

READING GUIDE TO
DISCLOSURE STATEMENT AND PLAN OF REORGANIZATION

1. Before beginning, a complete copy of the Disclosure Statement and Plan, including endnotes, should be printed.
2. Each endnote contains either information to be inserted into the text of the Plan (in **bold**), or instructional information for the plan proponent (underlined), which should not be included in the text. Within the footnotes, information contained in <brackets> may apply, and should be inserted where appropriate.
3. After inserting the appropriate information, the endnotes (which are both in bold and redlined in the text) should be deleted from the text.
4. The Proponent should review the disclosure statement for spelling, typographical, and grammatical errors. In some paragraphs, either the singular or plural form of nouns or verbs are used; however, the particular facts of the Proponent's plan may call for the opposite form. Be sure to make the appropriate changes.
5. Sections II, III, IV, and V should not be modified. Any voting information relevant to this Plan should be provided in Section VI.

FINPLAN 11/95

DISCLOSURE STATEMENT AND PLAN OF REORGANIZATION FOR
_____ [Debtor's name]

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XX. DECLARATION IN SUPPORT OF DISCLOSURE STATEMENT AND PLAN 26

1 I. INTRODUCTION

2

3 On 1, 2 ("Debtor") filed a bankruptcy petition under Chapter 11
4 of the Bankruptcy Code ("Code"). The document you are reading is
5 both the Plan of Reorganization ("Plan") and the Disclosure
6 Statement. 3 ("Proponent") has proposed the Plan to treat the
7 claims of the Debtor's creditors and, if applicable, the
8 interests of shareholders or partners 4. A disclosure statement
9 describes the assumptions that underlie the Plan and how the Plan
10 will be executed. The Bankruptcy Court ("Court") has approved
11 the form of this document as an adequate disclosure statement,
12 containing enough information to enable parties affected by the
13 Plan to make an informed judgment about the Plan. The Court has
14 not yet confirmed the Plan, which means the terms of the Plan are
15 not now binding on anyone.

16

17 The Proponent has reserved 5 in Courtroom 6 for a hearing to
18 determine whether the Court will confirm the Plan.

19

20 Any interested party desiring further information should contact:
21 7.

1 **II. GENERAL DISCLAIMER AND VOTING PROCEDURE**

2
3 PLEASE READ THIS DOCUMENT, INCLUDING THE ATTACHED EXHIBITS,
4 CAREFULLY. IT EXPLAINS WHO MAY OBJECT TO CONFIRMATION OF THE
5 PLAN. IT EXPLAINS WHO IS ENTITLED TO VOTE TO ACCEPT OR REJECT
6 THE PLAN. IT ALSO TELLS ALL CREDITORS AND ANY SHAREHOLDERS OR
7 PARTNERS WHAT TREATMENT THEY CAN EXPECT TO RECEIVE UNDER THE
8 PLAN, SHOULD THE PLAN BE CONFIRMED BY THE COURT.

9
10 THE SOURCES OF FINANCIAL DATA RELIED UPON IN FORMULATING THIS
11 DOCUMENT ARE SET FORTH IN THE DECLARATION IN SECTION XX BELOW.
12 ALL REPRESENTATIONS ARE TRUE TO THE PROPONENT'S BEST KNOWLEDGE.

13
14 NO REPRESENTATIONS CONCERNING THE DEBTOR THAT ARE INCONSISTENT
15 WITH ANYTHING CONTAINED HEREIN ARE AUTHORIZED EXCEPT TO THE
16 EXTENT, IF AT ALL, THAT THE COURT ORDERS OTHERWISE.

17
18 After carefully reviewing this document and the attached
19 exhibits, please vote on the enclosed ballot and return it in the
20 enclosed envelope.

21
22 The Proponent has reserved a hearing date for a hearing to
23 determine whether the Court will confirm the Plan. Please refer

1 to Section I above for the specific hearing date. If, after
2 receiving the ballots, it appears that the Proponent has the
3 requisite number of votes required by the Code, the Proponent
4 will file a motion for an order confirming the Plan.

5
6 The Motion shall at least be served on all impaired creditors and
7 partners or shareholders who reject the Plan and on the Office of
8 the United States Trustee. Any opposition to the Motion shall be
9 filed and served on the Proponent **8** no later than eleven days
10 prior to the hearing date. Failure to oppose the confirmation of
11 the Plan may be deemed consent to the Plan's confirmation.

