the Cure Payment is less than the amount set forth in such proof of claim or the Schedules). Upon the tendering of the Cure Payment, any such Filed or Scheduled Claim shall be disallowed with prejudice, without further order of the Bankruptcy Court or action by any Person.

6.2 Rejection of Executory Contracts and Unexpired Leases.

6.2.1 Rejected Agreements.

7.11 Defenses and Setoffs.

On and after the Effective Date, the Plan Recovery Trust shall have all of the Debtors' and the Estates' rights and defenses under section 558 of the Bankruptcy Code. Nothing under the Plan shall affect the rights and defenses of the Debtors, the Estates, or the Plan Recovery Trust on account of any Claim or Equity Interest, including all rights with respect to legal and equitable objections, defenses, setoffs, or recoupment against such Claims and Equity Interests. Accordingly, the Plan Recovery Trust may, but shall not be required to, set off against any Claim or Equity Interest or any Allowed Claim or Equity Interest, and the payments or other Distributions to be made pursuant to the Plan on account of such Claim or Equity Interest, claims, rights, or defenses of any nature whatsoever that the Debtors, the Estates, or the Plan Recovery Trust, as applicable, may have against the Holder of such Claim or Equity Interest; *provided, however*, that neither the failure to do so nor the allowance of any Claim or Equity Interest hereunder shall constitute a waiver or release of any such claims, rights, or defenses that may exist against such Holder.

7.12 Allocation of Distributions.

A Distribution received under the Plan by a Holder of a Claim or Plan Recovery Trust Units shall be deemed to be allocated first to the principal amount of such Claim, or the Claim to which the applicable Plan Recovery Trust Unit relates, as determined for United States federal income tax purposes, and then to accrued interest, if any, with respect to such Claim.

7.13 Joint Distributions.

The Plan Recovery Trustee may, in its sole discretion, make Distributions jointly to a Holder of a Claim or Plan Recovery Trust Unit and any other Person or Entity that the Plan Recovery Trustee has determined to have an interest in such Claim or Plan Recovery Trust Unit.

7.14 Forfeiture of Distributions.

If the Holder of a Claim or Plan Recovery Trust Unit fails to cash a check payable to it within the time period set forth in Section 7.4, fails to claim an undeliverable Distribution within the time limit set forth in Section 7.8, or fails to complete and return to the Plan Recovery Trustee the appropriate Form W-8 or Form W-9 within 180 calendar days after a request for the completion and return of the appropriate form pursuant to Section 7.10 (or such later time as approved by a Bankruptcy Court order), then such Holder shall be deemed to have forfeited its right to any reserved and future Distributions under the Plan. Any such forfeited Distributions shall be deemed Available Cash for all purposes, notwithstanding any federal or state escheat laws to the contrary.

ARTICLE VIII.

PROCEDURES FOR RESOLVING ~~DISPUTED, CONTINGENT,~~ AND UNLIQUIDATED CLAIMS AND EQUITY INTERESTS AND DISTRIBUTIONS WITH RESPECT THERETO

~~8.1 Objections to and Resolution of Disputed Claims and Equity Interests, Including Any Claims or Equity Interests of Excluded Parties or Disputing Investors.~~

From and after the Effective Date, the Plan Recovery Trustee shall have the exclusive authority to compromise, resolve, and Allow any Disputed Claim or Disputed Equity Interest without the need to obtain approval from the Bankruptcy Court, except as otherwise provided in the Plan Recovery Trust Agreement, and an agreement entered into by the Plan Recovery Trustee with respect to the Allowance of a Claim or Equity Interest shall be conclusive evidence and a final determination of the Allowance of such Claim or Equity Interest; *provided, however*, that, under the Plan, a Claim or Equity Interest asserted by an Excluded Party ~~or Disputing Investor~~ is

ARTICLE IX.
CONDITIONS PRECEDENT TO THE EFFECTIVE DATE

9.1 Conditions to the Effective Date.

The Effective Date shall not occur and the Plan shall not be consummated unless and until each of the following conditions has been satisfied or duly waived pursuant to Section 9.2 of the Plan:

- (a) the Bankruptcy Court shall have entered the Confirmation Order in a form reasonably acceptable to the Plan Proponents;
- (b) the Confirmation Order shall not be subject to any stay;
- (c) the Confirmation Order shall contain a finding in a form reasonably acceptable to the Plan Proponents that the Debtors and the KSMP Investment Entities were operated as a Ponzi scheme;
- (d) all governmental and material third-party approvals and consents necessary in connection with the transactions contemplated by the Plan, if any, shall have been obtained and be in full force and effect;
- (e) all actions and all agreements, instruments, or other documents necessary to implement the terms and provisions of the Plan shall have been effected or executed and delivered, as applicable;
- (f) the Professional Fee Reserve shall have been funded pursuant to Section 3.3.3 of the Plan; and
- (g) the Committee shall have chosen the members of the Oversight Committee.

9.2 Waiver of Conditions to the Effective Date.

The conditions to the Effective Date set forth in Section 9.1 of the Plan may be waived in writing by agreement of each of the Plan Proponents in their reasonable discretion, at any time without further order.

9.3 Effect of Non-Occurrence of Conditions to the Effective Date.

If any condition to the Effective Date is not satisfied or duly waived in accordance with Section 9.1 and Section 9.2 of the Plan, upon notification Filed by the Debtors with the Bankruptcy Court, (i) the Confirmation Order shall be vacated; (ii) no Distributions shall be made; (iii) the Debtors, the Estates, the Committee and all Creditors shall be restored to the *status quo* as of the day immediately preceding the Confirmation Hearing as though the Confirmation Order was not entered; and (iv) all of the Debtors' and the Estates' obligations with respect to Claims or Equity Interests shall remain unchanged and nothing contained in the Plan shall constitute a waiver or release of any Causes of Action by or against the Debtors, the Estates, the KSMP Investment Entities, or any other Person or prejudice in any manner the rights, claims, or defenses of the Debtors, the Estates, the KSMP Investment Entities, or any other Person.

9.4 Notice of the Effective Date.

Promptly after the occurrence of the Effective Date, the Plan Recovery Trustee or its agents shall mail or cause to be mailed to all Creditors a notice that informs such Creditors of (i) entry of the Confirmation Order and the resulting confirmation of the Plan; (ii) the occurrence of the

- (h) consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including the Confirmation Order;
- (i) issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Person with the implementation, consummation, or enforcement of the Plan or the Confirmation Order;
- (j) enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;
- (k) hear and determine any matters arising in connection with or relating to the Plan, the Plan Supplement, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, or other agreement or document created, executed, or contemplated in connection with any of the foregoing documents and orders;
- (l) enforce, interpret, and determine any disputes arising in connection with any stipulations, orders, judgments, injunctions, releases, exculpations, indemnifications, and rulings associated with the Plan or otherwise entered in connection with the Chapter 11 Cases (whether or not any or all of the Chapter 11 Cases have been closed);
- (m) except as otherwise limited herein, recover all Estate Assets, wherever located;
- (n) hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;
- (o) hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, the Bankruptcy Code and title 28 of the United States Code;
- (p) resolve any cases, controversies, suits, or disputes related to the Plan Recovery Trust, the Oversight Committee, or the Plan Recovery Trustee; and
- (q) enter a Final Decree closing the Chapter 11 Cases of the Debtors.

10.2 Reserved Rights to Seek Bankruptcy Court Approval.

Even if the Plan allows an action to be taken without Bankruptcy Court approval, the Plan Recovery Trustee may seek explicit approval from the Bankruptcy Court for such an action, including the administration, distribution, or proposed sale of any of the Plan Recovery Trust Assets. The Bankruptcy Court shall retain jurisdiction and power for such purposes and shall approve or disapprove any such proposed action upon motion Filed by the Plan Recovery Trustee.

10.3 Non-Exercise of Jurisdiction.

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Cases, including the matters set forth in Section 10.1 of the Plan, the provisions of this ~~ARTICLE X~~ Article X shall have no effect on, and shall not control, limit, or prohibit the exercise of jurisdiction by any other court having competent jurisdiction with respect to, such matter.

12.17 Final Decree.

Upon the Plan Recovery Trustee's determination that all Claims and Equity Interests have been Allowed, disallowed, expunged, or withdrawn and that all Plan Recovery Trust Assets have been monetized, abandoned, or otherwise administered, the Plan Recovery Trust shall move for the entry of the Final Decree. On entry of the Final Decree, the Plan Recovery Trustee and the Oversight Committee shall be deemed discharged and have no further duties or obligations to the Plan Recovery Trust or any other Entity.

12.18 Additional Documents.

On or before the Effective Date, the Plan Proponents may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors and the Plan Recovery Trust, as applicable, and all Holders receiving Distributions pursuant to the Plan and all other parties in interest may, from time to time, prepare, execute, and deliver any agreements or documents and take any other acts as may be necessary or advisable to effectuate the provisions and intent of the Plan.

12.19 Conflicts with the Plan.

In the event and to the extent that any provision of the Plan is inconsistent with the provisions of the Disclosure Statement, any other order entered in the Chapter 11 Cases, or any other agreement to be executed by any Person pursuant to the Plan, the provisions of the Plan shall control and take precedence; *provided, however*, that if there is any inconsistency between the Plan, the provisions of the Disclosure Statement, and any other order entered in the Chapter 11 Cases, on the one hand, and the Plan Recovery Trust Agreement regarding the protocols, authority and decision-making power of the Oversight Committee, on the other hand, the specific provisions in the Plan Recovery Trust Agreement regarding the Oversight Committee shall control; *provided, further*, that the Confirmation Order shall control and take precedence in the event of any inconsistency between the Confirmation Order, any provision of the Plan, and any of the foregoing documents.

ARTICLE XIII.**REQUEST FOR CONFIRMATION AND RECOMMENDATION****13.1 Request for Confirmation.**

The Plan Proponents request confirmation of the Plan in accordance with section 1129 of the Bankruptcy Code.

13.2 Recommendation.

The Plan Proponents believe that confirmation and implementation of the Plan are the best alternative under the circumstances and urge all Holders of Claims and Equity Interests entitled to vote on the Plan to vote in favor of and support confirmation of the Plan.

1
2 Respectfully submitted,

3 **LEFEVER MATTSON,**
4 **A CALIFORNIA CORPORATION, ET AL.**

5 By: /s/ Bradley ~~D.~~ Sharp
6 Name: Bradley ~~D.~~ Sharp
7 Title: Chief Restructuring Officer

8 **KS MATTSON PARTNERS, LP**

9 By: /s/ Robbin Itkin
10 Name: Robbin Itkin
11 Title: Responsible Individual

12 **OFFICIAL COMMITTEE OF UNSECURED CREDITORS**
13 **~~OF LEFEVER MATTSON, A CALIFORNIA~~**
14 **~~CORPORATION, ET AL.~~**

15 By: /s/ Kevin Katari
16 Name: Kevin Katari
17 Title: Chairperson

EXHIBIT A

Defined Terms

1. **“Administrative Expense Claim”** means a Claim, to the extent not previously paid, otherwise satisfied, or withdrawn, for costs and expenses of administration of the Chapter 11 Cases pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred on or after the Petition Date or the Order for Relief Date, as applicable, until and including the Effective Date, of preserving the Estates and operating the Debtors’ businesses; (b) all fees and charges assessed against the Estates under chapter 123 of Title 28 of the United States Code; and (c) all Section 503(b)(9) Claims.

2. **“Administrative Expense Claims Bar Date”** means the last date by which any Person must File a request for payment of an Administrative Expense Claim other than a Professional Fee Claim, which date shall be the first Business Day that is at least thirty (30) calendar days after the Effective Date. Post-petition statutory tax Claims shall not be subject to the Administrative Expense Claims Bar Date. In the case of the LFM Debtors, the Claims Bar Date for Section 503(b)(9) Claims is the LFM General Claims Bar Date. In the case of ~~the~~ KSMP Debtors, the Claims Bar Date for Section 503(b)(9) Claims is the Administrative Expense Claims Bar Date.

3. **“Allowed, Allowed Claim, or Allowed [] Claim”** means:

(a) with respect to a Claim arising prior to the Petition Date (including, in the case of the LFM Debtors, a Section 503(b)(9) Claim):

(i) either (A) a proof of claim was timely Filed by the applicable Claims Bar Date, or (B) a proof of claim is deemed timely Filed either as a result of such Claim being Scheduled or by a Final Order; and

(ii) either (A) the Claim is not a Contingent Claim, a Disputed Claim, an Unliquidated Claim, or a Disallowed Claim; or (B) the Claim is expressly allowed by a Final Order or under the Plan;

(b) with respect to a Claim arising on or after the Petition Date (excluding, in the case of the LFM Debtors, a Section 503(b)(9) Claim), a Claim that has been allowed by a Final Order or under the Plan.

Unless otherwise specified in the Plan or by a Final Order, an “Allowed Administrative Expense Claim” or “Allowed Claim” shall not, for any purpose under the Plan, include interest, penalties, fees, or late charges on such Administrative Expense Claim or Claim from and after the Petition Date. Moreover, any portion of a Claim that is withdrawn, expunged, satisfied, released, or waived during the Chapter 11 Cases or following the Effective Date is not an Allowed Claim. Any and all Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered “Allowed Claims” hereunder. Notwithstanding any of the foregoing, Investor Claims will be Allowed as set forth in Section 7.3 of the Plan and the Investor Settlement Amount Procedures Order, the LFM Bar Date Order and/or any other subsequent orders of the Court.

4. **“Allowed Equity Interest”** means an Equity Interest that is not a Disputed Equity Interest or Disallowed Equity Interest.

5. **“Available Cash”** means all Cash held by the Debtors and the KSMP Investment Entities on the Effective Date or by the Plan Recovery Trust from the Effective Date; in each case, after payments, allocations, or reserves in accordance with the Plan and the Plan Recovery Trust

18. **“Claims Bar Date”** means, as applicable, the Administrative Expense Claims Bar Date, the Governmental Claims Bar Date, the KSMP Bar Date, the LFM General Claims Bar Date, or the Rejection Claims Bar Date.

19. **“Class”** means a category of Claims or Equity Interests designated pursuant to the Plan, or any subclass thereof.

20. **“Class A Plan Recovery Trust Units”** means the Plan Recovery Trust Units to be distributed on a Pro Rata basis to Holders of (i) Allowed Trade Claims under (if Class 6 votes to reject the Plan) on account of their Allowed Trade Claims, and (ii) Allowed Investor Claims on account of their Investor Tranche 1 Claims, pursuant to the Plan and the Plan Recovery Trust Agreement ~~on account of their Allowed Class 5 Claims.~~

21. **“Class B Plan Recovery Trust Units”** ~~means the Plan Recovery Trust Units to be distributed to Investors under the Plan and the Plan Recovery Trust Agreement on account of their Investor Tranche 1 Claims.~~

~~22. “Class C Plan Recovery Trust Units”~~ means the Plan Recovery Trust Units to be distributed to Investors under the Plan and the Plan Recovery Trust Agreement on account of their Investor Tranche 2 Claims.

~~22.~~ 23. **“Class DC Plan Recovery Trust Units”** means the Plan Recovery Trust Units to be distributed to Investors under the Plan and the Plan Recovery Trust Agreement on account of their Contributed Claims.

~~23.~~ 24. **“Closing Date”** means the date on which all of the Chapter 11 Cases have been closed in accordance with Section 12.17 of the Plan.

~~24.~~ 25. **“Collateral”** means any Estate Asset that is subject to a Lien to secure the payment or performance of a Claim, which Lien is perfected and not subject to avoidance under the Bankruptcy Code or otherwise invalid or unenforceable under the Bankruptcy Code or applicable non-bankruptcy law.

~~25.~~ 26. **“Committee”** means the official committee of unsecured creditors, as provided for under section 1102 of the Bankruptcy Code, which was appointed in the Chapter 11 Cases, as it may be reconstituted from time to time.

~~26.~~ 27. **“Confirmation”** means entry by the Bankruptcy Court of the Confirmation Order.

~~27.~~ 28. **“Confirmation Hearing”** means the hearing or hearings held by the Bankruptcy Court to consider Confirmation of the Plan as required by section 1128(a) of the Bankruptcy Code, as such hearing may be continued from time to time.

~~28.~~ 29. **“Confirmation Order”** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code in a form reasonably acceptable to the Plan Proponents.

~~29.~~ 30. **“Contingent Claim”** means any Claim that is Scheduled or Filed as contingent.

~~30.~~ 31. **“Contributed Claim Election”** means an election by an Investor, as indicated on an Investor Ballot, to contribute its Contributed Claims to the Plan Recovery Trust pursuant to the terms of this Plan.

31. ~~32.~~ **“Contributed Claims”** means all Causes of Action of a Contributing Claimant that are legally assignable (including Causes of Action that are legally assignable solely because of the preemptive effect of the Plan) that an Investor has against any Person that is not a Debtor and that are related in any way to the Debtors, their predecessors, their respective affiliates, or any Excluded Parties, including (a) all Causes of Action based on, arising out of, or related to the marketing, sale, and issuance of any investments related to the Debtors; (b) all Causes of Action for unlawful dividend, fraudulent conveyance, fraudulent transfer, voidable transaction, or other avoidance claims under state or federal law; (c) all Causes of Action based on, arising out of, or related to the misrepresentation of any of the Debtors’ financial information, business operations, or related internal controls; (d) all Causes of Action based on, arising out of, or related to any failure to disclose, or actual or attempted cover up or obfuscation of, any of the wrongful conduct described in the Disclosure Statement, including with respect to any alleged fraud related thereto; and (e) all Causes of Action based on aiding or abetting, entering into a conspiracy with, or otherwise supporting torts committed by the Debtors or their agents; provided that if a particular Cause of Action is identified on the Schedule of Disclaimed Contributed Claims by (a) the Plan Proponents prior to the Effective Date or (b) the Plan Recovery Trustee on and after the Effective Date, then such Cause of Action will not be a Contributed Claim.

32. ~~33.~~ **“Contributing Claimants”** means any and all Holders of Investors Claims that (i) affirmatively cast a Ballot on account of an Investor Claim to accept the Plan and (ii) did not opt-out of the Contributed Claim Election.

33. ~~34.~~ **“Corporate Action”** means any action, approval, authorization, decision, or other act of any kind that would be necessary on the part of any Person for any corporation, limited liability company, limited partnership, or other Person to in turn act.

34. ~~35.~~ **“Creditor”** means any Holder of a Claim.

35. ~~36.~~ **“Cure Payment”** means the payment of Cash or the distribution of other property (as the parties may agree or the Bankruptcy Court may order) that is necessary to cure any and all defaults under an executory contract or unexpired lease so that such contract or lease may be assumed, or assumed and assigned, pursuant to section 1123(b)(2) of the Bankruptcy Code.

36. ~~37.~~ **“Debtor”** or **“Debtors”** means, individually and collectively, each of the LFM Debtors and KSMP ~~Debtors~~.

37. ~~38.~~ **“Defined Term”** means any capitalized term that is defined in this Exhibit A of the Plan.

38. ~~39.~~ **“DIP Credit Agreements”** means, collectively, the definitive form of loan and security agreements entered into by the applicable Debtors in accordance with the DIP Orders.