12
13 **III. WHO MAY OBJECT TO CONFIRMATION OF THE PLAN**

14
15 Any party in interest may object to confirmation of the Plan, but
16 as explained below not everyone is entitled to vote to accept or
17 reject the Plan.

18
19 **IV. WHO MAY VOTE TO ACCEPT OR REJECT THE PLAN**

20
21 It requires both an allowed and impaired claim or interest in
22 order to vote either to accept or reject the Plan. A claim is
23 defined by the Code to include a right to payment from the

1 Debtor. An interest represents an ownership stake in the Debtor.

2
3
4 In order to vote a creditor or interest-holder must first have an
5 allowed claim or interest. With the exceptions explained below, a
6 claim is allowed if proof of the claim or interest is properly
7 filed before any bar date and no party in interest has objected,
8 or if the court has entered an order allowing the claim or
9 interest. Please refer to Section VI below for specific
10 information regarding bar dates in this case.

11
12 Under certain circumstances a creditor may have an allowed claim
13 even if a proof of claim was not filed and the bar date for
14 filing a proof of claim has passed. A claim is deemed allowed if
15 the claim is listed on the Debtor's schedules and is not
16 scheduled as disputed, contingent, or unliquidated. Exhibit "A"
17 contains a list of claims that are not scheduled as disputed,
18 contingent, or unliquidated.

19
20 Similarly, an interest is deemed allowed if it is shown on the
21 list of equity security holders filed by the Debtor with the
22 court and is not scheduled as disputed.

23
24 In order to vote, an allowed claim or interest must also be

1 impaired by the Plan.

2
3 Impaired creditors include those whose legal, equitable, and
4 contractual rights are altered by the Plan, even if the
5 alteration is beneficial to the creditor. 9 A contract
6 provision that entitles a creditor to accelerated payment upon
7 default does not, however, necessarily render the claimant
8 impaired, even if the Debtor defaulted and the Plan does not
9 provide the creditor with accelerated payment. The creditor is
10 deemed unimpaired so long as the Plan cures the default,
11 reinstates the maturity of such claim as it existed before
12 default, and compensates for any damages incurred as a result of
13 reasonable reliance upon the acceleration clause.

14
15 Impaired interest-holders include those whose legal, equitable,
16 and contractual rights are altered by the Plan, even if the
17 alteration is beneficial to the interest holder.10

18
19 There are also some types of claims which the Code requires be
20 treated a certain way. For that reason they are considered
21 unimpaired and therefore holders of these claims cannot vote.

22
23 To summarize, there are two prerequisites to voting: a claim or

1 interest must be both allowed and impaired under the Plan.

2
3 If a creditor or interest-holder has an allowed and impaired
4 claim or interest, then he or she may vote either to accept or
5 reject the Plan (unimpaired claimants or interest-holders are
6 deemed to have accepted the Plan). Impaired claims or interests
7 are placed in classes and it is the class that must accept the
8 Plan. Members of unimpaired classes do not vote, although as
9 stated above, they may object to confirmation of the Plan. Even
10 if all classes do not vote in favor of the Plan, the Plan may
11 nonetheless be confirmed if the dissenting classes are treated in
12 a manner prescribed by the Code. Please refer to Section VI
13 below for information regarding impaired and unimpaired classes
14 in this case.

15
16 Section IX sets forth which claims are in which class. Secured
17 claims are placed in separate classes from unsecured claims.
18 Fed. R. Bankr. P. 3018(d) provides: "A creditor whose claim has
19 been allowed in part as a secured claim and in part as an
20 unsecured claim shall be entitled to accept or reject a plan in
21 both capacities."

22
23 **V. VOTES NECESSARY TO CONFIRM THE PLAN**

1 The Court may confirm the Plan if at least one noninsider
2 impaired class of claims has accepted and certain statutory
3 requirements are met as to both nonconsenting members within a
4 consenting class and as to dissenting classes. A class of claims
5 has accepted the Plan when more than one-half in number and at
6 least two-thirds in amount of the allowed claims actually voting,
7 vote in favor of the Plan. A class of interests has accepted the
8 Plan when at least two-thirds in amount of the allowed interests
9 of such class actually voting have accepted it. It is important
10 to remember that even if the requisite number of votes to confirm
11 the Plan are obtained, the Plan will not bind the parties unless
12 and until the Court makes an independent determination that
13 confirmation is appropriate. That is the subject of any upcoming
14 confirmation hearing.

15
16 **VI. INFORMATION REGARDING VOTING IN THIS CASE**

17
18 The bar date for filing a proof of claim in this case was **11**.

19 The bar date for objecting to claims was **12**.

20
21 In this case the Proponent believes that class **13** is impaired and
22 therefore entitled to vote. Class **14** is unimpaired and therefore
23 does not vote. A party that disputes the Proponent's

1 characterization of its claim or interest as unimpaired may
2 request a finding of impairment from the Court in order to obtain
3 the right to vote.

4
5 Ballots must be received by the Proponent, addressed to 15 by 16.

6
7 **VII. DESCRIPTION OF DEBTOR'S PAST AND FUTURE BUSINESS AND EVENTS**

8 **PRECIPITATING BANKRUPTCY FILING**

9
10 The Debtor is a 17.

11
12 Debtor conducted 18 of its business activity in 19 since 20.

13
14 What follows is a brief summary of the dates and circumstances
15 that led Debtor to file bankruptcy. 21

16
17 What follows is a brief description of the Debtor's business and
18 future business plans. Further details relating to the Debtor's
19 financial condition and post-confirmation operation of the Debtor
20 are found in sections X, XI, XII, XIV and XV.

21
22 22

1 VIII. CRITICAL PLAN PROVISIONS

2
3 Listed below are the sources of money earmarked to pay creditors
4 and interest-holders.

5 a. Future earnings from continued operations of the
6 Debtor.

7 b. 23

8
9 Most likely, general unsecured creditors can expect payment on:

10 a. 24

11 b. in the amount of 25

12 c. and continuing every 26 for 27.

13
14
15 IX. DESCRIPTION AND TREATMENT OF CLAIMS

16
17 a. Overview of Plan Payments 28

18 Below is a summary of who gets paid what and when and from what
19 source. The identity of members within a particular class is
20 explained beginning on the next page. The second column lists
21 two amounts. 29 First, the amount of each payment, or if only one
22 is to be made, then that amount; second, the total amount that
23 will be paid. The Proponent is usually not required by law to

1 pay an unsecured creditor or interest holder everything it would
2 otherwise be entitled to had a bankruptcy case not commenced.

3 The "Payment Due Date" column states the frequency with which
4 payments will be made and the starting and ending dates. Look at
5 the starting date to figure out who will be paid before and after
6 you and in what amount. The "Source of Payment" column describes
7 the expected source of payment. Further details regarding the
8 source of payment are found in sections X and XI.

9
10 The timing of payments to many creditors is determined by the
11 "Effective Date." Administrative claims, unless otherwise
12 stated, must be paid by the Effective Date. The timing of
13 payments to impaired creditors is measured from the Effective
14 Date.**30** In this case, the Effective Date is **31**.

1	<u>Payment Recipient</u>	<u>Amount of each Payment</u>	<u>Payment</u>
2	<u>Due Date</u>	<u>Source of Payment</u>	
3		<u>(Total amount to be paid</u>	
4			
5	1.Ms. Bankruptcy Attorney	\$50,000	12/15/92
6		\$25,000 retainer	
7		(\$50,000)	[effective date]
8	\$25,000 sale of personal		
9			property
10	2.Class "X"	\$5,000	quarterly;
11		\$15,000	1/15/93 - 7/15/93
12	post-confirmation income		
13			
14	3.Class "Y"	\$5,000	quarterly;
15	post-confirmation income		
16		\$100,000	1/15/93 - 1/15/97
17	//		
18	//		
19	//		
20	//		
21	//		
22	//		
23	//		
24	//		

1	//
2	//
3	//
4	//
5	//
6	//
7	//
8	//
9	//
10	//
11	//

1 All claims listed below are undisputed. 32 No claimant or
2 interest holder is an affiliate of the Debtor. 33

3
4 Below is a detailed description and treatment of claims and
5 interests

6
7 b. Administrative Expenses

8 1. These include the "actual, necessary costs and
9 expenses of preserving the estate" as determined by the Court
10 after notice to creditors of a request for payment and after a
11 hearing thereon. 34

12 2. The Code requires that allowed administrative
13 expenses be paid on the effective date unless the party holding
14 the administrative expense agrees otherwise. The claimant has
15 not agreed otherwise. 35 36