39. ~~40.~~ **“DIP Facility Claims”** means a Claim arising under, relating to, derived from, based upon, or secured pursuant to the DIP Facilities, including, Claims for all principal amounts outstanding, interest, fees, expenses, costs, indemnification obligations, reimbursement obligations, and any other charges arising thereunder, in each case, with respect to the DIP Facilities.

40. ~~41.~~ **“DIP Facilities”** means the debtor-in-possession credit facilities provided to the Debtors on the terms and conditions set forth in the DIP Credit Agreements and the DIP Orders.

41. ~~42.~~ **“DIP Lender”** means Serene Investment Management LLC.

42. ~~43.~~ **“DIP Orders”** means (a) the final order entered by the Bankruptcy Court on January 23, 2025 [Docket No. 643] and (b) the final ordered entered by the Bankruptcy Court on

September ~~[●]~~25, 2025 [Docket No. ~~●~~2414].

~~43.~~ **44. “Disallowed Claim”** means any Claim that (a) is not Scheduled, or is listed on the Schedules as contingent, unliquidated, disputed, or in an amount equal to zero, unknown, undetermined, or similar, and whose Holder failed to timely File a proof of claim by the applicable Claims Bar Date (unless the late filing was permitted by a Bankruptcy Court order), but excluding

any Claim that is expressly Allowed by a Final Order or under the Plan; or (b) has been disallowed pursuant to an order of the Bankruptcy Court.

~~44.~~ **45. “Disallowed Equity Interest”** means any Equity Interest that (a) is not listed on the *Omnibus List of Equity Security Holders* [Docket No. 353] and whose Holder failed to timely File a proof of interest by the applicable Claims Bar Date (unless the late filing was permitted by a Bankruptcy Court order), but excluding any Equity Interest that is expressly Allowed by a Final Order or under the Plan; or (b) has been disallowed pursuant to an order of the Bankruptcy Court.

~~45.~~ **46. “Disclosure Statement”** means that certain disclosure statement relating to the Plan, including all exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code, as it subsequently may be amended, modified, or supplemented by the Plan Proponents.

~~46.~~ **47. “Disputed”** means, as to a Claim or an Equity Interest, any Claim or Equity Interest (or portion thereof): (a) that is not Allowed; (b) that is not disallowed by the Plan, the Bankruptcy Code, or a Final Order, as applicable; and (c) with respect to which a party in interest has Filed a Proof of Claim or Proof of Interest or otherwise made a written request to a Debtor for payment, without any further notice to or action, order, or approval of the Bankruptcy Court.

~~48. “Disputing Investor” means an Investor (other than an Excluded Party) that disputes the amounts set forth for such Person in the Schedule of Allowed Investor Amounts in accordance with the deadlines and procedures established by the Investor Settlement Amount Procedures Order.~~

~~47.~~ **49. “Distribution”** means any issuance, payment, or transfer of consideration made under the Plan or the Plan Recovery Trust Agreement.

~~48.~~ **50. “Distribution Agent”** means (i) the Plan Recovery Trustee solely in its capacity as distribution agent under the Plan with respect to Distributions to Holders of Allowed Administrative Expense Claims (including Professional Fee Claims), Involuntary Gap Claims, Priority Tax Claims, and Claims in Class 1, Class 2, and Class 3 on account of such Allowed Claims, or (ii) any party designated by the Plan Recovery Trustee to serve in such capacity.

~~49.~~ **51. “Distribution Date”** means any date on which a Distribution is made.

~~50.~~ **52. “Distribution Record Date”** means the record date for determining entitlement of Holders of Claims to receive Distributions under the Plan, which date shall be the Effective Date.

~~51.~~ **53. “Distribution Reserve”** means one or more reserves established by the Plan Recovery Trustee on account of Contingent Claims, Disputed Claims, or Unliquidated Claims.

~~52.~~ **“DOJ”** means the U.S. Department of Justice.

~~53.~~ **54. “Effective Date”** means the date that is the first Business Day on which each condition set forth in ~~ARTICLE IX~~Article IX of the Plan has been satisfied or waived as set forth therein.

54. ~~55.~~ **“Entity”** means any “entity,” as defined in section 101(15) of the Bankruptcy Code.

55. ~~56.~~ **“Equitably Subordinated Claim”** means any claim of any kind or nature whatsoever held by any Entity against any of the Debtors and the KSMP Investment Entities that the Bankruptcy Court has determined to be equitably subordinated pursuant to section 510(c) of the Bankruptcy Code.

56. ~~57.~~ **“Equitably Subordinated Interest”** means any interest of any kind or nature whatsoever held by any Entity in any of the Debtors and the KSMP Investment Entities that the Bankruptcy Court has determined to be equitably subordinated pursuant to section 510(c) of the Bankruptcy Code.

57. ~~58.~~ **“Equity Interests”** means all previously issued and outstanding stock, membership, partnership, or other ownership interests in any of the Debtors or the KSMP Investment Entities outstanding immediately prior to the Effective Date, including agreements of any character to convert, exchange, exercise for, or otherwise receive any such stock, membership, partnership, or other ownership interests.

58. ~~59.~~ **“Estate Assets”** means, collectively, (a) any and all right, title, and interest of the Debtors, the Estates, and the ~~Estates~~ KSMP Investment Entities in and to property of whatever type or nature, including books and records, the Real Properties, and all Avoidance Actions and Causes of Action as of the Effective Date; and (b) any assets contributed to or recovered by the Plan Recovery Trust on or after the Effective Date.

59. ~~60.~~ **“Estates”** means the chapter 11 estates of the Debtors created by section 541(a) of the Bankruptcy Code.

60. ~~61.~~ **“Excluded Parties”** means, collectively, the Persons and Entities identified on the Schedule of Excluded Parties.

61. ~~62.~~ **“Exculpated Parties”** means, collectively, and in each case in its capacity as such: (a) the Debtors; (b) the Committee, including its current and former members; (c) Professionals for (a) and (b); (d) the Responsible Individual; (e) all officers and directors of any of the Debtors serving in such capacity on or after the Petition Date and before the Effective Date; and (f) persons who acted as agents for (a) and (b) and, in doing so, assumed fiduciary obligations of the principal. The definition of Exculpated Parties excludes all Excluded Parties.

62. ~~63.~~ **“File,” “Filed,” or “Filing”** means duly and properly filed with the Bankruptcy Court and reflected on the docket of the Chapter 11 Cases, except with respect to proofs of claim that may be filed with the Claims Agent, in which case “File” or “Filed” means duly and properly filed with the Claims Agent or the Bankruptcy Court and reflected on the official claims register maintained by the Claims Agent.

63. ~~64.~~ **“Final Decree”** means an order entered pursuant to section 350 of the Bankruptcy Code, Bankruptcy Rule 3022, and Local Rule 3022-1 closing the Chapter 11 Cases.

64. ~~65.~~ **“Final Order”** means an order or judgment of the Bankruptcy Court entered on the docket of the Chapter 11 Cases:

(a) that has not been reversed, rescinded, stayed, modified, vacated, or amended;

(b) that is in full force and effect; and

(c) with respect to which (i) the time to appeal or to seek review, rehearing, remand, or a writ of certiorari has expired and as to which no timely filed appeal or petition for review, rehearing, remand, or writ of certiorari is pending; or (ii) any such appeal or petition has been dismissed or resolved by the highest court to which the order or judgment was appealed or from which review, rehearing, remand, or a writ of certiorari was sought.

No order shall fail to be a Final Order solely because of the possibility that a motion pursuant to section 502(j) of the Bankruptcy Code, Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or Bankruptcy Rules 9023 or 9024 may be or has been filed with respect to such order.

65. “Forfeiture Property” means any property and proceeds recovered or to be recovered, and claimed by, the DOJ, the SEC, or any other Governmental Unit, to be subject to forfeiture in connection with any civil forfeiture proceedings or criminal actions against (i) Kenneth W. Mattson (including *United States v. Kenneth W. Mattson*, Case No. 25-cr-00126-CRB (N.D. Cal.), and *SEC v. Kenneth Mattson and Relief Defendant KS Mattson Partners LP*, No. 3:25-cv-04387 (N.D. Cal.)) or (ii) any other Excluded Parties to the extent relating to the Debtors, Investor Claims, and the KSMP Investment Entities, or any Investments.

66. “Governmental Claims Bar Date” means, with respect to each applicable Debtor, the date that is 180 days after the applicable Order for Relief Date, as calculated pursuant to Bankruptcy Rule 9006.

67. “Governmental Unit” means any “governmental unit,” as defined in section 101(27) of the Bankruptcy Code.

68. ~~67.~~ “Holder” means the Person that is the owner of record of a Claim, Equity Interest, or Plan Recovery Trust Unit, as applicable.

69. ~~68.~~ “Impaired” means any Class of Claims or Equity Interests that is impaired within the meaning of section 1124 of the Bankruptcy Code.

70. ~~69.~~ “Insider” means any “insider,” as defined in section 101(31) of the Bankruptcy Code, and with respect to a limited liability company or limited partnership, any director, officer, person in control or relative of any of the foregoing.

71. ~~70.~~ “Intercompany Claim” means any Claim of one Debtor against another Debtor.

72. ~~71.~~ “Intercompany Lien” means any Lien securing an Intercompany Claim.

73. ~~72.~~ “Investment” means ~~a Person or Entity that purchased an~~ any investment or investment product ~~or made an investment~~ offered by any Debtor (whether directly or through an agent), including, without limitation, any investments, interests, or other rights with respect to any Debtor that were styled, marketed, or sold as, among others, partnership interests in limited partnerships, TIC Interests, or other interests in any real property (including the purchase or sale of a real property). “Investors” excludes Timothy J. LeFever, Kenneth W. Mattson, any Excluded Party, any of the Debtors, and any Holder of a TIC Interest solely on account of such TIC Interest.

74. “Investor” means a Person or Entity that holds an Investor Claim.

75. “Investor Claim” means any Claim arising from or relating to an Investment, including, without limitation, (a) all Claims (including any contract or related Claims) based on, arising out of, or related to any Investments including the validity, marketing, sale, and issuance thereof; (b) all Claims for fraud, unlawful dividend, fraudulent conveyance, fraudulent transfer,

voidable transaction, or other avoidance claims under state or federal law; (c) all Claims arising from or related to the preparation or filing of the Debtors' and/or their affiliates' (including the KSMP Investment Entities') federal, state, local, or other tax returns, forms, and other filings; (d) all Claims based on, arising out of, or related to the misrepresentation of any of the Debtors' or the KSMP Investment Entities' financial information, assets and properties, business operations, or related internal controls; (e) all Claims based on, arising out of, or related to any failure to disclose, or actual or attempted cover up or obfuscation of, any of the wrongful conduct described in the Disclosure Statement, including with respect to any alleged fraud related thereto and undisclosed loans; (f) all Claims based on aiding or abetting, entering into a conspiracy with, or otherwise supporting Investment-related torts committed by the Debtors, the KSMP Investment Entities, or their agents; and (g) any Claims arising from or relating to TIC Interests.

76. ~~73.~~ **"Investor Ballot"** means the ballot form distributed to each Holder of an Investor Claim ~~or Investor Interest, as applicable,~~ entitled to vote to accept or reject the Plan.

78. ~~74.~~ **"Investor Claims Forfeiture Fund"** ~~means all (a) Equity Interests of an Investor in any Debtor and (b) Claims of an Investor against any Debtor.~~

~~means a fund to be held in a separate account and administered by the Plan Recovery Trustee for the sole benefit of Investors, comprised of any and all Forfeiture Property and any proceeds thereof, which shall be free and clear of any and all claims and liens. The Investor Forfeiture Fund shall not constitute property of the Debtors, the KSMP Investment Entities, or the Plan Recovery Trust. All Cash in the Investor Forfeiture Fund shall be distributed solely to Investors on a Pro Rata basis on account of their Allowed Investor Tranche 1 Claims and Investor Tranche 2 Claims, in accordance with the Plan.~~

79. ~~75.~~ **"Investor Lookback Period"** means the prepetition period commencing September 12, 2017.

80. ~~**"Investor Settlement Amount Procedures Order"** means the [Investor Order Approving Settlement Amount Procedures Order] With Respect to Investor Claims entered by the Bankruptcy Court at Docket No. ●.~~

81. ~~**"Investor-Specific Claims"** is as defined in Section 3.2 of the Plan.~~

82. ~~76.~~ **"Investor Tranche 1 Claim"** means the Investor Tranche 1 Claim Amount for each Investor as defined in, and as determined by, either (i) the Investor Settlement Amount Procedures Order or (ii) further order(s) of the Court including any entered after the Effective Date.

83. ~~77.~~ **"Investor Tranche 2 Claim"** means the Investor Tranche 2 Claim Amount for each Investor as defined in, and as determined by, either (i) the Investor Settlement Amount Procedures Order or (ii) further order(s) of the Court including any entered after the Effective Date.

~~78. **"Investor Settlement Amount Procedures Order"** means the [Investor Settlement Amount Procedures Order] entered by the Bankruptcy Court at Docket No. ●.~~

~~79. **"Investor-Specific Claims"** is as defined in Section 3.2 of the Plan.~~

84. ~~80.~~ **"Involuntary Gap Claim"** means a Claim specified in section 502(f) of the Bankruptcy Code and entitled to priority against Debtor KSMP and its Estate under section 507(a)(3) of the Bankruptcy Code.

85. ~~81.~~ **"KSMP"** means KS Mattson Partners, LP.

86. ~~82.~~ “KSMP Bar Date” means October 3, 2025.

87. ~~83.~~ “KSMP Debtor” or “KSMP DebtorsInvestment Entities” means, individually and collectively, ~~each of KSMP and any of its subsidiaries or affiliates (other than Ken Mattson or the LFM Debtors) that becomes a debtor under chapter 11 of the Bankruptcy Code on or after the date hereof and whose chapter 11 case is jointly administered with these Chapter 11 Cases~~ (i) Specialty Properties Partners, LP; (ii) Treehouse Investments, LP; and (iii) Perris Freeway Plaza, LP.

88. ~~84.~~ “LFM Bar Date Order” means the order [Docket No. 459] of the Bankruptcy Court setting and establishing, among other things, the LFM General Claims Bar Date.

89. ~~85.~~ “LFM Debtor” or “LFM Debtors” means, individually and collectively, each of the entities listed on Exhibit C hereto, as the same may be amended from time to time.

90. ~~86.~~ “LFM General Claims Bar Date” means February 14, 2025.

91. ~~87.~~ “Lien” means any “lien,” as defined in section 101(37) of the Bankruptcy Code.

92. ~~88.~~ “Local Rules” means the Bankruptcy Local Rules for the Northern District of California, as amended from time to time.

93. ~~89.~~ “Net Prepetition Investor Recovery” means, if applicable, with respect to a specific Investor, (a) the total Cash value remitted to the Investor during the Investor Lookback Period (whether the payment was considered a return on the investment, a referral fee, or a repayment of principal) minus (b) the total Cash value invested prepetition as principal by the Investor, provided that the value of (a) is greater than the value of (b).

94. ~~90.~~ “Order for Relief Date” means June 9, 2025, when used in reference to KSMP. For any other Debtor, the Order for Relief Date is the same date as the Petition Date for such Debtor.

95. ~~91.~~ “Other Secured Claim” means any Secured Claim of an Entity that is not a Sold Property Secured Lender Claim ~~or~~, a Retained Property Secured Lender Claim, or a Settled Secured Lender Claim.

96. ~~92.~~ “Oversight Committee” means a board for the Plan Recovery Trust, whose initial, volunteer members shall be chosen by the Committee and identified in the Plan Supplement.

97. ~~93.~~ “Person” means any “person,” as defined in section 101(41) of the Bankruptcy Code.

98. ~~94.~~ “Petition Date” means (a) August 6, 2024, when used in reference to Windscape Apartments, LLC; (b) October 2, 2024, when used in reference to Pinewood Condominiums, LP and Ponderosa Pines, LP; (c) November 22, 2024, when used in reference to K S Mattson Partners, LP; and (d) September 12, 2024, when used in reference to all other Debtors.

99. ~~95.~~ “Plan” means this Plan and all exhibits thereto, including the Plan Supplement, as the same may be amended, modified, or supplemented in the Plan Proponents’ reasonable discretion.

100. ~~96.~~ “Plan Proponents” means the Debtors, excluding Live Oak Investments, LP,

and the Committee, as proponents of the Plan.

101. ~~97.~~ **“Plan Recovery Trust”** means a trust established on the Effective Date for the benefit of the Plan Recovery Trust Beneficiaries in accordance with the terms of the Plan and the Plan Recovery Trust Agreement.

102. ~~98.~~ **“Plan Recovery Trust Actions”** means, collectively, all Avoidance Actions and Causes of Action held by the Debtors, the KSMP Investment Entities, or the Estates and any Causes of Action that are contributed to the Plan Recovery Trust as Contributed Claims, in each case as against any Entity that is not a Debtor.

103. ~~99.~~ **“Plan Recovery Trust Agreement”** means the agreement substantially in the form Filed with the Plan Supplement establishing and delineating the terms and conditions of the Plan Recovery Trust, including the rights and duties of the Plan Recovery Trustee and the Oversight Committee.

104. ~~100.~~ **“Plan Recovery Trust Assets”** means, collectively, (a) the Plan Recovery Trust Actions, (b) Available Cash as of the Effective Date and Available Cash that is possessed by or turned over to the Plan Recovery Trust after the Effective Date, (c) the Retained Real Properties (which shall be subject to the terms and provisions of the applicable Secured Lender Settlement Agreement in relation to the applicable Settled Secured Lender Claim), and (d) other assets that may be transferred or otherwise provided, directly or indirectly, to or for the benefit of the Plan Recovery Trust (on or after the Effective Date) by any Person. The Investor Forfeiture Fund is not a Plan Recovery Trust Asset.

105. ~~101.~~ **“Plan Recovery Trust Beneficiary”** means each Holder of a Plan Recovery Trust Unit.

106. ~~102.~~ **“Plan Recovery Trust Expenses”** means any and all reasonable fees, costs, and expenses incurred by the Plan Recovery Trustee in managing and operating the Plan Recovery Trust not inconsistent with the Plan or the Plan Recovery Trust Agreement, including the maintenance or disposition of the Plan Recovery Trust Assets (including the Plan Recovery Trustee’s fees, indemnity reserves, attorneys’ fees, the fees of professionals and other Persons retained by the Plan Recovery Trustee, personnel-related expenses, and any taxes imposed on the Plan Recovery Trust with respect to the Plan Recovery Trust Assets), and any other expenses incurred or otherwise payable in accordance with the Plan Recovery Trust Agreement.

107. ~~103.~~ **“Plan Recovery Trust Indemnified Parties”** means the Plan Recovery Trustee, the Oversight Committee members, and their respective Related Parties, each in their respective capacity as such.

108. ~~104.~~ **“Plan Recovery Trust Units”** means (a) any Class A Plan Recovery Trust Units distributed to Holders of Allowed Trade Claims; ~~(b) any Class B Plan Recovery Trust Units distributed to~~ and Holders of Allowed Investor Tranche 1 Claims; ~~(eb)~~ any Class EB Plan Recovery Trust Units distributed to Holders of Allowed Investor Tranche 2 Claims; and ~~(dc)~~ any Class DC Plan Recovery Trust Units distributed to Investors on account of Contributed Claims, in each case in accordance with the Plan and the Plan Recovery Trust Agreement.