16
17 Administrative Claim #1. 37

18 Claimant: _____

19 \$ _____, subject to court approval

20

1 Administrative Claim # 2.

2 Claimant: _____

3 \$ _____, subject to court approval

4
5 TOTAL \$ _____

6
7
8 c. Unsecured Tax Claims

9 1. These include certain types of property, sales,
10 and income taxes. **38**

11 2. The Code requires that the holders of such claims
12 receive cash payments over a period not exceeding six years after
13 the date of assessment of such claim, unless agreed otherwise.
14 The claimant has not agreed otherwise. **39** The total cash
15 payments must have a present value equal to the amount of the
16 allowed claim. The amount of the allowed claim includes the
17 amount of tax owed plus interest of **40** %. The present value is
18 calculated as of the effective date.

19
20 Tax Claim # 1.

21 Claimant:

22 Date(s) of assessment:

23 Total amount of allowed claim as of [date]:

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Total amount of payments (over time) to satisfy the
claim:
Interest rate (to compensate creditor because claim is
paid over time):
First payment date:
Amount of each installment:
Frequency of payments:
Total yearly payments:
Final Payment date:

TOTAL UNSECURED TAX CLAIM(S) \$ _____

d. CLASS ONE 41
Secured Claim of _____ 42

Total amount of allowed claim:
Total amount of payments (over time) to satisfy the
secured claim:
Interest rate (to compensate creditor because claim
is paid over time):
Impaired 43
First payment date:

1 Amount of each installment:
2 Frequency of payments:
3 Total yearly payments:
4 Final payment date:
5 Lien is not modified in any way by the Plan. 44
6 Description of Collateral:
7 Additional comments:

8
9 45

10
11 e. CLASS TWO

12 Unsecured Claims

13 See Exhibit "A" for list of claimants and
14 amount owed each.

15
16 Total amount allowed claims:
17 Total amount of payments (over time) to satisfy claims:
18 Interest rate 46 :
19 Impaired 47
20 First payment date:
21 Amount of each installment:
22 Frequency of payments:
23 Total yearly payments:

1 Final payment date:

2 Additional comments:

3

4 f. CLASS THREE

5 Insider Claims

6 1. This is the claim of a person as defined in 11
7 U.S.C. § 101(31). Essentially, an insider is a person with a
8 close relationship with the debtor, other than a creditor-debtor
9 relationship.

10 Insider # 1.

11 Claimant:

12 Total amount of allowed claim:

13 Total amount of payments (over time) to satisfy claims:

14 Interest rate (to compensate creditors because claim is
15 paid over time):

16 Impaired **48**

17 First payment date:

18 Amount of each installment:

19 Frequency of payments:

20 Total yearly payments:

21 Final payment date:

22 Additional comments:

23

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23

TOTAL INSIDER CLAIMS \$ _____

49

h. CLASS FOUR

Shareholders Interests

50

1. Under the Plan, shareholders simply retain their shares of stock.

51

X. SOURCE OF MONEY TO PAY CLAIMS AND INTEREST-HOLDERS

The Plan cannot be confirmed unless the Court finds that it is "feasible," which means that the Proponent has timely submitted evidence establishing that the Debtor will have sufficient funds available to satisfy all expenses, including the scheduled creditor payments discussed above. What follows is a statement of projected cash flow for the duration of the Plan. The focus is on projected cash receipts and cash disbursements. All non-cash items such as depreciation, amortization, gains and losses are omitted. A positive number reflects a source of cash; a

1 (negative number) reflects a use of cash. A more detailed
2 statement of cash flow projections for the duration of Plan
3 payments is attached as Exhibit "52".

	<u>Years of Plan Payments</u>	
	year#1	year#2 53
	199 54	199 55

9	Net cash flow	
10	<u>From operating activities:</u>	
11	Collections from 56	1,960,000
12	Payments for inventory	(1,227,000)
13	Payments for selling	(505,000)
14	Payments for interest	(15,000)
15	Payments for income taxes	<u>(79,000)</u>
16	Total	134,000
17	Yearly plan payments:	(60,000)
18	Net cash available to Debtor	
19	after all plan payments made:	84,000

20
21 Section XV(c) states the assumptions and details surrounding the
22 statement of projected cash flow.

23
24 On the effective date, the Plan pays 57.

25
26 **XI. FINANCIAL RECORDS TO ASSIST IN DETERMINING WHETHER PROPOSED**
27 **PAYMENT IS FEASIBLE 58**

28
29 Attached as Exhibit "59" are three types of financial documents,
30 including balance sheets, cash flow statements and income and
31 expense statements for the period including the most recent

1 twelve-month calendar year and all months subsequent thereto. 60

2
3 **XII. ASSETS AND LIABILITIES OF THE ESTATE**

4
5 a. Assets

6 The identity and fair market value of the estate's assets are
7 listed in Exhibit "61" so that the reader can assess what assets
8 are at least theoretically available to satisfy claims and to
9 evaluate the overall worth of the bankruptcy estate. Whether the
10 Plan proposes to sell any of these assets is discussed in section
11 XVI.

12
13 b. Liabilities

14 Exhibit "62" shows the allowed claims against the estate, claims
15 whose treatment is explained in detail by section VIII.

16
17 c. Summary

18
19 The fair market value of all assets equals 63. Total liabilities
20 equal 64.

1 **XIII. TREATMENT OF NONCONSENTING CLASSES**

2
3 As stated above, even if all classes do not consent to the
4 proposed treatment of their claims under the Plan, the Plan may
5 nonetheless be confirmed if the dissenting classes are treated in
6 a manner prescribed by the Code. The process by which dissenting
7 classes are forced to abide by the terms of a plan is commonly
8 referred to as "cramdown." The Code allows dissenting classes to
9 be crammed down if the Plan does not "discriminate unfairly" and
10 is "fair and equitable." The Code does not define
11 discrimination, but it does provide a minimum definition of "fair
12 and equitable." The term can mean that secured claimants retain
13 their liens and receive cash payments whose present value equals
14 the value of their security interest. For example, if a creditor
15 lends the Debtor \$100,000 and obtains a security interest in
16 property that is worth only \$80,000, the "fair and equitable"
17 requirement means that the claimant is entitled to cash payments
18 whose present value equals \$80,000 and not \$100,000. The term
19 means that unsecured claimants whose claims are not fully
20 satisfied at least know that no claim or interest that is junior
21 to theirs will receive anything under the Plan. "Fair and
22 equitable" means that each holder of an interest must receive the
23 value of such interest or else no junior interest is entitled to

1 receive anything.

2 Therefore, if a class of general unsecured claims votes
3 against the plan, the plan cannot be confirmed where the debtor
4 or a class of interest holders (e.g. shareholders or partners)
5 will receive or retain any property under the plan, unless the
6 plan provides that the class of general unsecured claims shall be
7 paid in full with interest. Similarly, if a class of interest
8 holders votes against the plan, the plan cannot be confirmed
9 where the debtor will receive or retain any property under the
10 plan, unless the plan provides that the class of interest holders
11 shall be paid in full with interest. These are complex statutory
12 provisions and the preceding paragraphs do not purport to state
13 or explain all of them.

14 **65**

15
16 **XIV. TREATMENT OF NONCONSENTING MEMBERS OF CONSENTING**
17 **CLASS (CHAPTER 7 LIQUIDATION ANALYSIS)**

18
19 The Plan must provide that a nonconsenting impaired claimant or
20 interest holder of a consenting class receive at least as much as
21 would be available had the Debtor filed a Chapter 7 petition
22 instead.

1 In a Chapter 7 case the general rule is that the Debtor's assets
2 are sold by a trustee. Unsecured creditors share in the proceeds
3 of sale only after secured creditors and administrative claimants
4 are paid. Certain unsecured creditors get paid before other
5 unsecured creditors do. Unsecured creditors with the same
6 priority share in proportion to the amount of their allowed claim
7 in relationship to the total amount of allowed claims.

8
9 A creditor would recover from the assets of the bankruptcy estate
10 less under Chapter 7 than under Chapter 11 for three reasons **66**.
11 First, the liquidation value of **67** is less than its fair market
12 value **68** because **69**. Second, in a chapter 7 case a trustee is
13 appointed and is entitled to compensation from the bankruptcy
14 estate in an amount no more than 25% of the first \$5,000 of all
15 moneys disbursed, 10% on any amounts over \$5,000 and up to
16 \$50,000, 5% on all amounts over \$50,000 and up to \$1,000,000, and
17 such reasonable compensation no more than 3% of moneys over
18 \$1,000,000. Finally, a chapter 7 recovery may be less because an
19 individual debtor is permitted to exempt a certain amount of the
20 sales proceeds before unsecured creditors are paid anything.**70**