110. ~~105.~~ **“Plan Recovery Trust Waterfall”** is as defined in Section 5.3.10 of the Plan.

111. ~~106.~~ **“Plan Recovery Trustee”** means the initial Plan Recovery Trustee, who was chosen by the Committee, and any successor thereto appointed pursuant to the Plan Recovery Trust Agreement, in each case acting in the capacity as trustee of the Plan Recovery Trust.

112. ~~107.~~ **“Plan Supplement”** means the ancillary documents regarding the

implementation and effectuation of the Plan, which will be Filed on or before the date that is fourteen (14) calendar days prior to the Voting Deadline, as such documents may be amended and supplemented prior to the Confirmation Hearing in the Plan Proponents' reasonable discretion. The Plan Supplement includes, without limitation, the form of the Plan Recovery Trust Agreement, the Schedule of Assumed Agreements, and additional information relating to tax matters.

113. ~~108.~~ **"Priority Claim"** means a Claim that is entitled to priority under section 507(a) of the Bankruptcy Code, other than Administrative Expense Claims, Professional Fee Claims, Involuntary Gap Claims, and Priority Tax Claims.

114. ~~109.~~ **"Priority Tax Claim"** means a Claim that is entitled to priority under section 507(a)(8) of the Bankruptcy Code.

115. ~~110.~~ **"Pro Rata"** means proportionately, so that the ratio of (a) the amount of consideration distributed on account of a particular Allowed Claim or Plan Recovery Trust Unit to (b) the amount or number of that Allowed Claim or Plan Recovery Trust Unit, is the same as the ratio of (x) the amount of consideration available for Distribution on account of, as applicable, all Allowed Claims in the Class in which the particular Allowed Claim is included or all applicable Plan Recovery Trust Units to (y), as applicable, the amount of all Allowed Claims of that Class or the number of applicable Plan Recovery Trust Units, as adjusted to take into account any applicable Distribution Reserves.

116. ~~111.~~ **"Professional"** means any professional employed in the Chapter 11 Cases pursuant to sections 327, 328, 363, 1103, or 1104 of the Bankruptcy Code.

117. ~~112.~~ **"Professional Fee Claim"** means a Claim of a Professional for compensation or reimbursement of costs and expenses (or of members of the Committees for reimbursement of expenses) relating to services provided during the period from the applicable Petition Date through and including the Effective Date.

118. ~~113.~~ **"Professional Fee Reserve"** means the reserve established and funded from the Plan Recovery Trust pursuant to Section 3.3.3 of the Plan to provide sufficient funds to satisfy in full all unpaid Allowed Professional Fee Claims.

119. ~~114.~~ **"Real Properties"** means any and all real property in which a Debtor holds a direct or indirect ownership interest.

120. ~~115.~~ **"Rejection Claim"** means any Claim for monetary damages as a result of the rejection of any prepetition executory contract or unexpired lease, whether rejected pursuant to the Confirmation Order or otherwise.

121. ~~116.~~ **"Rejection Claims Bar Date"** means, to the extent not previously established by prior order of the Bankruptcy Court, the first Business Day that is at least thirty (30) calendar days after the Effective Date.

122. ~~117.~~ **"Related Parties"** means, collectively, all of the respective accountants, agents, assigns, attorneys, bankers, consultants, directors, employees, executors, financial advisors, investment bankers, managers, members, officers, partners, predecessors, principals, professional persons, representatives, and successors of the referenced Person; *provided, however*, that the Debtors' Related Parties will be limited to the following Persons: the independent directors, officers, attorneys, accountants, consultants, and professionals who are employed by the Debtors on the Effective Date pursuant to an order of the Bankruptcy Court.

123. ~~118.~~ **"Replacement Secured Note"** means notes bearing interest at a fixed rate equal to the Treasury Rate plus 2.75% and on other terms to be disclosed in the Plan Supplement.

or on such other terms as are agreed to by the Plan Proponents and the applicable Holder or as determined by the Court after notice and hearing, to be issued by the Plan Recovery Trust to the Holders of Allowed Class 4 Claims (Retained Property Secured Lender Claims) ~~on terms to be disclosed in the Plan Supplement.~~

124. ~~119.~~ **“Responsible Individual”** means Robbin L. Itkin, the appointed responsible individual of ~~the KSMP Debtors~~ pursuant to Local Rule 4002-1.

125. ~~120.~~ **“Retained Property Secured Lender”** means a lender to a Debtor or an affiliate of a Debtor (including, without limitation, a retail or commercial bank) that is not an Investor and that purportedly holds a Secured Claim on account of a deed of trust or Lien against one or more of the Real Properties that are Estate Assets as of the Effective Date.

126. ~~121.~~ **“Retained Property Secured Lender Claims”** means any and all Secured Claims of Retained Property Secured Lenders in relation to one or more of the Retained Real Properties.

127. ~~122.~~ **“Retained Real Properties”** means the Real Properties identified in the Plan Supplement as Real Properties to be retained by the Debtors and transferred to the Plan Recovery Trust upon the Effective Date.

128. ~~123.~~ **“Schedule of Allowed Investor Amounts”** means a schedule, or any applicable portion thereof, that will be established for each Investor in accordance with the Investor Settlement Amount Procedures Order.

129. ~~124.~~ **“Schedule of Assumed Agreements”** means the schedule of those certain executory contracts and unexpired leases that the Plan Proponents have determined that the Debtors may assume and assign to the Plan Recovery Trust on the Effective Date. The initial Schedule of Assumed Agreements will be Filed as part of the Plan Supplement, but remains subject to any modifications that may be made prior to the Effective Date pursuant to Section 6.1 of the Plan.

130. **“Schedule of Disclaimed Contributed Claims”** means the schedule of Causes of Action that will be disclaimed as not Contributed Claims by the Plan Proponents prior to the Effective Date, or the Plan Recovery Trustee after the Effective Date. All Causes of Action identified on the Schedule of Disclaimed Contributed Claims will not be Contributed Claims for purposes of the Plan.

131. ~~125.~~ **“Schedule of Excluded Parties”** means the list of Excluded Parties identified on Exhibit B to the Plan.

132. ~~126.~~ **“Scheduled”** means set forth in the Schedules.

133. ~~127.~~ **“Schedules”** means the respective Schedules of Assets and Liabilities and Statements of Financial Affairs Filed by the Debtors, as such Schedules may be amended from time to time in accordance with Bankruptcy Rule 1009.

134. ~~128.~~ **“SEC”** means the U.S. Securities and Exchange Commission.

135. ~~129.~~ **“Section 503(b)(9) Claim”** means a Claim arising under Bankruptcy Code section 503(b)(9) for the value of any goods that were received by the Debtors within twenty (20) calendar days before the applicable Petition Date and that were sold to the Debtors in the ordinary course of their business.

136. ~~130.~~ “**Secured Claim**” means a Claim that is secured by a valid, perfected, and enforceable Lien on property in which the Debtors or the Estates have an interest, which Lien is valid, perfected, and enforceable under applicable law and not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law. A Claim is a Secured Claim only to the extent of the value of the Holder’s interest in the Debtors’ interest in the Collateral or to the extent of the amount subject to setoff against a Cause of Action held by the Debtors, whichever is applicable, and as determined under section 506(a) of the Bankruptcy Code. No Investor Claim shall be defined, classified, or treated as a Secured Claim under the Plan.

137. ~~131.~~ “**Securities Act**” means the Securities Act of 1933, as amended.

138. “Settling Secured Lender” means any Holder of a Secured Claim that enters into a Secured Lender Settlement Agreement prior to the Effective Date. Socotra is a Settling Secured Lender.

139. “Secured Lender Settlement Agreement” means any and all settlement agreements between the Plan Proponents and a Settling Secured Lender resolving the treatment of the Settling Secured Lender’s Secured Lender Settlement Claim. The Socotra Settlement Agreement is a Secured Lender Settlement Agreement.

140. “Settled Secured Lender Claims” means any and all Secured Claims of the Settling Secured Lenders.

141. “Socotra” means Socotra Capital, Inc. and its affiliates identified in the Socotra Settlement Agreement.

142. “Socotra Claims” means all Claims of Socotra identified in the Socotra Settlement Agreement.

143. “Socotra Settlement Agreement” means that certain Settlement Agreement dated as of October 14, 2025 by and among the Debtors, the Committee and Socotra [Docket No. 2556].

144. ~~132.~~ “**Sold Property Secured Lender**” means a lender to a Debtor or an affiliate of a Debtor (including, without limitation, a retail or commercial bank) that is not an Investor and that purportedly held a Secured Claim on account of a deed of trust or Lien against one or more of the Real Properties sold by the Debtors prior to the Effective Date.

145. ~~133.~~ “**Sold Property Secured Lender Claims**” means any and all Secured Claims of Sold Property Lenders in relation to the proceeds from one or more of the Real Properties.

146. ~~134.~~ “**Solicitation Procedures Order**” means the order approving the Disclosure Statement, authorizing the Plan Proponents to solicit acceptances of the Plan, and establishing certain related procedures and deadlines.

147. ~~135.~~ “**TIC Interest**” means respective tenant-in-common interests of non-debtor parties in Real Properties owned in part by the Debtors.

148. ~~136.~~ “**Trade Claims**” means all non-priority unsecured eClaims that are not Investor Claims, including, without limitation, (i) all such Claims owed to the Debtors’ and the KSMP Investment Entities’ vendors, suppliers and providers of goods and services received by the Debtors and the KSMP Investment Entities during the ordinary course of business prepetition on account of or relating to such goods and services, and (ii) Rejection Claims.

1 149. **“Trade Claims Settlement Fund”** means \$4,000,000 in Cash, free and clear of all
2 claims and interests, funded from Available Cash of the Debtors on the Effective Date, which will
3 fund a payment of Cash on a Pro Rata basis to Holders of Allowed Class 6 Claims in accordance
4 with the Plan if Class 6 votes to accept the Plan; *provided that* if Class 6 votes to reject the Plan,
5 there will be no Trade Claims Settlement Fund. The Trade Claims Settlement Fund will be
6 administered by the Plan Recovery Trustee.

7 150. ~~137.~~ **“Treasury Rate”** means the yield to maturity of United States Treasury
8 securities with a constant maturity (as compiled and published in the most recent Federal Reserve
9 Statistical Release H.15 (519) that has become publicly available at least two business days prior
10 to the Effective Date (or, if such Statistical Release is no longer published, any publicly available
11 source of similar market data)) most nearly equal to the period from the Effective Date to the
12 Maturity Date; *provided, that* if no published maturity exactly corresponds with such period, then
13 the Treasury Rate shall be interpolated or extrapolated on a straight-line basis from the arithmetic
14 mean of the yields for the next shortest and next longest published maturities.

15 151. ~~138.~~ **“Unimpaired”** means any Class of Claims that is not impaired within the
16 meaning of section 1124 of the Bankruptcy Code.

17 152. ~~139.~~ **“Unliquidated Claim”** means any Claim that is Scheduled as unliquidated or
18 that was Filed in an unliquidated amount.

19 153. ~~140.~~ **“U.S. Trustee”** The United States Trustee for Region 17.

20 154. ~~141.~~ **“Voting Deadline”** means the date and time by which all Ballots to accept or
21 reject the Plan must be received in order to be counted under the Solicitation Procedures Order.

Comparison Summary

Original file: *P645H (Joint Chapter 11 Plan of Liquidation).docx*

Modified file: *4935-3068-3480.v28 LeFever - Amended Chapter 11 Plan of Liquidation.docx*

Date of Comparison: 2025/10/20 09:16:12 AM

Words Deleted: 658

Words Inserted: 2381

Tables Deleted: 0

Tables Inserted: 0

Tables Modified : 4

Images Deleted: 0

Images Inserted: 21

Word Markup Scheme

[Insertions](#)

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EXHIBIT B

**Comparison of Original Disclosure Statement
to Amended Disclosure Statement**

THIS DOCUMENT IS NOT A SOLICITATION OF VOTES ON THE PLAN. VOTES MAY NOT BE SOLICITED UNTIL THE BANKRUPTCY COURT HAS APPROVED A DISCLOSURE STATEMENT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT. ALL OF THE INFORMATION IN THIS PROPOSED DISCLOSURE STATEMENT IS SUBJECT TO CHANGE. THIS DISCLOSURE STATEMENT IS NOT AN OFFER TO SELL ANY SECURITIES AND IS NOT SOLICITING AN OFFER TO BUY ANY SECURITIES.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION**

In re
LEFEVER MATTSON,
a California corporation, *et al.*,

Debtors.

Case No. 24-10545 CN (Lead Case)

(Jointly Administered)

Chapter 11

**AMENDED DISCLOSURE STATEMENT
IN SUPPORT OF FIRST AMENDED
JOINT CHAPTER 11 PLAN OF
LIQUIDATION**

In re

KS MATTSON PARTNERS, LP,

Debtor.

Date: November 19, 2025
Time: 11:00 a.m. (Pacific Time)
Place: United States Bankruptcy Court
1300 Clay Street, Courtroom 215
Oakland, CA 94612
Judge: Hon. Charles Novack

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DISCLAIMER

THIS DISCLOSURE STATEMENT PROVIDES INFORMATION REGARDING THE *FIRST AMENDED* JOINT CHAPTER 11 PLAN OF LEFEVER MATTSON, KS MATTSON PARTNERS, AND THEIR AFFILIATED DEBTORS PROPOSED BY THE DEBTORS AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, WHICH PLAN THE LFM DEBTORS, THE KSMP DEBTORS, AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS ARE SEEKING TO HAVE CONFIRMED BY THE BANKRUPTCY COURT. THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED FOR PURPOSES OF SOLICITING ACCEPTANCES TO, AND CONFIRMATION OF, THE PLAN AND MAY NOT BE RELIED ON FOR ANY OTHER PURPOSE. APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE A DETERMINATION OR RECOMMENDATION BY THE BANKRUPTCY COURT REGARDING THE FAIRNESS OR THE MERITS OF THE PLAN.

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, CERTAIN STATUTORY PROVISIONS, AND CERTAIN DOCUMENTS RELATING TO THE PLAN. IN THE EVENT OF ANY CONFLICT, INCONSISTENCY, OR DISCREPANCY BETWEEN THE TERMS AND PROVISIONS IN THE PLAN AND THIS DISCLOSURE STATEMENT, THE PLAN SHALL GOVERN FOR ALL PURPOSES. ALL HOLDERS OF CLAIMS SHOULD READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING ON THE PLAN.

THE STATEMENTS CONTAINED HEREIN HAVE BEEN MADE AS OF THE DATE HEREOF UNLESS OTHERWISE SPECIFIED. HOLDERS OF CLAIMS AND EQUITY INTERESTS REVIEWING THIS DISCLOSURE STATEMENT SHOULD NOT INFER AT THE TIME OF SUCH REVIEW THAT THERE HAVE BEEN NO CHANGES IN THE FACTS SET FORTH HEREIN. ALTHOUGH THE LFM DEBTORS AND THE KSMP DEBTORS (COLLECTIVELY, THE “DEBTORS”) HAVE MADE AN EFFORT TO DISCLOSE WHERE CHANGES IN PRESENT CIRCUMSTANCES COULD REASONABLY BE EXPECTED TO AFFECT MATERIALLY THE RECOVERIES UNDER THE PLAN, THIS DISCLOSURE STATEMENT IS QUALIFIED TO THE EXTENT CERTAIN EVENTS DO OR DO NOT OCCUR.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR ANY OTHER NON-BANKRUPTCY LAW. THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION (THE “SEC”) OR ANY FEDERAL, STATE, LOCAL, OR FOREIGN REGULATORY AGENCY, NOR HAS THE SEC OR ANY OTHER SUCH AGENCY PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT. ALL PERSONS OR ENTITIES SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE SPECIFIC PURPOSE FOR WHICH THE DOCUMENTS WERE PREPARED.

THE PLAN PROPONENTS MAKE STATEMENTS IN THIS DISCLOSURE STATEMENT

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EXHIBITS & SCHEDULES

<u>EXHIBIT A</u>	Joint Chapter 11 Plan
<u>EXHIBIT B</u>	Corporate Organizational Charts
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THE EXHIBITS ATTACHED TO THIS DISCLOSURE STATEMENT ARE INCORPORATED BY REFERENCE AS THOUGH FULLY SET FORTH HEREIN

I.

INTRODUCTION

LeFever Mattson, a California corporation (“LFM”), its affiliated debtors and debtors in possession (collectively with LFM, the “LFM Debtors”); KS Mattson Partners, LP (“KSMP” and, together with the LFM Debtors, the “Debtors”); and the Official Committee of Unsecured Creditors appointed in the above-captioned chapter 11 cases (the “Cases”) to represent the interests of unsecured creditors and investors of the Debtors (the “Committee” and, together with the Debtors, the “Plan Proponents”)¹ hereby submit this Disclosure Statement pursuant to sections 1125 and 1126(b) of the Bankruptcy Code, in connection with the solicitation of votes on the *First Amended Joint Chapter 11 Plan of Liquidation* [Docket No. 2561] (as amended, modified, or supplemented from time to time pursuant to its terms, the “Plan”). A copy of the Plan is attached hereto as **Exhibit A**.² **The Debtors and the Committee support confirmation of the Plan.**

This Disclosure Statement describes the historical background that led to the commencement of the Cases, explains what has happened during the Cases, and sets forth the Plan’s proposed treatment of creditors, including those holding or asserting investments in or with the Debtors and/or claims related to such investments (“Investors”).³ The purpose of this Disclosure Statement is to enable Investors and other creditors whose claims are impaired under the Plan and who are entitled to vote on the Plan to make an informed decision when choosing to accept or reject the Plan. This Disclosure

¹ Debtor Live Oak Investments, LP is not a Plan Proponent; however, the Plan provides for the substantive consolidation of Debtor Live Oak Investments, LP with the other Debtors and its creditors and investors will be entitled to vote on the Plan

² The summary of the Plan provided herein is qualified in its entirety by reference to the Plan. In the case of any inconsistency between the summary herein and the Plan, the Plan shall govern. All capitalized terms used but not defined herein shall have the meanings provided to such terms in the Plan.

³ The Plan more specifically defines an “Investor” as a Person or Entity that holds an Investor Claim. “Investor Claims” are defined in the Plan as: “any Claim against a Debtor arising from or relating to an Investment, including, without limitation, (a) all Claims (including any contract or related Claims) based on, arising out of, or related to any Investments including the validity, marketing, sale, and issuance thereof; (b) all Claims for fraud, unlawful dividend, fraudulent conveyance, fraudulent transfer, voidable transaction, or other avoidance claims under state or federal law; (c) all Claims arising from or related to the preparation or filing of the Debtors’ and/or their affiliates’ federal, state, local, or other tax returns, forms, and other filings; (d) all Claims based on, arising out of, or related to the misrepresentation of any of the Debtors’ financial information, assets and properties, business operations, or related internal controls; (e) all Claims based on, arising out of, or related to any failure to disclose, or actual or attempted cover up or obfuscation of, any of the wrongful conduct described in the Disclosure Statement, including with respect to any alleged fraud related thereto and undisclosed loans; (f) all Claims based on aiding or abetting, entering into a conspiracy with, or otherwise supporting torts committed by the Debtors or their agents; and (g) any Claims arising from or relating to TIC Interests.”

1 Statement describes the terms and provisions of the Plan, the effects of confirmation of the Plan, the
2 risk factors associated with the Plan, and the manner in which distributions will be made under the
3 Plan. In addition, this Disclosure Statement discusses the confirmation process and the voting and
4 election procedures that Investors and other creditors entitled to vote under the Plan must follow for
5 their votes to be counted.

6 **A. Overview of the Plan**

7 **1. General Structure of the Plan**

8 A bankruptcy plan is a vehicle for satisfying the rights of holders of claims against and equity
9 interests in a debtor. Confirmation of a plan is the overriding purpose of a chapter 11 case. Upon
10 confirmation and effectiveness, a plan becomes binding on the debtor and all of its creditors and equity
11 interest holders, whether or not they voted to accept the plan.

12 Since the Committee's appointment, the Debtors and the Committee, through months of
13 cooperation, information gathering, and negotiation for the benefit of all Investors and other creditors,
14 reached a global resolution, embodied in the proposed Plan, aimed at: (i) mitigating the damage
15 inflicted on Investors by Mr. Kenneth Mattson's financial misconduct and (ii) developing a level
16 playing field that treats Investors as equally and fairly as possible and provides them a recovery as
17 quickly as possible.

18 The Debtors and the Committee have conducted a comprehensive joint investigation into the
19 prepetition conduct of the Debtors, their principals, and relevant third parties (the "Investigation"). As
20 part of their Investigation, the Plan Proponents have issued more than 30 subpoenas, collected more
21 than one million documents, and ~~reviewed more than~~ engaged in a process to review the
22 approximately 1,621 filed proofs of claim and ~~—~~approximately 1,097 filed proofs of interest.

23 As a result of the Investigation, the Debtors and the Committee have reached the following
24 material conclusions, among others:

- 25 1. The Debtors operated a **Ponzi scheme**, a central feature of which was a bank account
26 maintained at Bank of the West (subsequently acquired by BMO Bank) ending in 1059
27 and primarily controlled by Mr. Mattson (the "1059 Account").
- 28 2. The Debtors' books and records are **incomplete**, such that determining with certainty

the ownership structure of each Debtor would be cost prohibitive *and may not be possible*.

3. The Debtors' prepetition operations involved a **vast array of intercompany transactions and transfers** among the Debtors that would be cost-prohibitive to untangle and validate, *if such disentanglement is even possible*.

4. The Debtors **routinely moved real estate from one entity to another entity**, which may have also artificially inflated the value of certain properties and enabled Mr. Mattson to place **undisclosed loans** on properties.

Under the circumstances, the Debtors and the Committee have determined that it is in the best interests of the Debtors' Investors and other creditors to propose a global settlement (the "Global Settlement")—to be effectuated through the proposed Plan—that treats Investors and other creditors fairly without incurring the considerable additional professional fees and costs that would be necessary to attempt to fully disentangle the Debtors. A comprehensive discussion of the Global Settlement is attached hereto as **Exhibit E** (the "Investigation Report").

The Debtors and the Committee have negotiated the Plan and Global Settlement. The Global Settlement avoids the delay, risk, and cost of litigating substantive consolidation (as defined below) and the scope and start date of the Ponzi scheme. The Global Settlement embodied in the Plan acknowledges the wide-ranging Ponzi scheme and provides for substantive consolidation of all the Debtors' estates, as well as three non-debtor entities, into LFM.

The Plan provides for a single class of Investor Claims (not subclasses for each Debtor): Class 67. The Plan treats all Investors the same, as holders of tort claims against the Debtors, regardless of the nature or documentation of their investment and regardless of whether their investment is recorded in the Debtors' books and records. This Investor class will vote as one class to accept or reject the Plan, so that the overall will of the Investor community is captured. If Class 67 accepts the Plan, the Debtors and the Committee will move forward with confirmation of the Plan, including the substantive consolidation of the Debtors and KSMP Investment Entities. If the Investor class rejects the Plan, the Debtors and the Committee will **not** move forward with the Plan. In the

1 event Class [67](#) rejects the Plan, the Debtors and Committee will need to incur additional fees and
2 expenses to develop an alternative path forward.

3 The proposed Plan is a “**single pot**” plan, meaning that it pools and consolidates all of the
4 assets and liabilities of all of the Debtors [and the KSMP Investment Entities](#) for distribution purposes.⁴
5 This pooling is known as **substantive consolidation**. Under the Plan, no third parties—including Mr.
6 Mattson and Mr. Timothy LeFever—will receive a release for their conduct related to the Debtors.

7 The Plan further provides, in accordance applicable Ponzi scheme case law, that Investor
8 claims will be “netted” to make sure all Investors are treated fairly. Specifically, pursuant to the Global
9 Settlement, each Investor will receive (a) a claim for the total amount of money (or value of property)
10 it invested in the Debtors over time *less* the total amount of any distributions the Investor received
11 over the **seven years** prior to September 12, 2024 (referred to as the **Investor Tranche 1 Claim**) and
12 (b) a separate claim for the amount of those deducted distributions (referred to as the **Investor**
13 **Tranche 2 Claim**) [\(if any\)](#). The Plan provides that Investors will first receive their *pro rata*
14 distribution of available assets on account of their Investor Tranche 1 Claim. If and when each Investor
15 Tranche 1 Claim is paid in full, Investors will then receive their *pro rata* distribution of available assets
16 on account of their Investor Tranche 2 Claim [\(if any\)](#).

17 A key consideration of the Global Settlement is that rather than net distributions from the
18 suspected Ponzi start date (more than a decade ago), the Investor Tranche 1 Claim will be calculated
19 based on payments made to Investors **seven years** prior to September 12, 2024. In other words, under
20 the Global Settlement, an Investor that has received distributions from the Debtors for 15 years will
21 have its claim reduced by the amount of distributions over the last seven years, not the full 15 years.
22 This is necessary because of the state of the business records, the costs required to net the claims from
23 an earlier date, and to assure all Investors are treated the same.

24 To effectuate distributions to Investors, the Plan provides for the creation of the Plan Recovery
25 Trust. The Plan Recovery Trust will take ownership of the Debtors’ assets, sell or otherwise dispose
26 of those assets to generate cash, and distribute that cash to Investors. The Plan Recovery Trust also

27 ⁴ By way of example, if Entity A holds \$100 of assets and owes \$0 of liabilities, and Entity B holds \$0 of assets and
28 owes \$100 of liabilities, and if those two entities are substantively consolidated, the resulting entity will hold \$100 of
assets and owe \$100 of liabilities.

1 will own litigation claims against third parties, *including Mr. Mattson and Mr. LeFever*, and may
2 generate cash through prosecution or settlement of those claims. The Plan Recovery Trust will
3 distribute cash to Investors and creditors over time, as it monetizes the Plan Recovery Trust Assets.⁵

4 The Plan Recovery Trust will also hold certain litigation claims known as “Contributed
5 Claims.” Contributed Claims include all Causes of Action that are legally assignable (including Causes
6 of Action that are legally assignable solely because of the preemptive effect of the Plan) that an
7 Investor has against any Person that is not a Debtor and that are related in any way to the Debtors,
8 their predecessors, their respective affiliates, or any Excluded Parties. Investors will automatically
9 contribute their Contributed Claims to the Plan Recovery Trust—and become a Contributing
10 Claimant—if they vote to accept the Plan and do not opt out of the Contributed Claim Election, unless
11 the Investors’ claims and causes of action are listed in the Schedule of Disclaimed Contributed Claims.
12 Only Contributing Claimants will be entitled to receive a *pro rata* share of Class ~~BC~~ Plan Recovery
13 Trust Units. Investors may wish to contribute their claims because combining all Contributed Claims
14 and similar Plan Recovery Trust Actions may allow those claims to be pursued and resolved more
15 efficiently and effectively.

16 The Plan Proponents believe that the settlement reflected in the Plan provides the best prospect
17 for Investors and other creditors to maximize their recoveries from the Debtors’ estates, and to receive
18 those distributions as soon as reasonably possible.

19 **2. Summary of Treatment of Claims and Equity Interests Under the Plan**

20 The table below summarizes the classification and treatment of Claims and Equity Interests
21 under the Plan. **THE PROJECTED RECOVERIES FOR CLAIMS SET FORTH IN THE**
22 **TABLE BELOW ARE ESTIMATES ONLY. ACTUAL RECOVERIES MAY DIFFER.**⁶ For a
23 complete description of the classification and treatment of Claims and Equity Interests, reference
24 should be made to the Plan.

25
26
27 ⁵ Under the Plan, Investors will also receive pro rata distributions from the Investor Forfeiture Fund in the event that
28 Forfeiture Property (if any) is obtained from Mattson and/or other Excluded Parties by the DOJ, the SEC or another
Governmental Unit.

⁶ See Plan Recovery Analysis included as part of **Exhibit C** attached hereto.

CLASS	DESCRIPTION	IMPAIRMENT	ENTITLED TO VOTE?	PROJECTED RECOVERY
None	Administrative Claims	Unimpaired	No	100%
None	DIP Claims	Unimpaired	No	100%
None	Priority Tax Claims	Unimpaired	No	100%
Class 1	Priority Claims	Unimpaired	No	100%
Class 2	Other Secured Claims	Unimpaired	No	100%
Class 3	Sold Property Secured Lender Claims ⁷	Impaired	Yes	100%
Class 4	Retained Property Secured Lender Claims ⁸	Impaired	Yes	100%
Class 5	Settled Secured Lender Claims ⁹	Impaired	Yes	100%
Class 56	Trade Claims	Impaired	Yes	72.7%-100% ¹⁰
Class 67	Investor Claims	Impaired	Yes	—% 21.1% - 40.6%
Class 78	Intercompany Claims	Impaired	No	0%
Class 89	Equitably Subordinated Claims	Impaired	No	0%
Class 910	Equitably Subordinated Interests	Impaired	No	0%

THE PLAN PROPONENTS BELIEVE THAT THE PLAN IS FAIR AND EQUITABLE, WILL MAXIMIZE RECOVERIES TO INVESTORS AND OTHER CREDITORS, AND IS IN THE BEST INTERESTS OF THE DEBTORS AND THEIR STAKEHOLDERS. THE PLAN ALSO IS THE PRODUCT OF THE PLAN PROPONENTS' EXTENSIVE NEGOTIATIONS.

FOR THESE REASONS, THE PLAN PROPONENTS URGE HOLDERS OF CLAIMS WHO ARE ENTITLED TO VOTE TO TIMELY RETURN THEIR BALLOTS AND TO VOTE TO ACCEPT THE PLAN.

B. Plan Voting Instructions and Procedures

1. Voting Rights

Under the Bankruptcy Code, only classes of claims or interests that are “impaired” and that are not deemed as a matter of law to have rejected a plan under section 1126 of the Bankruptcy Code are entitled to vote to accept or reject such plan. Any class that is “unimpaired” is not entitled to vote to accept or reject a plan and is conclusively presumed to have accepted the plan. As set forth in section 1124 of the Bankruptcy Code, a class is “impaired” if the legal, equitable, or contractual rights

⁷ For voting purposes and to comply with section 1122(a) of the Bankruptcy Code, each Allowed Sold Property Secured Lender Claims shall be deemed to be in its own subclass. A listing of Sold Property Secured Lender Claims will be included in the forthcoming Plan Supplement. The Plan Proponents reserve the right to assert that the treatment provided to the Holders of Class 3 Claims pursuant to the Plan renders such Claims unimpaired.

⁸ For voting purposes and to comply with section 1122(a) of the Bankruptcy Code, each Allowed Retained Property Secured Lender Claim shall be deemed to be in its own subclass. A listing of Retained Property Secured Claims will be included in the forthcoming Plan Supplement.

⁹ For voting purposes and to comply with section 1122(a) of the Bankruptcy Code, each Allowed Settled Secured Lender Claims shall be deemed to be in its own subclass. A listing of Settled Secured Lender Claims will be included in the forthcoming Plan Supplement, which listing shall be subject to amendment until the Effective Date.

¹⁰ Assumes that Class 6 votes to accept the Plan.

1 attaching to the claims or equity interests of that class are modified or altered by the proposed plan.
2 Holders of claims or interests within an impaired class are entitled to vote to accept or reject a plan if
3 such claims or interests are “allowed” under section 502 of the Bankruptcy Code. **Simply put:** not
4 everyone gets to vote on the Plan. In some cases, the law already assumes an answer—either yes (if
5 one’s rights aren’t being changed) or no (if one will not receive or retain any property). But if one’s
6 rights are being changed by the Plan, and if that person’s claims qualify as “allowed,” then that person
7 will have the right to cast a vote.

8 Under the Bankruptcy Code, acceptance of a plan by a class of claims is determined by
9 calculating the number and the amount of allowed claims voting to accept the plan. Acceptance by a
10 class of claims requires (i) more than one-half of the number of total allowed claims voting in the class
11 to vote in favor of the plan *and* (ii) at least two-thirds in dollar amount of the total allowed claims
12 voting in the class to vote in favor of the plan. Only those non-insider holders that actually vote to
13 accept or reject the plan are counted for purposes of determining whether these dollar and number
14 thresholds are met. Thus, for a class to accept the Plan, it is necessary that a majority of those **voting**
15 and at least two-third of the dollars represented by those votes say “yes.” .

16 Pursuant to the Plan, Claims in Class 3 (Sold Property Secured Claims), Class 4 (Retained
17 Property Secured Claims), Class 5 ([Settled Secured Lender Claims](#)), Class 6 (Trade Claims), and Class
18 [67](#) (Investor Claims) are impaired and entitled to receive distributions.¹¹ Holders of Claims in those
19 Classes—as of the dates specified in the Solicitation Procedures Order (the “Voting Record Date”)—
20 may vote on the Plan.

21 Under the Plan, the remaining classes are not entitled to vote. Claims in Class 1 (Priority
22 Claims) and Class 2 (Other Secured Claims) are unimpaired by the Plan—they will be paid in full—
23 and are therefore conclusively presumed to have accepted the Plan without a vote. Claims in Class [78](#)
24 (Intercompany Claims), Class [89](#) (Equitably Subordinated Claims), and Class [910](#) (Equitably
25 Subordinated Interests) will not receive or retain any property under the Plan and are therefore deemed
26

27
28 ¹¹ [The Plan Proponents reserve the right to assert that the treatment provided to the Holders of Class 3 Claims pursuant to the Plan renders such Claims unimpaired.](#)

1 to have rejected the Plan without a vote. In short, Classes 1 and 2 are treated as if they voted “yes,”
2 while Classes ~~7~~, 8, 9, and 910 are treated as if they voted “no.”

3 **2. Solicitation Materials**

4 The Debtors, with the approval of the Bankruptcy Court, have engaged Verita Global (the
5 “Voting Agent”) to serve as the voting agent to process and tabulate Ballots and to generally manage
6 the voting process. The following materials constitute the solicitation package to be received by
7 Holders of Claims entitled to vote on the Plan (the “Solicitation Package”):

- 8
- 9 • A cover letter describing the contents of the Solicitation Package and directing parties
10 to the website at which they may view the Disclosure Statement and the exhibits
thereto, including the Plan and the exhibits attached thereto;
- 11 • ~~†~~The Bankruptcy Court order approving this Disclosure Statement (the “Solicitation
12 Procedures Order”) (excluding exhibits);
- 13 • For Holders of Class ~~67~~ Investor Claims only, the Plan Summary;
- 14 • The notice of, among other things, (i) the date, time, and place of the hearing to consider
15 Confirmation of the Plan and related matters and (ii) the deadline for filing objections
to Confirmation of the Plan (the “Confirmation Hearing Notice”);
- 16 • One or more Ballots, to be used in voting to accept or to reject the Plan and, in the case
17 of Investors the applicable instructions to vote (the “Voting Instructions”);¹²
- 18 • A pre-addressed, postage prepaid return envelope; and
- 19 • Such other materials as the Bankruptcy Court may direct or approve.

20 The Debtors, through the Voting Agent, will distribute the Solicitation Package in accordance
21 with the Solicitation Procedures Order. The Solicitation Package, exclusive of Ballots, is also available
22 without charge on the Debtors’ restructuring website at <https://veritaglobal.net/LM>.

23 ~~On or before the date that is twenty-one (21) days before~~Well prior to the Voting Deadline
24 (defined below), the Plan Proponents will file a Plan Supplement that will contain additional
25 information relating to the Plan and its implementation, including the Plan Recovery Trust Agreement.

26

27 ¹² The amount of the Investor Claim on the Ballot is for voting purposes only. Allowed Investor Claims for distribution
28 purposes shall be established separately in accordance with the process and procedures described in the *Joint Motion
for the Entry of an Order Approving Settlement Procedures with Respect to Investor Claims* and/or further order(s) of
the Bankruptcy Court.

1 THE PLAN PROPONENTS URGE HOLDERS OF CLAIMS WHO ARE ENTITLED
2 TO VOTE TO RETURN THEIR BALLOTS BY THE VOTING DEADLINE AND TO VOTE
3 TO ACCEPT THE PLAN.

4 3. Election on Investor Ballots to Contribute Certain Claims

5 The Ballots also permit each Investor—*i.e.*, each Holder of a Class 67 Claim—to assign its
6 Contributed Claims to the Plan Recovery Trust. By casting a Ballot to accept the Plan and not opting
7 out of the Contributed Claim Election, an Investor agrees that, subject to the Effective Date and the
8 formation of the Plan Recovery Trust, it will be deemed to have assigned its Contributed Claims to
9 the Plan Recovery Trust (provided that such Claims are not listed in the Schedule of Disclaimed
10 Contributed Claims). Investors may wish to make this election because aggregating all Contributed
11 Claims and similar Plan Recovery Trust Actions can allow these claims to be pursued and resolved
12 more efficiently and effectively.

13 Pursuant to the Plan, “Contributed Claims” includes all Causes of Action that are legally
14 assignable (including Causes of Action that are legally assignable solely because of the preemptive
15 effect of the Plan) that an Investor has against any Person that is not a Debtor and that are related in
16 any way to the Debtors, their predecessors, their respective affiliates, or any Excluded Parties.

17 If an Investor elects to contribute its Contributed Claims to the Plan Recovery Trust, that
18 Investor will receive a Pro Rata Distribution of Class DC Plan Recovery Trust Units on the Effective
19 Date, or as soon as practicable thereafter. The distribution will be based on the ratio of (a) the
20 Investor’s Allowed Investor Claim to (b) the total Allowed Investor Claims of all Investors that make
21 the Contributed Claims Election.

22 In the event that an Investor intends to apply certain IRS safe harbor procedures relating to the
23 deduction of losses realized by investors in certain fraudulent investment schemes, the transfer by such
24 Investor of a claim against a third party to the liquidating trust may affect the manner in which such
25 safe harbor procedures can be applied. Accordingly, Investors are urged to consult with their own tax
26 advisors regarding the potential tax consequences to them of transferring third party claims to the
27 liquidating trust, including the effect of such transfer on the manner in which the IRS safe harbor
28

procedures relating to the deduction of losses realized by investors in certain fraudulent investment schemes may be applied.