Chapter 7

Chapter 11 **71**

1. value of assets

2. administrative exp.
secured claims
priority unsecured
claims

3. chapter 7 trustee fee

n/a

4. exemption(s)

n/a

TOTAL AVAILABLE FOR
DISTRIBUTION TO
GENERAL UNSECURED CR.

unsecured creditors
receive payment of
72% of total
claims

unsecured creditors
receive payment of
73% of total allowed
claims under Plan

XV. FUTURE DEBTOR **74**

a. Management of Debtor

1. Names of persons who will manage the Debtor's business
affairs:

2. Proposed compensation to persons listed above:

3. Qualifications:

4. Affiliation of persons to Debtor:

1 5. Job description:

2
3 b. Disbursing Agent

4 75 is responsible for collecting money intended for
5 distribution to claimants and transmitting it to them.

6 The disbursing agent's address and telephone number is:

7 76.

8 1. Proposed compensation to person listed above:

9 2. Qualifications:

10 3. Affiliation of person to Debtor:

11 4. Job description:

12
13 c. Future Financial Outlook

14 The Proponent believes that the Debtor's economic health
15 will improve 77 from its prebankruptcy state for the following
16 reasons. 78

17
18 Section X provides a summary of the projected cash flow of
19 the Debtor for the duration of the Plan. The following
20 assumptions underlie the projections. 79 80 As previously
21 stated, Plan payments will come from the continued operation of
22 the Debtor's business. If the business generates insufficient
23 funds to provide all of the Plan payments, then the Proponent

1 will make up the shortfall under the following conditions and
2 subject to the following terms **81**. The Proponent's financial
3 solvency which is relevant to its ability to honor its commitment
4 to make up any shortfall is demonstrated by the following facts.

5 **82**

6 **83**

7
8 **XVI. SALE OF PROPERTY; ASSUMPTION OF CONTRACTS AND LEASES;**

9 **OTHER PROVISIONS**

10
11 The Plan provides for the following: **84**

12
13 The Court must make certain findings of fact before approving the
14 aforementioned provisions as part of the Plan. The Proponent
15 will request that the Court make the appropriate findings at the
16 confirmation hearing, based upon evidence submitted in support of
17 the confirmation motion.

18
19
20 **XVII. BANKRUPTCY PROCEEDINGS**

21
22 **85**

1 **XVIII. TAX CONSEQUENCES OF PLAN**

2
3 **86**

4
5 PERSONS CONCERNED WITH THE TAX CONSEQUENCES OF THIS PLAN SHOULD
6 CONSULT THEIR OWN ACCOUNTANTS, ATTORNEYS AND/OR ADVISORS. THE
7 PROPONENT MAKES THE AFOREMENTIONED DISCLOSURE OF POSSIBLE TAX
8 CONSEQUENCES FOR THE SOLE PURPOSE OF ALERTING READERS OF TAX
9 ISSUES THEY MAY WISH TO CONSIDER. THE PROPONENT CANNOT AND DOES
10 NOT REPRESENT THAT THE TAX CONSEQUENCES MENTIONED ABOVE ARE
11 COMPLETELY ACCURATE BECAUSE THE TAX LAW EMBODIES MANY COMPLICATED
12 RULES, WHICH MAKE IT DIFFICULT TO ACCURATELY STATE WHAT THE TAX
13 IMPLICATIONS OF ANY ACTION MIGHT BE.

14
15 **XIX. EFFECT OF CONFIRMATION OF PLAN**

16
17 a. General comments

18 The provisions of a confirmed Plan bind the Debtor, any entity
19 acquiring property under the Plan, and any creditor, interest
20 holder, or general partner of the Debtor, even those who do not
21 vote to accept the Plan.

22
23 The confirmation of the Plan vests all property of the estate in

1 the Debtor. 87

2
3 The automatic stay is lifted upon confirmation as to property of
4 the estate. However, the stay continues to prohibit collection
5 or enforcement of pre-petition claims against the debtor or the
6 debtor's property until the date the debtor receives a discharge,
7 if any. If the Debtor does not seek a discharge, the discharge
8 is deemed denied, and the stay as to the Debtor and the Debtor's
9 property terminates upon entry of the order confirming the Plan.