4. Confirmation Hearing and Deadline for Objections to Confirmation

Objections to Confirmation of the Plan must be Filed and served on the Plan Proponents and certain other entities, all in accordance with the Confirmation Hearing Notice, so that such objections are **actually received** by no later than **January 7, 2026 at 11:59 p.m. (Pacific Time)**. Unless objections to Confirmation of the Plan are timely served and Filed in compliance with the Solicitation Procedures Order, they may not be considered by the Bankruptcy Court. For further information, refer to Section VI of this Disclosure Statement, “Confirmation of the Plan.”

II.

BACKGROUND

A. Overview of Debtors’ Organizational Structure, History, and Business

1. The LFM Debtors

LFM manages a large real estate portfolio. Mr. LeFever and Mr. Mattson each own 50% of the equity in LFM. For decades, the company’s business has been the ownership of investment real estate—single family homes as well as multi-unit properties. Originally, properties were owned by LFM alone or as a tenant in common with other investors. Eventually the business model shifted to creating limited liability companies, and then limited partnerships, to purchase multi-family or other commercial properties.¹³ This structure allowed LFM to pool more capital by selling limited interests to a small number of accredited investors while typically reserving an ownership interest in the investment entity for itself as general partner or managing member.

Currently, LFM directly or indirectly controls or has ownership interests in fifty limited partnerships (collectively, the “LPs”) and eight limited liability companies (collectively, the “LLCs”). The LFM Debtors are comprised of LFM, CIP (as defined below), the Property Manager (as defined below), and the fifty-eight LPs and LLCs (the “LFM Investment Entities”) that are listed on Exhibit B

¹³ Under this shifted business model, investors who were tenants in common often deeded their interest in the property to the newly created LLC or LP, and in exchange received a membership interest or limited partnership interest, respectively.

1 of the LFM Debtors (collectively, the “Mattson Maintained Debtors”);¹⁶ although LFM is the general
2 partner or managing member of each of the Mattson Maintained Debtors, the Property Manager
3 understood that Mattson (or KSMP) maintained the books and records for such entities and did not
4 manage Properties for the Mattson Maintained Debtors.

5 Bradley D. Sharp (the President and Chief Executive Officer of Development Specialists, Inc.
6 (“DSI”)) was appointed as the Responsible Individual for each LFM Debtor pursuant to local
7 Bankruptcy Rule 4002-1 [Docket Nos. 11, 30, 48]. Mr. Sharp is the individual with primary
8 responsibility for the duties and obligations of each LFM Debtor during the Cases. Mr. Sharp and DSI
9 were first engaged as financial advisors by the LFM Debtors in July 2024.

10 2. The KSMP Debtors

11 KSMP was formed as a California limited partnership on August 16, 1999, to manage and
12 develop the Mattson family assets. KSMP’s partnership interests are held by Mr. Mattson (49%), his
13 wife Stacy Mattson (49%), and K S Mattson Company, LLC (“KSMC”) (2%). KSMC is the general
14 partner of KSMP; Mr. and Mrs. Mattson each hold 50% of the membership interests in KSMC, with
15 Mr. Mattson serving as KSMC’s managing member.

16 On November 22, 2024, LFM and Debtor Windtree, LP filed an involuntary chapter 11 petition
17 against KSMP, commencing Case No. 24-10715 (Bankr. N.D. Cal.) (the “KSMP Case”).¹⁷

18 After more than six months of contested proceedings, KSMP consented to a stipulated order
19 for relief in the KSMP Case, which was entered by the Bankruptcy Court on June 9, 2025 [KSMP
20 Docket No. 131]. Robbin Itkin has been appointed as the Responsible Individual for KSMP for
21 purposes of its bankruptcy case pursuant to local Bankruptcy Rule 4002-1 [KSMP Docket Nos. 133
22 & 172]. As the Responsible Individual, Ms. Itkin (a) is solely responsible for the duties and obligations
23 of KSMP as a debtor in possession pursuant to local Bankruptcy Rule 4002-1 and (b) is vested with
24 the authority to operate KSMP’s business pursuant to section 1108 of the Bankruptcy Code.

26
27 ¹⁶ The Mattson Maintained Debtors are: Apan Partners, LLC; Bay Tree, LP; Bishop Pine, LP; Butcher Road Partners,
LLC; Golden Tree, LP; Spruce Pine, LP; Watertree I, LP; and Windtree, LP.

28 ¹⁷ References herein to “KSMP Docket No.” are to the docket entry numbers in *In re KS Mattson Partners, LP*, No. 24-
10715 (Bankr. N.D. Cal.).

1 To the best of the Plan Proponents' knowledge, KSMP has no management or employees and
2 no traditional books and records. As discussed further below, since Ms. Itkin's appointment, KSMP's
3 advisors have obtained limited financial data about KSMP from public records, discovery, due
4 diligence, bank statements, and vendor invoices.

5 Because KSMP lacks necessary corporate records, including those of its affiliates, it was
6 unable to commence chapter 11 cases for three related entities—(i) Specialty Properties Partners, L.P.;
7 (ii) Treehouse Investments, L.P.; and (iii) Perris Freeway Plaza, LP.—before filing the Plan. KSMP
8 serves as the general partner of these entities, which the Joint Investigation shows were also involved
9 in the Ponzi scheme.

10 **B. Debtors' Secured and Unsecured Debt**

11 **1. The LFM Debtors**

12 The LFM Debtors have unsecured debt in the form of trade debt, unsecured notes payable,
13 prepaid rent or security deposits held for tenants of the Properties, and litigation claims.

14 As of the Petition Dates (as defined below), the LFM Debtors collectively owned
15 approximately 175 separate properties of all types: single-family, multi-family, commercial, mixed-
16 use, agricultural, and vacant land. Most of these properties are encumbered by at least one deed of
17 trust held by a secured lender. The secured lenders range from institutional banks, to private hard-
18 money lenders, to individuals. Approximately twenty-nine different secured lenders (the "Lenders")
19 appear to hold deeds of trust and assignments of rents on the Properties. As discussed herein, the
20 original borrower on many of the loans was KSMP.

21 **2. The KSMP Debtors**

22 Like the LFM Debtors, KSMP has unsecured debt in the form of trade debt, unsecured notes
23 payable, unsecured state and municipality liabilities, and security deposits held for tenants of the
24 Properties, and litigation claims.

25 As of the date hereof, KSMP is aware of 38 properties in which KSMP holds an ownership
26 interest. Like the LFM Debtors, the properties are of various types including: single-family, multi-
27 family, commercial, mixed-use, agricultural, and vacant land. Many of these properties are
28 encumbered by at least one deed of trust held by a secured lender. The secured lenders range from

1 institutional banks, to private hard-money lenders, to individuals and trusts. Approximately 18
2 different Lenders appear to hold deeds of trust and assignments of rents on the Properties—many of
3 which also hold deeds of trust and assignments of rents on Properties owned by the LFM Debtors.

4 **3. KSMP Investment Entities**

5 The Debtors have no evidence that the KSMP Investment Entities hold any assets or that they
6 have any liabilities apart from Investor Claims.

7 **C. Mattson Chapter 11 Case**

8 On November 22, 2024, LFM filed an involuntary chapter 11 petition against Mattson,
9 commencing Case No. 24-10714 (Bankr. N.D. Cal.) (the “Mattson Case”).¹⁸ After more than seven
10 months of contested proceedings, Mattson consented to a stipulated order for relief in the Mattson
11 Case, which was entered by the Bankruptcy Court on July 14, 2025 [Mattson Docket No. 118]. On
12 September 5, 2025, the Bankruptcy Court entered the *Order for Relief in an Involuntary Case* [Mattson
13 Docket No. 127]. On September 15, 2025, Mr. Mattson filed the *Ex-Parte Request to Convert Case to*
14 *Chapter 7* [Mattson Docket No. 137].

15 **D. Mr. Mattson’s Fraudulent Scheme**

16 Dating to at least 2009, Mr. Mattson engaged in numerous fraudulent activities and
17 transactions (collectively, the “Mattson Transactions”) across the Investment Vehicles. The Mattson
18 Transactions took several forms, including the sale of fictitious interests in many of the Debtors; the
19 transfer of vast sums of money between and among LFM, KSMP, and other Debtors; and the transfer
20 among the Debtors of properties encumbered with high-interest loans. Each of the Mattson
21 Transactions is explained in further detail in the forthcoming Investigation Report.

22 **E. Criminal and SEC Proceedings Against Mattson**

23 **1. Mattson Indictment**

24 On May 22, 2025, Mattson was arrested pursuant to a federal grand jury indictment (the
25 “Mattson Indictment”) charging him with, *inter alia*, wire fraud (18 U.S.C. § 1343), money laundering
26 (18 U.S.C. § 1957), and obstruction of justice in a federal investigation (18 U.S.C. § 1519).

27
28 ¹⁸ References herein to “Mattson Docket No.” are to the docket entry numbers in *In re Kenneth W. Mattson*, No. 24-10714 (Bankr. N.D. Cal.).

1 P.C., as special investigations counsel; (g) Buchalter, a Professional Corporation, as special litigation
2 counsel; (h) Slote, Links & Boreman, PC, as DRE Advisor; and (i) Sotheby's International Realty,
3 Marcus & Millichap, CBRE, Inc., KKG Inc. dba Coldwell Banker Kappel Gateway Realty, The Lake
4 Tahoe Brokerage Company, Inc., Compass California II, Inc., NRT West, Inc., and CB Sacramento
5 as real estate brokers (collectively, the "LFM Real Estate Brokers").

6 During the Cases, KSMP has obtained approval from the Bankruptcy Court to employ:²⁴ (a)
7 Hogan Lovells US LLP as bankruptcy counsel; (b) Robbin Itkin as Responsible Individual; (c)
8 Stapleton Group a Part of J.S. Held LLC as operations and asset manager; and (d) Kidder Matthews,
9 Compass, W Real Estate – Sonoma, Premiere Estates Auction Company, and Douglas Elliman
10 (approval pending) as real estate brokers (collectively, the "KSMP Real Estate Brokers" and together,
11 with the LFM Real Estate Brokers, the "Real Estate Brokers").

12 **B. Use of Cash Collateral / DIP Financing**

13 **1. The LFM Debtors**

14 **Cash Collateral:** At the beginning of their chapter 11 cases, the LFM Debtors filed a motion
15 for use of cash collateral and obtained permission to use cash collateral on interim and final bases [*see*
16 Docket Nos. 124 and 449]. As of the LFM Petition Date, most of the Properties were generating rents
17 or other cash proceeds ("Cash Collateral") that were collateral of the Lenders under their deeds of
18 trust. By their motion, the LFM Debtors sought to use the Cash Collateral of Lenders who became
19 "Accepting Lenders" (subject to certain 13-week property budgets prepared by the LFM Debtors) and,
20 if necessary, present evidence that the interests of "Nonaccepting Lenders" were or would be
21 adequately protected. Subsequent to the Court granting the motion, the LFM Debtors obtained
22 approval of Cash Collateral stipulations with various Lenders [*see, e.g.*, Docket Nos. 233, 234, 239,
23 240, 241, 242, 355, 410, 411, 482, 503, 510, 655, 681, 711, 712, 1153, 1167, 1171, 1225, 1240, 1661,
24 and 1664]. The LFM Debtors separately filed a motion to use the cash collateral of Socotra on February
25 12, 2025 [Docket No. 808], which the Bankruptcy Court granted on interim and final bases [*see* Docket
26 Nos. 929 and 968].

27
28

²⁴ See KSMP Docket No. 223—; Docket Nos. 2086, 2240, 2241, 2242, and 2243.

1 In January 2025, the LFM Debtors filed a motion seeking authorization to use the Cash
2 Collateral of certain secured creditors who appear to hold deeds of trust and assignments of rent on
3 certain of the Properties, to fund operating expenses at the Property level [see Docket No. 694] (the
4 “Cash Collateral Motion – Third Party Borrowers”). While the LFM Debtors own the Properties, the
5 LFM Debtors were not and are not in privity with and have no contractual relationship with these
6 secured creditors.²⁵ The Bankruptcy Court granted the Cash Collateral Motion – Third Party
7 Borrowers on March 5, 2025 [Docket No. 970].

8 **DIP Financing:** On January 23, 2025, the Bankruptcy Court authorized the LFM Debtors, on
9 a final basis, to obtain up to \$6 million of secured, superpriority postpetition financing from Serene
10 Investment Management, LLC (the “DIP Lender”) pursuant to the terms of the credit agreement
11 attached to the final order [see Docket No. 643 (the “Final LFM DIP Order”)]. Subject to the
12 limitations set forth in the Final DIP Order, the LFM Debtors granted the DIP Lender an allowed
13 superpriority administrative claims against LFM and Heacock Park Apartments, LP (“Heacock Park”)
14 pursuant to section 364(c)(1) of the Bankruptcy Code; liens on and security interests in notes in the
15 respective amounts of \$7,294,493.35 and \$2,600,000.00 held by LFM (the “Cornerstone Notes”)
16 secured by senior liens on property located at 23570 Arnold Dr., Sonoma, California and owned by
17 Heacock Park (the “DIP Collateral”), pursuant to section 364(c)(2).

18 2. KSMP

19 **DIP Financing:** On August 6, 2025, the Bankruptcy Court authorized KSMP, on an interim
20 basis, to separately obtain up to \$1 million of secured, superpriority postpetition financing from the
21 DIP Lender pursuant to that certain July 31, 2025 DIP Term Sheet [see Docket No. 1966 (the “Interim
22 KSMP DIP Order”)]. KSMP’s authorization to obtain up to \$4,000,000 of secured, superpriority
23 postpetition financing from the DIP Lender was approved by the Court on a final basis ~~remains~~
24 ~~pending before the Bankruptcy Court~~ pursuant to a final order entered on September 25, 2025 [Docket
25 No. 2414].

26
27
28 ²⁵ Before the commencement of the Debtors’ cases, the applicable Properties were acquired from the original borrowers, often without the knowledge or consent of the secured creditors who held liens on the Properties.

1 **E. Claims Bar Dates**

2 Pursuant to an order entered on December 13, 2024 [Docket No. 459], the Bankruptcy Court
3 established February 14, 2025, as the deadline for nongovernmental creditors to file proofs of Claim
4 against the LFM Debtors and for Investors to file proofs of interest in the LFM Debtors. Pursuant to
5 an order entered on August 28, 2025 [Docket No. 2184], the Bankruptcy Court established October 3,
6 2025, as the deadline for nongovernmental creditors to file proofs of Claim against KSMP.

7 ~~As of _____, 2025~~To date, approximately ~~___1,621~~ proofs of claim and ~~___1,097~~
8 proofs of interest have been filed. The Debtors have not completed claim/interest reconciliation work
9 (to the extent feasible) but do anticipate doing so before the Effective Date of the Plan.

10 **F. Asset Sales**

11 As discussed herein, the Debtors collectively hold a highly diversified real estate portfolio of
12 over 200 Properties—comprised of commercial, residential, office, and mixed-use real estate, as well
13 as vacant land—located throughout Northern California, including in the cities of Cameron Park,
14 Carmichael, Ceres, Citrus Heights, Concord, Elk Grove, Fairfield, Fresno, Napa, Orangevale, Perris,
15 Roseville, Sacramento, San Leandro, Sonoma, Suisun City, Truckee, Vacaville, and Vallejo. While
16 Properties have not been appraised individually, the Debtors estimate that they are collectively worth
17 several hundred million dollars, and that the Debtors have equity in many of the Properties. The
18 Debtors and their professionals, specifically FTI, SSL, Stapleton, and the Real Estate Brokers, have
19 conducted, and continuing to conduct in the case of KSMP, a thorough review of the real estate
20 portfolio and are running sale processes to monetize the Properties (the “Sale Process”). To facilitate
21 a streamlined Sale Process, the LFM Debtors filed motions for the approval of certain omnibus
22 procedures for the sale of the Properties, including the use of sale notices and procedures for parties
23 to object or submit overbids (including credit bids). The Bankruptcy Court granted the LFM Debtors’
24 motions pursuant to orders entered on March 5, 2025 [Docket No. 971] and May 1, 2025 [Docket No.
25 1381] (the “Sale Procedures Orders”).

26 As of ~~September~~ October 15, 2025, nearly 40 sale notices have been filed pursuant to the
27 Sale Procedures Orders. As shown on Schedule 2, ~~the sale of _ Properties~~numerous such sales have
28 closed ~~as of September __, 2025~~. The Debtors, including KSMP, expect to consummate additional

- Estate causes of action against the Secured Lenders (as defined in Docket No. 1744) and defenses to claims asserted by the Secured Lenders (as defined in Docket No. 1744) against the Debtors.

I. Motion to Appoint Trustee for Live Oak Investments, LP

The Andrew Revocable Trust dated June 21, 2001, and the Burgess Trust dated October 9, 2006 (purported holders of certain equity interests in debtor Live Oak Investments, LP (“Live Oak”)), filed a motion to appoint a Chapter 11 trustee for Live Oak [Docket No. 1746].²⁷ The Debtors opposed this motion [Docket No. 1699 and 1978], which opposition was joined by the Committee [Docket No. 1671]. This matter remains pending before the Court.

J. Settlement with Socotra

On October 15, 2025, the Plan Proponents filed a joint motion for Court approval under Bankruptcy Rule 9019 [Docket No. 2556] (the “Socotra Settlement Motion”) of the Socotra Settlement Agreement entered into by the Plan Proponents on the one hand, and Socotra Capital, Inc. and certain listed affiliates on the other hand. This settlement represents the successful conclusion of substantial arm’s length negotiations and a formal mediation by the settling parties under the supervision of retired Judge Lee Bogdanoff. In the sound exercise of their business judgment, after substantial diligence efforts led by the Committee, preparation by the Committee of a proposed draft complaint against Socotra, as well as detailed factual and legal research and investigations conducted by the Debtors and the Committee, the Plan Proponents concluded that the benefits of the Socotra Settlement Agreement far outweigh any costs or foregone litigation opportunities. In short, this settlement will enable the Debtors to resolve the largest secured claims against their estates, obtain the vote of Socotra in support of the Plan, avoid millions of dollars in heavily contested litigation, capture millions of dollars in value for the estates through sales of Socotra collateral via a beneficial sharing formula, and avoid unnecessary delay in distributions to creditors and investors.

This matter is pending before the Court.

²⁷ The Chase 1992 Family Trust filed a statement in support of this motion at Docket No. 2007.

1 IV.

2 **OVERVIEW OF THE PLAN AND**

3 **PROVISIONS RELATING TO THE GLOBAL SETTLEMENT**

4 This section provides a brief summary of certain material provisions and elements of the Plan.
5 It is qualified in its entirety by reference to the Plan (as well as the exhibits thereto and definitions
6 therein). The statements contained in this Disclosure Statement do not purport to be precise or
7 complete statements of all the terms and provisions of the Plan or documents referred to therein;
8 reference is made to the Plan and to such documents for the full and complete statement of such terms
9 and provisions. Additional details regarding the Global Settlement will be contained in the
10 Investigation Report.

11 **A. Comprehensive Compromise and Settlement Under the Plan**

12 Pursuant to subsections 1123(a)(5), 1123(b)(3), and 1123(b)(6) of the Bankruptcy Code, as
13 well as Bankruptcy Rule 9019, and in consideration for the Distributions and other benefits provided
14 under the Plan, the Plan will constitute a good-faith compromise and settlement of all claims and
15 controversies relating to the rights that Investors and other creditors may have against any Debtor with
16 respect to any Claim, any Equity Interest, or any Distribution on account thereof, as well as all potential
17 Intercompany Claims, Intercompany Liens, and Causes of Action against any Debtor. The entry of the
18 Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the
19 compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that
20 all such compromises or settlements are (i) in the best interest of the Debtors, their estates (the
21 "Estates"), and their respective stakeholders; and (ii) fair, equitable, and reasonable.

22 This Global Settlement, which was negotiated by the LFM Debtors, KSMP, and the
23 Committee, provides for a "single pot," such that all assets and liabilities of all Debtors and three non-
24 debtor affiliates (the KSMP Investment Entities) are pooled and consolidated for distribution purposes,
25 through substantive consolidation under the Plan. **Pursuant to applicable law, the Plan treats all**
26 **Investors the same, as holders of tort claims against the Debtors, regardless of the nature or**
27 **documentation of their investment and regardless of whether their investment is recorded in the**
28 **Debtors' books and records.** Pursuant to the Global Settlement, each Investor will receive a claim

1 for money (or value of property) it invested in the Debtors [or the KSMP Investment Entities](#) over time
2 less any distributions the Investor received over the seven years prior to September 12, 2024. This
3 claim will receive a *pro rata* distribution of available assets and, only after such claim is paid in full,
4 will there be any recovery on claims for expected profits, pursuant to the principles of “netting” in
5 Ponzi scheme cases. However, as part of the Global Settlement, rather than netting from the suspected
6 Ponzi scheme start date, the proposed Investor Settlement Amount Procedures Order will provide that
7 only payments made to Investors on or after September 12, 2017—the earliest date for which the
8 Debtors have available bank records—will be offset/netted in calculating Investor Claims.

9 The Plan Proponents believe that the comprehensive compromises and settlements to be
10 effected by the Plan are appropriate and intend to request that the Bankruptcy Court approve the
11 compromises and settlements contemporaneously with confirmation of the Plan. This comprehensive
12 compromise and settlement is a critical component of the Plan and is designed to provide a resolution
13 of myriad disputed Claims, Liens, and Causes of Action that otherwise could take years to resolve,
14 which would both delay and reduce the Distributions ultimately available for Creditors and Investors.

15 Among the many complex disputed matters that will be resolved through the Global Settlement
16 embodied in the Plan are the following, any one of which could be the subject of years of expensive,
17 complicated, and uncertain litigation:

- 18 • The unwinding of the Mattson Transactions,
- 19 • Fraudulent conveyance claims stemming from the Mattson Transactions,
- 20 • The ownership structure of the Debtors,
- 21 • The tracing of Properties transferred among the Debtors, and
- 22 • The tracing of cash among the Debtors.

23 Each of these matters will be explained further in the Investigation Report.

24 1. Substantive Consolidation Issues

25 Substantive consolidation is a construct of federal common law, emanating from equity, which
26 treats separate legal entities as if they were merged into a single survivor left with all the cumulative
27 assets and liabilities, save for inter-entity liabilities, which are erased. As will be further described in
28 the Investigation Report, there is a compelling argument for substantive consolidation of the Debtors

1 and KSMP Investment Entities, given the effects of the Mattson Transactions and the historical
2 commingling of assets and liabilities among the Debtors and non-debtor affiliates. *See, e.g., In re*
3 *Bonham*, 229 F.3d 750, 764-65 (9th Cir. 2000) (consolidating debtor and non-debtor entities in Ponzi
4 scheme case). The process to “unscramble” these ~~Debtors~~ Entities, which the Plan Proponents doubt is
5 even possible, would be lengthy and likely so expensive that Investor recoveries would dramatically
6 decrease, if not fall to zero.

7 Accordingly, the Plan provides for substantive consolidation of the Debtors’ and KSMP
8 Investment Entities’ assets and liabilities for the purposes of Distributions under the Plan. Consistent
9 with the substantive consolidation contemplated by the Plan and in order to reduce administrative
10 costs, on the Effective Date, all of the Debtors will be dissolved automatically without the need for
11 any corporate action or approval, without the need for any corporate, limited liability company, or
12 limited partnership filings, and without the need for any other or further actions to be taken on behalf
13 of such dissolving Debtor or any other Person or any payments to be made in connection therewith.
14 The Plan Recovery Trust Assets, which includes Available Cash of the Debtors as of the Effective
15 Date, Retained Real Properties, and Avoidance Actions and Causes of Action held by the Debtors or
16 the Estates, will vest in a Plan Recovery Trust. As further explained in Sections IV.C and IV.D, the
17 Plan Recovery Trust will be responsible for Distributions of Available Cash to the Plan Recovery
18 Trust Beneficiaries in accordance with the Plan Recovery Trust Waterfall.

19 This substantive consolidation will not affect (without limitation) (i) the defenses of the
20 Debtors, KSMP Investment Entities or the Plan Recovery Trust to any Claim, Avoidance Action, or
21 other Cause of Action, including the ability to assert any counterclaim; (ii) the setoff or recoupment
22 rights of the Debtors, KSMP Investment Entities or the Plan Recovery Trust; (iii) requirements for
23 any third party to establish mutuality prior to substantive consolidation in order to assert a right of
24 setoff against the Debtors, KSMP Investment Entities or Plan Recovery Trust; or (iv) distributions to
25 the Debtors, the Estates, the KSMP Investment Entities or the Plan Recovery Trust out of any
26 insurance policies or proceeds of such policies. The contemplated substantive consolidation ~~of the~~
27 ~~Debtors~~ also will not: (i) affect the separate legal existence of the Debtors and KSMP Investment
28 Entities for purposes other than implementation of the Plan pursuant to its terms, including without

1 limitation the ability of the Plan Recovery Trustee to bring any Plan Recovery Trust Action in the
2 name of an individual Debtor or KSMP Investment Entity; (ii) impair, prejudice, or otherwise affect
3 any individual Debtor's or KSMP Investment Entity's Causes of Action, including Avoidance
4 Actions, against any Person that vest in the Plan Recovery Trust; (iii) constitute or give rise to any
5 defense, counterclaim, or right of netting or setoff with respect to any Cause of Action vesting in the
6 Plan Recovery Trust that could not have been asserted against the consolidated Debtors and KSMP
7 Investment Entities; or (iii) give rise to any right under any executory contract, insurance contract, or
8 other contract to which a consolidated Debtor or KSMP Investment Entity is party, except to the extent
9 required by section 365 of the Bankruptcy Code in connection with the assumption of such contract
10 by the applicable Debtors.

11 **2. Ponzi Scheme Issues**

12 Additional disputes and possible litigation could arise regarding whether the Debtors were
13 operating a Ponzi scheme, when that scheme began, and the implications of such conduct.

14 As will be discussed in the Investigation Report, the Debtors' advisors have found that (i) no
15 later than September 2017, the Debtors' business records and other available evidence presents
16 attributes commonly seen in Ponzi schemes; (ii) many Debtors had either negative equity or a disabling
17 lack of liquidity that demanded the use of cash belonging to other related entities; (iii) the "debt
18 service" and investment returns paid to Investors could never have been paid without the use of new
19 capital from new Investors because the Properties were not sufficiently profitable to have done so; (iv)
20 the Debtors participated in voluminous intercompany lending that was a prevalent feature of the
21 Debtors' operations; and (v) Mr. Mattson removed millions of dollars from the Debtors. As part of
22 Confirmation of the Plan, the Debtors will seek a finding that the Debtors and KSMP Investment
23 Entities operated as a Ponzi Scheme beginning at least as of September 12, 2017. Before the deadline
24 to file the Plan Supplement, the Committee intends to file a detailed declaration from their financial
25 advisor that contains testimony regarding the conclusions the financial advisor has reached—that the
26 Debtors and KSMP Investment Entities were operated as a Ponzi scheme for at least the last decade,
27 and absolutely no later than September 12, 2017—based on its investigation.
28

1 Following a judicial determination that the Debtors were operating a Ponzi scheme, any
2 payments of “interest” or other consideration that was transferred from any Person to an Investor
3 during the period before the Petition Dates, but typically excluding payments representing the return
4 of or repayment of principal owed on the applicable investment, could potentially be avoided and
5 recovered as an “actual” fraudulent transfer. *See, e.g., Donell v. Kowell*, 533 F.3d 762, 770-72 (9th
6 Cir. 2008); *AFI Holding, Inc. v. Mackenzie*, 525 F.3d 700, 708-09 (9th Cir. 2008); *Perkins v. Haines*,
7 661 F.3d 623, 627 (11th Cir. 2011); *Geltzer v. Barish (In re Geltzer)*, 502 B.R. 760, 770 (Bankr.
8 S.D.N.Y. 2013); *Fisher v. Sellis (In re Lake States Commodities, Inc.)*, 253 B.R. 866, 871-72 (Bankr.
9 N.D. Ill. 2000). Because avoidance litigation would be a further hardship on the victims of the Debtors’
10 fraudulent scheme, and to eliminate the significant litigation expense and inefficiency associated with
11 seeking recovery from Investors of prepetition distributions on account of interest or the like (that
12 would ultimately only reduce the aggregate amount available for distribution on account of allowable
13 claims), the Plan contemplates that each Investor will receive (a) a claim for the total amount of money
14 (or value of property) it invested in the Debtors over time *less* the total amount of any distributions the
15 Investor received over the seven years prior to the Petition Date (the “Investor Tranche 1 Claim”) and
16 (b) if applicable, a separate claim for the amount of those deducted distributions (the “Investor Tranche
17 2 Claim”). The Plan provides that Investors will first receive their *pro rata* distribution of available
18 assets on account of their Investor Tranche 1 Claim. If and when each Investor Tranche 1 Claim is
19 paid in full, Investors will then receive their *pro rata* distribution of available assets on account of
20 their Investor Tranche 2 Claim (if any).

21 A key consideration of the Global Settlement is that rather than net distributions from the
22 suspected Ponzi start date (more than a decade ago), the Investor Tranche 1 Claim will be calculated
23 based on payments made to Investors **seven years** prior to September 12, 2024. In other words, under
24 the Global Settlement, an Investor that has received distributions from the Debtors for 15 years will
25 have its claim reduced by the amount of distributions over the last seven years, not the full 15 years.
26 This is necessary because of the state of the business records, the costs required to net the claims from
27 an earlier date, and to assure all Investors are treated the same.

1 The Plan Proponents seek to establish claims allowance and settlement procedures (the
2 “Investor Claim Settlement Procedures”)—parallel to solicitation of the Plan—that implement the
3 terms of the Global Settlement with respect to the allowance of Investor Claims ([see Docket No. 2365](#)).
4 This parallel process will enable the Plan Proponents to make progress on the allowance of Investor
5 Claims in advance of the hearing on confirmation of the Plan and thus expedite distributions to
6 Investors following the Effective Date.

7 **B. The Settlement Provisions in the Plan Are Fair and Reasonable and in the Best**
8 **Interest of All Investors and Other Creditors.**

9 The proposed Plan facilitates the prompt resolution of the countless complex legal issues and
10 disputes in the Cases by resolving several major issues that would otherwise require lengthy, costly,
11 and uncertain litigation. If these issues were litigated, it could be years before Investors receive
12 distributions, if any at all. In contrast, the Plan provides a certain mechanism for significant
13 Distributions to be made to Investors and other Creditors in a more timely and orderly fashion.

14 The terms of the Global Settlement under the Plan were heavily negotiated by the LFM
15 Debtors, KSMP, and the Committee, each of which acted at arm’s length and had the benefit of
16 sophisticated external advisers. The Plan Proponents believe strongly that the Plan’s comprehensive
17 compromise and settlement is superior to the disorderly and uncertain alternatives.

18 As will be set forth in more detail in the Investigation Report, the Plan Proponents believe that
19 the terms of the comprehensive compromise and settlement to be effected by the Plan are fair and
20 reasonable, and that its approval is in the best interests of the Estates and all stakeholders. The Plan
21 Proponents will provide further evidence and argument supporting approval of this comprehensive
22 compromise and settlement, including the elements detailed above, at the Confirmation Hearing.

23 **C. Plan Recovery Trust**

24 On the Effective Date, the Plan Recovery Trustee will execute the Plan Recovery Trust
25 Agreement and shall take any other action necessary to establish the Plan Recovery Trust in
26 accordance with the Plan and the beneficial interests therein. The purpose of the Plan Recovery Trust
27 will be to pursue, collect, or monetize the Plan Recovery Trust Assets and make Distributions from
28 the proceeds of such assets to the Plan Recovery Trust Beneficiaries in accordance with Treasury

1 Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or
2 business. On the Effective Date, all of the Debtors' and the Estates' respective rights, title, and interest
3 in and to all Plan Recovery Trust Assets will automatically vest in the Plan Recovery Trust.

4 The Oversight Committee, whose initial volunteer members will be chosen by the Committee
5 and identified in the Plan Supplement, will supervise the Plan Recovery Trustee. The Plan Recovery
6 Trustee shall have the authority to, among other things, (i) review, reconcile, and object to Claims and
7 Equity Interests in the Debtors; (ii) calculate and make Distributions in accordance with the Plan
8 Recovery Trust Waterfall; (iii) retain and employ professionals; (iv) sell, monetize, or abandon Plan
9 Recovery Trust Assets; and (v) pursue, prosecute, settle, or abandon any Plan Recovery Trust Actions.
10 The Plan Recovery Trust Actions include (i) all Avoidance Actions and Causes of Action held by the
11 Debtors or the Estates and (ii) any Causes of Action that are contributed to the Plan Recovery Trust
12 as Contributed Claims (*see* Section IV.E.1), in each case as against any Entity that is not a Debtor.

13 **D. Distributions to Holders of Trade Claims and Plan Recovery Trust Beneficiaries**

14 With regard to Trade Claims in Class 6, the Plan provides that, (a) if Class 6 votes to accept
15 the Plan, on the Effective Date, or as soon as practicable thereafter, each Holder of an Allowed Trade
16 Claim will receive its Pro Rata share of the Trade Claims Settlement Fund (\$4,000,000), in full and
17 final satisfaction, settlement, and release of such Allowed Trade Claims; or (b) if Class 6 votes to
18 reject the Plan, the Trade Claims Settlement Fund will not be established, and instead, each Holder
19 of an Allowed Trade Claim will receive from the Plan Recovery Trust on account of its Allowed Class
20 6 Claim, its pro rata distribution of the Class A Plan Recovery Trust Units, which will be treated pari
21 pasu with Investor Tranche 1 Claims.

22 After (i) all administrative and priority claims (including, without limitation, Administrative
23 Expense Claims, Involuntary Gap Claims, Priority Tax Claims, and Priority Claims), and (ii) all Plan
24 Recovery Trust expenses, including any litigation financing expenses, are paid or reserved for, the
25 Plan Recovery Trust will make Distributions of Available Cash to the Plan Recovery Trust
26 Beneficiaries pursuant to the Plan Recovery Trust Waterfall:

- 27 (i) Class A Plan Recovery Trust Units. First, the Plan Recovery Trust shall
28 distribute the proceeds of the Plan Recovery Trust Assets to each Holder of
Class A Plan Recovery Trust Units on a Pro Rata basis until all Allowed Trade

Claims (if applicable, if Class 6 votes to reject the Plan) and Investor Tranche 1 Claims have been paid in full ~~(without postpetition or post Confirmation interest);~~

- (ii) Class B Plan Recovery Trust Units. *Second*, the Plan Recovery Trust shall distribute the proceeds of the Plan Recovery Trust Assets to each Holder of Class B Plan Recovery Trust Units on a Pro Rata basis until all Investor Tranche 1 Claims have been paid in full;
- (iii) Class C Plan Recovery Trust Units. ~~*Third, the Plan Recovery Trust shall distribute the proceeds of the Plan Recovery Trust Assets to each Holder of Class C Plan Recovery Trust Units on a Pro Rata basis until all Investor Tranche 2 Claims have been paid in full;*~~
- (iv) Class D Plan Recovery Trust Units. Notwithstanding anything to the contrary contained in the Plan or in the Confirmation Order, the Plan Recovery Trust shall distribute the net proceeds of any Contributed Claims solely to Holders of Class DC Plan Recovery Trust Units on a Pro Rata basis.

The Plan Recovery Trust, in the Plan Recovery Trustee's discretion may make periodic Distributions to the Plan Recovery Trust Beneficiaries at any time following the Effective Date, provided that such Distributions are otherwise permitted under, and not inconsistent with, the Plan Recovery Trust Waterfall, the other terms of the Plan, the Plan Recovery Trust Agreement, and applicable law. Additionally, every 180 calendar days following the Effective Date, the Plan Recovery Trustee shall calculate the Distributions that could potentially be made to the Plan Recovery Trust Beneficiaries based on the amount of Available Cash as of such date and, based on such calculation, promptly thereafter may make Distributions, if any, of the amount so determined. Put a different way, the Plan Recovery Trustee may make periodic distributions at its discretion and will reassess available funds for possible distributions at least every 180 days.

E. Investor-Specific Claims

The Plan will not impair the right of an Investor to independently pursue claims against third parties that are unique to such Investor and for which it has independent legal standing ("Investor-Specific Claims"). By way of example, and not limitation, such unique claims include claims based on loss of lien or loss of lien priority, claims against an Investor's own professional advisors, claims against retirement servicers, and similar claims that may be asserted based on such Investor's particular circumstances. Investor-Specific Claims **do not include** (i) Claims common to all Investors, (ii) Claims to recover commissions or referral fees paid by the Debtors to third parties in connection with an Investor's investment with the Debtors, or (iii) Contributed Claims.

1 **1. Contributed Claim Election**

2 An Investor has the choice whether to contribute its Contributed Claims to the Plan Recovery
3 Trust. **Investors will automatically contribute their Contributed Claims to the Plan Recovery**
4 **Trust—and become Contributing Claimants—if they vote to accept the Plan and do not opt out**
5 **of the Contributed Claim Election (unless the Investor's claims are listed in the Schedule of**
6 **Disclaimed Contributed Claims).** . Contributed Claims are defined as all Causes of Action that are
7 legally assignable (including Causes of Action that are legally assignable solely because of the
8 preemptive effect of the Plan) that the Contributing Claimant has against any Person that is not a
9 Debtor and that are related in any way to the Debtors, their predecessors, their respective affiliates, or
10 any Excluded Parties. Contributed Claims would include (a) all Causes of Action based on, arising out
11 of, or related to the marketing, sale, or issuance of any investments related to the Debtors; (b) all
12 Causes of Action for unlawful dividend, fraudulent conveyance, fraudulent transfer, voidable
13 transaction, or other avoidance claims under state or federal law; (c) all Causes of Action based on,
14 arising out of, or related to the misrepresentation of any of the Debtors' financial information, business
15 operations, or related internal controls; (d) all Causes of Action based on, arising out of, or related to
16 any failure to disclose, or actual or attempted cover up or obfuscation of, any of the wrongful conduct
17 described in the Disclosure Statement, including with respect to any alleged fraud related thereto; and
18 (e) all Causes of Action based on aiding or abetting, entering into a conspiracy with, or otherwise
19 supporting torts committed by the Debtors or their agents. Contributed Claims shall not include the
20 rights of a Contributing Claimant to receive the Distributions, if any, to which it is entitled under the
21 Plan.