10
11 b. Discharge of liability for payment of debts; status
12 of liens; equity security holders

13 Unless the Debtor is not entitled to receive a discharge pursuant
14 to Code Section 1141(d)(3), the debtor may obtain a discharge
15 only upon specific order of the Court. 88

16
17 c. Modification of the Plan

18 The Proponent may modify the Plan at any time before
19 confirmation. The Proponent may modify the Plan at any time
20 after confirmation and before substantial consummation, but only
21 if circumstances warrant and after notice and hearing.

22
23 d. Post-Confirmation Causes of Action

1 To the best knowledge of the Proponent, the estate has the
2 following causes of action: 89
3 90 is designated as representative of the estate under Section
4 1123(b)(3) of the Code and shall have the right to assert any or
5 all of the above causes of action post-confirmation in accordance
6 with applicable law.

7

8 e. Final Decree

9 Once the Plan has been consummated, a final decree may be entered
10 upon motion of the Proponent. The effect of the final decree is
11 to close the bankruptcy case. After such closure, a party
12 seeking any type of relief relating to a Plan provision can seek
13 such relief in a state court of general jurisdiction.

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23

XX. DECLARATION IN SUPPORT OF DISCLOSURE STATEMENT AND PLAN

I, **91**, declare under penalty of perjury under the laws of the United States of America that the following statements are true and based upon personal knowledge.

1. **92** is the individual who prepared this document. **93**

2. The source of all financial data is **94**.

3. All facts and representations in the Plan and Disclosure Statement are true to the best of my knowledge.

4. No fact material to a claimant or equity security holder in voting to accept or reject the proposed Plan has been omitted.

5. The name of the accountant(s) who prepared the cash flow projections and the other financial documents is **95**.

6. The accounting method(s) used to prepare the cash flow projections and the other financial documents is (are) **96**.

1 Date: 97

2 \\\

Consolidated Balance Sheets
December 31, 1990 and 1989

	<u>ASSETS</u>	<u>1990</u>	<u>1989</u>
8	Current assets:		
9	Cash and cash equivalents		\$
10	x,xxx x,xxx		
11	Trade accounts and notes receivable, less allowance for		
12	doubtful		
13	accounts of \$xxx in 1990 and \$xxx in 1989		
14	x,xxx x,xxx		
15	Due from officers and employees		
16	xxx xxx		
17	Inventories		
18	Finished goods		x,xxx
19	x,xxx		
20	Work in process		x,xxx
21	x,xxx		
22	Raw materials and supplies		—
23	<u>x,xxx</u> <u>x,xxx</u>		
24	Total inventories		
25	x,xxx x,xxx		
26	Prepaid expenses		<u>xxx</u>
27	<u>xxx</u>		
28			
29	Total current assets		
30	<u>xx,xxx</u> <u>xx,xxx</u>		
31			
32	Marketable investment securities		
33	xxx xxx		
34	Investments in affiliated companies		
35	x,xxx x,xxx		
36			
37	Property, plant, and equipment:		
38	Land		xxx
39	xxx		
40	Buildings		x,xxx
41	x,xxx		
42	Machinery and equipment		x,xxx
43	x,xxx		
44	Leasehold improvements		xxx
45	xxx		
46	Construction in progress		<u>xxx</u>
47	<u>xxx</u>		

1	Less accumulated depreciation and amortization		
2		<u>x,xxx</u>	<u>x,xxx</u>
3	Net property, plant, and equipment		
4	xx,xxx		xx,xxx
5			
6	Goodwill, less accumulated amortization		
7	xxx	xxx	
8	Other assets, at cost, less accumulated amortization		
9		<u>xxx</u>	<u>xxx</u>
10			
11			<u>\$xx,xxx</u>
12	<u>\$xx,xxx</u>		
13			
14			

Consolidated Balance Sheets
December 31, 1990 and 1989

	<u>1989</u>	<u>1990</u>
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Current liabilities:

Notes payable to banks		\$
xxx	xxx	
Current installments of long-term debt		
xxx	xxx	
Current installments of obligations under capital leases		
xxx	xxx	
Trade accounts payable		x,xxx
x,xxx		
Income taxes payable		
xxx	xxx	
Due to affiliated company		
xx	xx	
Accrued expenses		xxx
xxx		
Deferred income taxes		
<u>x,xxx</u>	<u>x,xxx</u>	
Total current liabilities		
x,xxx	x,xxx	