22 If an Investor elects to contribute its Contributed Claims to the Plan Recovery Trust, that
23 Investor will receive a Pro Rata Distribution of Class **DC** Plan Recovery Trust Units on the Effective
24 Date, or as soon as practicable thereafter. The distribution will be based on ratio of (a) the Investor's
25 Allowed Investor Claim to (b) the total Allowed Investor Claims of all Investors that make the
26 Contributed Claims Election. By accepting the Plan and not opting out of the Contributed Claim
27 Election, the Holder of an Investor Claim agrees that, subject to the occurrence of the Effective Date
28 and the formation of the Plan Recovery Trust, it will be deemed, without further action, (i) to have

1 first seek a determination that the claims asserted in such action are
2 excluded from the exculpation provisions herein and permission
3 from the Bankruptcy Court to prosecute such action. The
4 Bankruptcy Court shall retain exclusive jurisdiction to determine
5 the scope and effect of any release or exculpation provided herein.

6 V.

7 **RISK FACTORS**

8 Before voting on the Plan, each Holder of a Claim entitled to vote should consider carefully
9 the risk factors described below, as well as all other information contained in this Disclosure
10 Statement, including the schedules and exhibits hereto. These risk factors should not be regarded as
11 the only risks involved in connection with the Plan and its implementation.

12 **A. Parties May Object to the Plan's Classification of Claims and Equity Interests**

13 Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an interest in
14 a particular class only if such claim or interest is substantially similar to the other claims or interests
15 in such class. The Plan Proponents believe that the classification of the Claims and Equity Interests
16 under the Plan complies with this requirement. Nevertheless, there can be no assurance that the
17 Bankruptcy Court will reach the same conclusion.

18 **B. The Plan Proponents May Not Be Able to Obtain Confirmation of the Plan**

19 As with any proposed plan, the Plan Proponents may not receive the requisite acceptances to
20 confirm the Plan. If votes in Class 67 (Investor Claims) are received in number and amount sufficient
21 to enable the Court to confirm the Plan, the Plan Proponents intend to seek confirmation of the Plan
22 by the Court. If Class 67 (Investor Claims) rejects the Plan, the Plan Proponents will not seek
23 confirmation of the Plan and will need to incur additional fees and expenses to develop an alternative
24 path forward. Even if the requisite acceptances of the proposed Plan are received, the Court still might
25 not confirm the Plan as proposed if the Court finds that any of the statutory requirements for
26 confirmation under section 1129 of the Bankruptcy Code have not been met.

27 If the Plan is not confirmed by the Court, there can be no assurance that any alternative plan
28 would be on terms as favorable to Investors and other creditors as the terms of the Plan. In addition,
there can be no assurance that the Plan Proponents will be able to successfully develop, prosecute,

confirm, and consummate an alternative plan that is acceptable to Investors, other creditors, and the Court.

C. The Conditions Precedent to the Effective Date of the Plan May Not Occur

As more fully set forth in the Plan, the Effective Date is subject to several conditions precedent. There can be no assurance that any or all such conditions will be satisfied (or waived). If such conditions precedent are not met or waived, the Effective Date will not occur. Accordingly, even if the Plan is confirmed by the Bankruptcy Court, there can be no assurance that the Effective Date will occur.

D. Claims Estimation and Allowance of Claims

There can be no assurance that the estimated Claim amounts set forth in this Disclosure Statement are correct, and the actual amount of Allowed Claims may differ significantly from the estimates. The estimated amounts are subject to certain risks, uncertainties, and assumptions. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, the actual amount of Allowed Claims may vary from those estimated herein.

Distributions to Holders of Allowed Class 67 Claims (Investor Claims) will be affected by the pool of Allowed Claims in the Class. The amount of Distributions that may be received by a particular Holder of an Allowed Claim in Class 67 may be either adversely or favorably affected by the aggregate amount of Class 67 Claims ultimately Allowed.

E. Potential Pursuit of Plan Recovery Trust Actions Against Creditors and Others

In accordance with section 1123(b) of the Bankruptcy Code, after the Effective Date, the Plan Recovery Trustee shall have and retain and may enforce any Plan Recovery Trust Actions. Accordingly, a Holder of a Claim may be subject to one or more such Plan Recovery Trust Actions being asserted against it.

The failure to specifically identify in the Disclosure Statement or the Plan any potential or existing Avoidance Actions or Causes of Action as a Plan Recovery Trust Action is not intended to and shall not limit the rights of the Plan Recovery Trust to pursue any such Avoidance Actions or Causes of Action. The Debtors expressly reserve all Avoidance Actions and Causes of Action, other than those Avoidance Actions and Causes of Action that are expressly waived, relinquished, released,

1 **C. Best Interests of Creditors**

2 Often called the “best interests of creditors” test, section 1129(a)(7) of the Bankruptcy Code
3 requires that a bankruptcy court find, as a condition to confirmation of a chapter 11 plan, that the plan
4 provides, with respect to each impaired class, that each holder of a claim or an interest in such class
5 either (i) has accepted the plan or (ii) will receive or retain under the plan property of a value that is
6 not less than the amount that such holder would receive or retain if the debtor liquidated under chapter
7 7 on the effective date of the plan. The Debtors and their advisors, with consultation with the
8 Committee, ~~are~~have prepared a liquidation analysis attached hereto as Exhibit C (the “Liquidation
9 Analysis”).

10 The costs of liquidation under chapter 7 of the Bankruptcy Code would include the fees payable
11 to a chapter 7 trustee, and the fees that would be payable to additional attorneys and other professionals
12 that such a trustee may engage.

13 Conversion to chapter 7 of the Bankruptcy Code would mean the establishment of a new claims
14 bar date, which could result in new Claims being asserted against the Estates, thereby diluting the
15 recoveries of other Holders of Allowed Claims. It would also require Holders of Claims and Interests
16 against the Debtors to file new proofs of claim and interest in their chapter 7 cases.

17 Significantly, the Plan embodies a comprehensive, extensively negotiated settlement and
18 compromise of myriad complex legal and factual issues relating to the Debtors and their Investors and
19 other creditors. In the event of conversion, the chapter 7 trustee, Investors, and other creditors would
20 need to engage in extensive litigation to resolve these and other issues, or would need to try to negotiate
21 an alternative settlement, all without the benefit of committee representation for Investors and other
22 creditors. This process would be extremely time-consuming and costly, and would very likely reduce
23 and delay any recoveries available for Investors and other creditors of the Estates.

24 In addition, a chapter 7 trustee likely would act quickly to sell or otherwise monetize the
25 Debtors’ assets, including because (i) a chapter 7 trustee probably would not have adequate staffing
26 or funding to dispose of the Properties over an extended period of time and (ii) a chapter 7 trustee
27 would need to seek authorization to operate the Debtors’ remaining business, which is relief that
28 should be granted only “for a limited period” in any event, *see* 11 U.S.C. § 721. Such a forced sale by

1 a chapter 7 trustee would likely ultimately result in substantially lower recoveries from the sale of the
2 Debtors' assets, as set forth in the Liquidation Analysis. Additionally, there is a risk that the chapter
3 7 estates are not substantively consolidated. In this scenario, multiple chapter 7 trustee would be
4 appointed and there would likely be material delays and significant increased professional fees.

5 On balance, the Plan Proponents believe that a chapter 7 trustee would be less likely to
6 maximize the value available from all the Estate Assets and would be unable to obtain the benefits of
7 the compromises and settlements available under the Plan. Therefore, the Plan Proponents believe that
8 confirmation of the Plan will provide each Investor and other creditors with an equal or greater
9 recovery than such party would receive pursuant to the liquidation of the Debtors under chapter 7 of
10 the Bankruptcy Code.

11 **D. Feasibility**

12 Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of the plan is not likely
13 to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or
14 any successor to the Debtors (unless such liquidation or reorganization is proposed in the plan). The
15 Plan Proponents believe that this requirement is satisfied, and the Debtors believe the Debtors' Cash
16 and any additional proceeds from the Plan Recovery Trust Assets will be sufficient to allow the Plan
17 Recovery Trustee to make all payments required to be made under the Plan. Accordingly, the Plan
18 Proponents believe that the Plan is feasible.

19 **E. Acceptance by Impaired Classes**

20 The Bankruptcy Code requires, as a condition to confirmation, that, except as described in the
21 following section, each class of claims or interests that is impaired under a plan accept the plan. A
22 class that is not "impaired" under a plan is conclusively presumed to have accepted the plan and,
23 therefore, solicitation of acceptances with respect to such class is not required.

24 A class is "impaired" unless a plan: (a) leaves unaltered the legal, equitable, and contractual
25 rights to which the claim or the interest entitles the holder of such claim or interest or (b) cures any
26 default, reinstates the original terms of such obligation, compensates the holder for certain damages
27 or losses, as applicable, and does not otherwise alter the legal, equitable, or contractual rights to which
28 such claim or interest entitles the holder of such claim or interest.

1 Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired
2 claims as acceptance by holders of at least two-thirds in dollar amount and more than one-half in
3 number of allowed claims in that class, counting only those claims held by creditors that actually voted
4 to accept or reject the plan. Thus, a Class of Impaired Claims will have voted to accept the Plan only
5 if two-thirds in amount and a majority in number actually voting cast their Ballots in favor of
6 acceptance.

7 **F. Confirmation Without Acceptance by All Impaired Classes**

8 Section 1129(b) of the Bankruptcy Code allows a bankruptcy court to confirm a plan even if
9 all impaired classes have not accepted that plan, *provided* that the plan has been accepted by at least
10 one impaired class of claims, determined without including the acceptance of the plan by any insider.
11 Notwithstanding an impaired class's rejection or deemed rejection of the plan, such plan will be
12 confirmed, at the plan proponent's request, in a procedure commonly known as "cramdown," so long
13 as the plan does not "discriminate unfairly" and is "fair and equitable" with respect to each class of
14 claims or interests that is impaired under and has not accepted the plan.

15 To the extent that any Impaired Class **other than Class 67** rejects the Plan or is deemed to
16 have rejected the Plan, the Plan Proponents will request Confirmation of the Plan under section
17 1129(b) of the Bankruptcy Code. **The Plan Proponents will not request Confirmation of the Plan**
18 **under section 1129(b) of the Bankruptcy Code if Class 67 votes to reject the Plan.** The Plan
19 Proponents reserve the right to alter, amend, modify, revoke, or withdraw the Plan, the Plan
20 Supplement, or any schedule or exhibit, including to amend or modify it to satisfy the requirements of
21 section 1129(b) of the Bankruptcy Code, if necessary.

22 **1. No Unfair Discrimination**

23 The "unfair discrimination" test applies to classes of claims or interests that reject or are
24 deemed to have rejected a plan and that are of equal priority with another class of claims or interests
25 that is receiving different treatment under the plan. The test does not require that the treatment of such
26 classes of claims or interests be the same or equivalent, but that such treatment be "fair" under the
27 circumstances. In general, bankruptcy courts consider whether a plan discriminates unfairly in its
28 treatment of classes of claims of equal rank (e.g., classes of the same legal character). Bankruptcy

Assets for distribution to creditors in accordance with the priorities established by the Bankruptcy Code. As described above, the Plan Proponents believe that the Plan will provide each Investor and other creditor with an equal or greater recovery than it would receive pursuant to liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

VII.

CERTAIN UNITED STATES FEDERAL INCOME

TAX- CONSEQUENCES OF THE PLAN²⁸

~~There are a number of material income tax considerations, risks, and uncertainties associated with the plan of liquidation of the Debtors described in this Disclosure Statement and the Plan.~~

THE FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. ALL HOLDERS OF CLAIMS AGAINST THE DEBTORS SHOULD CONSULT WITH THEIR OWN TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE TRANSACTIONS CONTEMPLATED BY THE PLAN, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL, OR FOREIGN TAX LAWS AND OF ANY CHANGE IN APPLICABLE TAX LAWS

This discussion is provided for informational purposes only, and is based on provisions of the Internal Revenue Code of 1986, as amended (the "IRC"), Treasury Regulations promulgated thereunder, judicial authorities, and current administrative rulings and practice, all as in effect on the date hereof. The tax consequences described herein are subject to significant uncertainties.²⁹ No legal opinions have been requested from counsel with respect to any of the tax aspects of the Plan and no rulings have been or will be requested from the Internal Revenue Service ("IRS") with respect to any of the issues discussed below. Further, legislative, judicial, or administrative changes may occur that could affect the accuracy of the statements and conclusions set forth below as well as the tax consequences to the holders of Claims and Equity Interests. Any such changes or interpretations may be retroactive and could significantly, and adversely, affect the United States federal income tax consequences of the Plan.

²⁸ ~~The Plan Proponents are currently evaluating the tax consequences of the Plan and expect to modify this Section.~~

²⁹ Uncertainties are due to the complexity of certain aspects of the Plan, the lack of applicable legal precedent, the possibility of changes in the law, the differences in the nature of the Claims (including Claims within the same Class) and Equity Interests, the holder's status and method of accounting (including holders within the same Class), and the potential for disputes as to legal and factual matters with the IRS.

1 The following summary does not address the U.S. federal income tax consequences to the
2 Holders of Claims or Equity Interests **not** entitled to vote to accept or reject the Plan. In addition, the
3 following discussion is limited to Holders that are United States persons within the meaning of the
4 IRC. For purposes of the following discussion, a “United States person” is any of the following:

- 5 • An individual who is a citizen or resident of the United States;
- 6 • A corporation created or organized under the laws of the United States or any state or
7 political subdivision thereof;
- 8 • An estate, the income of which is subject to federal income taxation regardless of its
9 source; or
- 10 • A trust that (a) is subject to the primary supervision of a United States court and which
11 has one or more United States fiduciaries who have the authority to control all substantial
12 decisions of the trust, or (b) has a valid election in effect under applicable Treasury Regulations
13 to be treated as a United States person.

14 This discussion does not address all aspects of U.S. federal income taxation that (i) may be
15 relevant to a particular Holder in light of its particular facts and circumstances or (ii) to certain types
16 of Holders subject to special treatment under the IRC.³⁰ This discussion does not address the tax
17 consequences to holders of Claims who did not acquire such Claims at the issue price on original issue.
18 No aspect of foreign, state, local or estate and gift taxation is addressed.

19 It is intended and assumed for purposes of this Disclosure Statement, that Investor Claims will
20 be treated as indebtedness of the Debtors for U.S. federal income tax purposes and that the tax
21 consequences to the Debtors and the Investors will be determined accordingly. The IRS has submitted
22 Claims in these Cases and it is expected that as part of the settlement with the IRS, the characterization
23 of the Investor Claims and the tax treatment of the Plan to the Debtors will be negotiated and agreed
24 to. However, there is no authority addressing the treatment of claims similar to the Investor Claims
25 and there no assurance that the IRS will agree to the treatment of the Investor Claims as indebtedness.
26 If the Investor Claims are instead treated as equity interests in the Debtor entities, the tax consequences

27 ³⁰ Examples of Holders subject to special treatment under the IRC are governmental entities and entities exercising
28 governmental authority, foreign companies, persons who are not citizens or residents of the United States, banks and
certain other financial institutions, broker-dealers, insurance companies, tax-exempt organizations, real-estate
investment trusts, small business investment companies, regulated investment companies, persons that have a
functional currency other than the U.S. dollar, and persons holding Claims that are a hedge against, or that are hedged
against, currency risk or that are part of a straddle, constructive sale, or conversion transaction.

1 of the Plan to Investors would be significantly different then described below and Investors could be
2 subject to tax on gains related to the transfer of the Properties to the liquidating trust or other Creditors,
3 or to sales that may have been consummated prior to the commencement of the Bankruptcy
4 proceedings.

5 In addition to the investor Claims being characterized as indebtedness, the tax treatment of
6 Holders of Claims and the character, amount, and timing of income, gain, or loss recognized as a
7 consequence of the Plan and the Distributions provided for by the Plan may vary, depending upon the
8 following factors, among others:

- 9 (i) whether the Claim or portion thereof constitutes a Claim for principal or
10 interest;
- 11 (ii) the type of consideration, if any, received by the Holder in exchange for the
12 Claim, and whether the Holder receives Distributions under the Plan in more
13 than one taxable year;
- 14 (iii) whether the Holder is a citizen or resident of the United States for tax
15 purposes, is otherwise subject to U.S. federal income tax on a net basis, or
16 falls into any special class of taxpayers, such as those that are excluded from
17 this discussion as noted above;
- 18 (iv) the manner in which the Holder acquired the Claim;
- 19 (v) the length of time that the Claim has been held;
- 20 (vi) whether the Claim was acquired at a discount;
- 21 (vii) whether the Holder has taken a bad-debt deduction or a worthless-securities
22 deduction with respect to the Claim or any portion thereof in the current or
23 prior taxable years;
- 24 (viii) whether the Holder has previously included in gross income accrued but
25 unpaid interest with respect to the Claim;
- 26 (ix) the method of tax accounting of the Holder;
- 27 (x) whether the Claim is an installment obligation for U.S. federal income tax
28 purposes; and
- (xi) whether the “market discount” rules apply to the Holder.

1 Therefore, each Holder should consult such Holder's own tax advisor for tax advice with
2 respect to that Holder's particular situation and circumstances, and the particular tax consequences to
3 such Holder of the transactions contemplated by the Plan.

4 A significant amount of time may elapse between the date of the Disclosure Statement and the
5 receipt of a final Distribution under the Plan. Events occurring after the date of the Disclosure
6 Statement, such as new or additional tax legislation, court decisions, or administrative changes, could
7 affect the U.S. federal income tax consequences of the Plan and the transactions contemplated
8 thereunder. No representations are being made regarding the particular tax consequences of the
9 confirmation or implementation of the Plan as to any Holder of a Claim. This discussion is not binding
10 upon the IRS or other taxing authorities. No assurance can be given that the IRS or another authority
11 would not assert, or that a court would not sustain, a different position from any discussed herein.

12 **THE FOLLOWING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF**
13 **CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN, ARE**
14 **COMPLEX, AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX**
15 **PROFESSIONAL. NOTHING HEREIN SHALL CONSTITUTE THE FOLLOWING**
16 **DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE.**
17 **THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY**
18 **DEPENDING ON A HOLDER'S PARTICULAR CIRCUMSTANCES. ~~ALL HOLDERS OF~~**
19 **~~CLAIMS AGAINST OR INTERESTS IN THE DEBTORS ARE~~ ACCORDINGLY, EACH**
20 **HOLDER IS STRONGLY URGED TO CONSULT ~~THEIR~~ SUCH HOLDER'S**
21 **INDEPENDENT TAX ADVISORS ABOUT THE U.S. REGARDING THE FEDERAL, STATE,**
22 **LOCAL, AND FOREIGN, ~~AND OTHER~~ INCOME TAX CONSEQUENCES OF THE PLAN.**
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1 **B. Certain U.S. Federal Income Tax Consequences of the Plan Recovery Trust**

2 Under the terms of the Plan, the Plan Recovery Trust Assets will be transferred to the Plan
3 Recovery Trust in a taxable disposition. Any income or gain from the transfer of assets to the Plan
4 Recovery Trust shall flow through to the ultimate taxpaying owner or member of the transferring
5 Debtor who will be responsible for paying any resulting tax liability. The tax consequences of the
6 Plan, however, are subject to many uncertainties due to the complexity of the Plan and the lack of
7 interpretative authority regarding certain changes in the tax law. Uncertainties with regard to the U.S.
8 federal income tax consequences of the Plan also arise due to the inherent nature of estimates of value
9 that will impact the determination of the amount of income or gain from the transfer of assets to the
10 Plan Recovery Trust.

11 As of the Effective Date, the Plan Recovery Trust shall be established for the benefit of all
12 Plan Recovery Trust Beneficiaries. The Plan Recovery Trustee will make a good-faith valuation of the
13 Plan Recovery Trust Assets. All parties (including, without limitation, the Plan Recovery Trustee and
14 the Plan Recovery Trust Beneficiaries) must consistently use such valuation for all U.S. federal income
15 tax purposes. Allocations of taxable income of the Plan Recovery Trust (other than taxable income
16 allocable to a Distribution Reserve) among Plan Recovery Trust Beneficiaries shall be determined by
17 reference to the manner in which an amount of cash equal to such taxable income would be distributed
18 (were such cash permitted to be distributed at such time) if, immediately prior to such deemed
19 distribution, the Plan Recovery Trust had distributed all of its assets (valued at their tax book value,
20 and other than assets allocable to a Distribution Reserve) to the holders of the beneficial interests in
21 the Plan Recovery Trust, adjusted for prior taxable income and loss and taking into account all prior
22 and concurrent distributions from the Plan Recovery Trust. Similarly, taxable loss of the Plan
23 Recovery Trust shall be allocated by reference to the manner in which an economic loss would be
24 borne immediately after a distribution in liquidation of the remaining Plan Recovery Trust Assets. The
25 tax book value of the Plan Recovery Trust Assets for this purpose shall be equal to the fair-market
26 value of the Plan Recovery Trust Assets on the Effective Date, adjusted in accordance with tax
27 accounting principles prescribed by the IRC, applicable Treasury Regulations, and other applicable
28 administrative and judicial authorities and pronouncements. Subject to definitive guidance from the

1 IRS or a court of competent jurisdiction to the contrary (including the receipt by the Plan Recovery
2 Trustee of an IRS private letter ruling if the Plan Recovery Trustee so requests one, or the receipt of
3 an adverse determination by the IRS upon audit if not contested by the Plan Recovery Trustee), the
4 Plan Recovery Trustee will (a) elect to treat any Plan Recovery Trust Assets allocable to a Distribution
5 Reserve (a reserve for amounts and Plan Recovery Trust interests retained on account of Contingent
6 Claims, Disputed Claims or Unliquidated Claims) as a “disputed ownership fund” governed by
7 Treasury Regulation section 1.468B-9 and (b) to the extent permitted by applicable law, report
8 consistently with the foregoing for state and local income tax purposes. Accordingly, the Distribution
9 Reserves will be subject to tax annually on a separate entity basis on any net income earned with
10 respect to the Plan Recovery Trust Assets in such reserves, and all distributions from such reserves
11 will be treated as received by holders in respect of their Claims as if distributed by the Debtors. All
12 parties (including, without limitation, the Plan Recovery Trustee and the Holders of the Plan Recovery
13 Trust Units) will be required to report for U.S. federal income tax purposes consistently with the
14 foregoing.

15 The Plan Recovery Trust is intended to qualify as a liquidation trust for U.S. federal income
16 tax purposes. In general, a liquidation trust is not a separate taxable entity but rather is treated for U.S.
17 federal income tax purposes as a “grantor” trust (i.e., a pass-through entity). The IRS, in Revenue
18 Procedure 94-45, 1994-28 I.R.B. 124, set forth the general criteria for obtaining an IRS ruling as to
19 the grantor trust status of a liquidation trust under a chapter 11 plan. The Plan Recovery Trust has been
20 structured with the intention of complying with such general criteria. Pursuant to the Plan, and in
21 conformity with Revenue Procedure 94-45, all parties (including the Plan Recovery Trustee and the
22 Holders of Plan Recovery Trust Units) are required to treat for U.S. federal income tax purposes, the
23 Plan Recovery Trust as a grantor trust of which the Holders of Plan Recovery Trust Units are the
24 owners and grantors.

25 Although the following discussion assumes that the Plan Recovery Trust would be treated as
26 a grantor trust for U.S. federal income tax purposes, no ruling has been requested from the IRS
27 concerning the tax status of the Plan Recovery Trust as a grantor trust. Accordingly, there can be no
28 assurance that the IRS would not take a contrary position to the classification of the Plan Recovery

1 Trust as a grantor trust for U.S. federal income tax purposes. If the IRS were to successfully challenge
2 this classification, the U.S. federal income tax consequences to the Plan Recovery Trust and the
3 holders of Plan Recovery Trust Units could vary from those discussed herein and, thus, there could be
4 less Available Cash than projected, resulting in lower recoveries for holders of Plan Recovery Trust
5 Units.

6 **C. Consequences to Holders of Claims Generally**

7 In general, each holder of an Allowed Claim will recognize gain or loss in an amount equal to
8 the difference between (i) the “amount realized” by such holder in satisfaction of its Claim and (ii)
9 such holder’s adjusted tax basis in such Claim. The “amount realized” by a holder will equal the sum
10 of cash and the aggregate fair-market value of the property received by such holder pursuant to the
11 Plan (such as a holder’s undivided beneficial interest in the assets transferred to the Plan Recovery
12 Trust). Where gain or loss is recognized by a holder in respect of its Allowed Claim, the character of
13 such gain or loss (i.e., long-term or short-term capital, or ordinary income) will be determined by a
14 number of factors including (i) the tax status of the holder, (ii) whether the Claim constituted a capital
15 asset in the hands of the holder and how long it had been held, (iii) whether the Claim was originally
16 issued at a discount or acquired at a market discount, and (iv) whether and to what extent the holder
17 had previously claimed a bad debt deduction or theft loss in respect of the Claim.

18 Generally, a Holder of an Allowed Claim will realize gain or loss on the exchange under the
19 Plan of its Allowed Claim for Cash or other property in an amount equal to the difference between (i)
20 the sum of the amount of any Cash and the fair market value on the date of the exchange of any other
21 property received by the Holder and (ii) the adjusted tax basis of the Allowed Claim exchanged
22 therefor (other than basis attributable to accrued but unpaid interest previously included in the Holder’s
23 taxable income). It is possible that any loss, or a portion of any gain, realized by a Holder of a Claim
24 may have to be deferred until all of the Distributions to such Holder are received.

25 When gain or loss is recognized by a Holder, such gain or loss may be long-term capital gain
26 or loss if the Claim disposed of is a capital asset in the hands of the Holder and has been held for more
27 than one year. **Each Holder of an Allowed Claim should consult its own tax advisor to determine**
28

1 whether gain or loss recognized by such Holder will be long-term capital gain or loss and the
2 specific tax effect thereof on such Holder.

3 A Holder of an Allowed Claim who receives, in respect of the Holder's Allowed Claim, an
4 amount that is less than that Holder's tax basis in such Allowed Claim may be entitled to a bad-debt
5 deduction under IRC section 166(a). The rules governing the character, timing, and amount of a bad-
6 debt deduction place considerable emphasis on the facts and circumstances of the holder, the obligor,
7 and the instrument with respect to which a deduction is claimed. **Holders of Allowed Claims,**
8 **therefore, are urged to consult their own tax advisors with respect to the ability to take a bad-**
9 **debt deduction.** A Holder that has previously recognized a loss or deduction in respect of that
10 Holder's Allowed Claim may be required to include in gross income (as ordinary income) any amounts
11 received under the Plan to the extent such amounts exceed the Holder's adjusted basis in such Allowed
12 Claim. Holders of Investor Claims may also be entitled to claim losses on account of a Ponzi scheme,
13 as discussed in Section VII.D. below.

14 Holders of Allowed Claims who were not previously required to include any accrued but
15 unpaid interest with respect to an Allowed Claim may be treated as receiving taxable interest income
16 to the extent any consideration they receive under the Plan is allocable to such interest. A Holder
17 previously required to include in gross income any accrued but unpaid interest with respect to an
18 Allowed Claim may be entitled to recognize a deductible loss to the extent such interest is not satisfied
19 under the Plan.

20 A Holder of an Allowed Claim constituting an installment obligation for tax purposes may be
21 required to currently recognize any gain remaining with respect to such obligation if, pursuant to the
22 Plan, the obligation is considered to be satisfied at other than at face value or distributed, transmitted,
23 sold, or otherwise disposed of within the meaning of IRC section 453B.

24 Holders of Disallowed Claims will not receive any Distribution as part of the Plan.
25 Accordingly, because such a Holder may receive an amount that is less than that Holder's tax basis in
26 such Claim, such Holder may be entitled to a bad-debt deduction under IRC section 166(a). The rules
27 governing the character, timing, and amount of a bad-debt deduction place considerable emphasis on
28 the facts and circumstances of the holder, the obligor, and the instrument with respect to which a bad-

1 debt deduction is claimed. Holders of Disallowed Claims, therefore, are urged to consult their own tax
2 advisors with respect to the ability to take a bad debt deduction.

3 **D. Consequences to Plan Recovery Trust Beneficiaries**

4 After the Effective Date, any amount that a Plan Recovery Trust Beneficiary (as a Holder of a
5 Plan Recovery Trust Unit) receives as a distribution from the Plan Recovery Trust in respect of its
6 beneficial interest in the Plan Recovery Trust should not be included, for U.S. federal income tax
7 purposes, in the Holder's amount realized in respect of its Allowed Claim but should be separately
8 treated as a distribution received in respect of such Holder's beneficial interest in the Plan Recovery
9 Trust. In general, a Holder's aggregate tax basis in its undivided beneficial interest in the assets
10 transferred to the Plan Recovery Trust will equal the fair market value of such undivided beneficial
11 interest as of the Effective Date and the Holder's holding period in such assets will begin the day
12 following the Effective Date. Distributions to any Holder of an Allowed Claim will be allocated first
13 to the original principal portion of such Claim as determined for federal tax purposes and then, to the
14 extent the consideration exceeds such amount, to the remainder of such Claim. However, there is no
15 assurance that the IRS will respect such allocation for U.S. federal income tax purposes.

16 For all U.S. federal income tax purposes, all parties (including the Plan Recovery Trustee and
17 the Holders of Plan Recovery Trust Units) shall treat the transfer of the Plan Recovery Trust Assets to
18 the Plan Recovery Trust, in accordance with the terms of the Plan, as a transfer of those assets directly
19 to the Holders of Allowed Claims (and, with respect to the Contingent Claims, Disputed Claims and
20 Unliquidated Claims, to the Distribution Reserve) followed by the transfer of such assets by such
21 Holders to the Plan Recovery Trust. Consistent therewith, all parties shall treat the Plan Recovery
22 Trust as a grantor trust of which such Holders are to be the owners and grantors. Thus, such Holders
23 (and any subsequent Holders of interests in the Plan Recovery Trust) shall be treated as the direct
24 owners of an undivided beneficial interest in the assets of the Plan Recovery Trust. Accordingly, each
25 Holder of a beneficial interest in the Plan Recovery Trust will be required to report on its U.S. federal
26 income tax return(s) the Holder's allocable share of all income, gain, loss, deduction, or credit
27 recognized or incurred by the Plan Recovery Trust. The Plan Recovery Trust's taxable income will be
28 allocated to the Holders of Plan Recovery Trust Units in accordance with each such Holder's pro rata

1 share of the Plan Recovery Trust Units in the Plan Recovery Trust Assets. The character of items of
2 income, deduction, and credit to any Holder and the ability of such Holder to benefit from any
3 deductions or losses may depend on the particular situation of such Holder. The U.S. federal income
4 tax reporting obligation of a Holder of a beneficial interest in the Plan Recovery Trust is not dependent
5 upon the Plan Recovery Trust distributing any cash or other proceeds. Therefore, a Holder of a
6 beneficial interest in the Plan Recovery Trust may incur a U.S. federal income tax liability regardless
7 of the fact that the Plan Recovery Trust has not made, or will not make, any concurrent or subsequent
8 distributions to the Holder. If a Holder incurs a U.S. federal tax liability but does not receive
9 distributions commensurate with the taxable income allocated to it in respect of its Plan Recovery
10 Trust Unit in the Plan Recovery Trust, the Holder may be allowed a subsequent or offsetting loss.

11 The Plan Recovery Trustee will file with the IRS returns for the Plan Recovery Trust as a
12 grantor trust pursuant to Treasury Regulations section 1.671-4(a). The Plan Recovery Trustee will also
13 send to each Holder of a beneficial interest in the Plan Recovery Trust a separate statement setting
14 forth the Holder's share of items of income, gain, loss, deduction, or credit and will instruct the Holder
15 to report such items on its U.S. federal income tax return. Events subsequent to the date of this
16 Disclosure Statement, such as the enactment of additional tax legislation, could also change the U.S.
17 federal income tax consequences of the Plan and the transactions contemplated thereunder.

18 **A Plan Recovery Trust Beneficiary who is a victim of a Ponzi scheme might be entitled**
19 **to claim a loss dependent on its individual circumstances.** Such losses that arise out of property
20 used in a trade or business or a transaction entered into for profit are deductible in the year in which
21 the loss is sustained and in an amount not to exceed the adjusted tax basis of the property involved. A
22 theft loss generally cannot be deducted in a tax year to the extent that there are reasonable prospects
23 of a recovery of some or all of the loss. In that event, the deduction is postponed until it can be
24 ascertained with reasonable certainty the likelihood and amount of any reimbursement that will be
25 received. The loss generally must be deducted in the first year a reasonable prospect of recovery no
26 longer exists, and cannot be claimed in any subsequent year. The reasonable prospect of
27 reimbursement rule applies only to that part of the loss for which reimbursement is available. However,
28 in 2009, the IRS issued Rev. Proc. 2009-20, 2009-14 I.R.B. 735, to provide an optional safe harbor

1 allowing certain taxpayers to claim a theft loss deduction under IRC section 165 for qualified losses
2 resulting from certain fraudulent investment schemes. Rev. Proc. 2009-20 generally defines a
3 qualified loss as a loss from a specified fraudulent arrangement, including Ponzi schemes, for which
4 authorities have charged the lead figure by indictment, information, or criminal complaint with a crime
5 that meets the definition of theft for purposes of IRC section 165. Under these safe-harbor provisions,
6 a qualified investor may deduct 95% of qualified investment in the discovery year (i.e., the year in
7 which the indictment, information, or complaint described in Rev. Proc. 2009-20 is filed) if the
8 qualified investor does not pursue any potential third-party recovery. A 75% deduction is available in
9 the discovery year if a qualified investor is pursuing or intends to pursue any potential third-party
10 recovery. The details for qualification for the safe harbor deduction are set forth in Rev. Proc. 2009-
11 20.

12 In 2011, the IRS issued Rev. Proc. 2011-58, 2011-58 I.R.B. 849, which modified the provisions
13 of Rev. Proc. 2009-20. Under Rev. Proc. 2011-58, the safe harbor provisions of Rev. Proc. 2009-20
14 may be utilized if a lead figure was charged by indictment or information under state or federal law
15 with the commission of fraud, embezzlement, or a similar crime that, if proven, would meet the
16 definition of theft for purposes of IRC section 165 and Treasury regulations section 1.165-8(d) under
17 the law of the jurisdiction in which the theft occurred, and the indictment or information has not been
18 withdrawn or dismissed (other than because of the death of the lead figure). Under Rev. Proc. 2011-
19 58, the safe harbor provisions of Rev. Proc. 2009-20 may also be utilized if a lead figure was the
20 subject of a state or federal criminal complaint alleging the commission of a crime described in section
21 4.02(1) of Rev. Proc. 2011-58, the complaint has not been withdrawn or dismissed (other than because
22 of the death of the lead figure), and either (a) the complaint alleged an admission by the lead figure,
23 or the execution of an affidavit by that person admitting the crime; or (b) a receiver or trustee was
24 appointed with respect to the arrangement or assets of the arrangement were frozen.

25 Rev. Proc. 2011-58 further clarified, among other things, that the terms “indictment,”
26 “information,” and “criminal complaint” as used in Rev. Proc. 2009-20 have meanings similar to the
27 use of those terms in the Federal Rules of Criminal Procedure. Given the Mattson Indictment and
28 Mattson SEC Complaint, safe harbor treatment under Rev. Proc. 2009-20 may be available to certain

1 Plan Recovery Trust Beneficiaries. Plan Recovery Trust Beneficiaries should consult with their
2 own tax advisors to determine if a theft loss deduction is permissible, as well as the timing, amount,
3 and applicable limitations for any such theft loss deduction.

4 **E. Withholding on Distributions and Information Reporting**

5 All Distributions to Holders of Allowed Claims under the Plan and any Distributions to the
6 Holders of Plan Recovery Trust Units are subject to any applicable tax withholding, including
7 employment tax withholding. Under U.S. federal income tax law, interest, dividends, and other
8 reportable payments may, under certain circumstances, be subject to “backup withholding” at the then-
9 applicable withholding rate. Backup withholding generally applies if the payment recipient (i) fails to
10 furnish the recipient’s social security number or other taxpayer identification number, (ii) furnishes an
11 incorrect taxpayer identification number, (iii) fails to properly report interest or dividends, or (iv) under
12 certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the
13 taxpayer’s identification number provided is the recipient’s correct taxpayer identification number and
14 that such recipient is not subject to backup withholding. Backup withholding is not an additional tax
15 but merely an advance payment, which may be refunded to the extent it results in an overpayment of
16 tax. Certain Persons are exempt from backup withholding, including, in certain circumstances,
17 corporations, and financial institutions.

18 In addition, a Holder of an Allowed Claim that is a not a U.S. entity may be subject to additional
19 withholding, depending on, among other things, the particular type of income and whether the type of
20 income is subject to a lower treaty rate. As to certain Claims, it is possible that withholding may be
21 required with respect to distributions by the Debtor making such Distribution or by the Plan Recovery
22 Trust, as applicable, even if no withholding would have been required if payment was made before
23 the Cases. A non-U.S. Holder may also be subject to other adverse consequences in connection with
24 the implementation of the Plan. As discussed above, the foregoing discussion of the U.S. federal
25 income tax consequences of the Plan does not generally address the consequences to non-U.S. Holders.
26 Non-U.S. Holders are urged to consult their own tax advisors regarding potential withholding on
27 Distributions under the Plan.

In addition, Treasury Regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer's claiming a loss in excess of specified thresholds. Holders are urged to consult their own tax advisors regarding these Treasury Regulations and whether the transactions contemplated by the Plan would be subject to these Treasury Regulations and require disclosure on the Holder's tax returns.

VIII.

RECOMMENDATION

The Plan Proponents believe that confirmation and implementation of the Plan are the best alternative under the circumstances and urge all Impaired Creditors entitled to vote on the Plan to vote in favor of and support confirmation of the Plan.

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Respectfully submitted,

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Comparison Summary

Original file: 4917-0226-7989.v18 LeFever - Disclosure Statement.docx

Modified file: 4937-5483-4032.v7 LeFever - Amended Disclosure Statement.docx

Date of Comparison: 2025/10/20 09:10:48 AM

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Words Inserted: 6186

Tables Deleted: 0

Tables Inserted: 0

Tables Modified : 4

Images Deleted: 0

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