Long-term debt, excluding current installments		
x,xxx	x,xxx	
Obligations under capital leases, excluding current installments		
x,xxx	x,xxx	

Deferred income taxes		
<u>x,xxx</u>	<u>x,xxx</u>	

Total liabilities		
<u>xx,xxx</u>	<u>xx,xxx</u>	

Stockholders' equity		
\$x cumulative preferred stock, \$xx par value (aggregate involuntary liquidation preference \$xxx). Authorized xx,xxx shares; issued and outstanding xx,xxx shares 1990 and xx,xxx shares in 1989		
xxx	xxx	
Common stock, \$x par value. Authorized x,xxx,xxx shares; issued x,xxx,xxx shares in 1990 and x,xxx,xxx shares in 1989		
x,xxx	x,xxx	
Additional capital		x,xxx
x,xxx		

1	Retained earnings		<u>x,xxx</u>
2	<u>x,xxx</u>		
3			xx,xxx
4	xx,xxx		
5	Less:		
6	Net unrealized loss on noncurrent marketable equity		
7	securities	(xxx)	(xxx)
8	Treasury stock, x,xxx common shares, at cost		
9	<u>(xxx)</u>	<u>(xxx)</u>	
10	Total stockholders' equity		
11	xx,xxx	xx,xxx	
12			<u>xx,xxx</u>
13	<u>xx,xxx</u>		
14			
15			

INCOME AND EXPENSE STATEMENT
FOR THE 12 MONTH PERIOD ENDING _____

Revenue:

- <Rental revenue>
- <Interest revenue>
- <Other revenue>
- Total revenue

Expenses:

- General and administrative expense
including salaries, utilities, etc.
- <Operating expenses> [Debtor = manufacturer]
- <Cost of goods sold> "
- <Advertising expense>
- <Bad debt expense> (including uncollectible accounts
receivable)
- <Other expense>
- Total expense

Net income for period:

[An important point to bear in mind whenever disclosing financial data is that the financial data is usually presented in the form of voluminous illegible exhibits. This is worthless. It is much better to present this financial information in the form of clear and easily understood summaries. This area of disclosure must be fine-tuned to the particular case. For example, if all parties with the right to vote are sophisticated trades people or investors, then the information may be set forth in a more raw and less digested form. If however, the Debtor has many consumer creditors or small trade creditors, then it is better that the financial information be presented in a simple and brief format.]

STATEMENT OF CASH FLOWS
 Years ended December 31, 1990 and 1989

	<u>1990</u>	<u>1989</u>
Cash flows from operating activities		
Net income		\$x,xxx
x,xxx		
Adjustments to reconcile net income to net cash provided by operated activities:		
Depreciation of plant and equipment	xxx	xxx
Other amortization	xx	xx
Allowance for doubtful accounts		
xx	xx	
Loss on sale of marketable investment securities		
	xx	xx
Undistributed income of affiliates		
(xxx)	(xxx)	
Gain on sale of equipment		
(xxx)	--	
Extraordinary loss on destruction of plant and equipment		
	xxx	--
Increase in trade accounts and notes receivable		
	(xxx)	(xxx)
Decrease (increase) in amounts due from officers and employees	(xx)	xx
Decrease (increase) in inventories		
xxx	(xxx)	
Increase in prepaid expenses		
(xx)	(xx)	
Increase in trade accounts payable		
xxx	xxx	
Decrease in amount due to affiliated company		
	(xx)	(xx)
Increase (decrease) in accrued expenses		
xx	(xx)	
Increase (decrease) in income taxes payable		
	(xxx)	xxx
Increase in deferred income taxes		
<u>xxx</u>	<u>xxx</u>	
Net cash provided by operating activities		
	<u>\$x,xxx</u>	<u>x,xxx</u>
Cash flows from investing activities:		
Proceeds from sale of marketable investment securities	xxx	xxx
Purchases of marketable investment securities		(xx)
		(xx)
Proceeds from sale of equipment		
xxx	--	
Capital expenditures, including interest capitalized		

BALLOT FOR ACCEPTING OR REJECTING PLAN

98 filed a Plan of Reorganization on **99**. **100** By this ballot you will decide whether to accept or reject this Plan.

The Plan referred to in this ballot can be confirmed by the court and thereby bind you if it is accepted by the holders of two-thirds in amount and more than one-half in number of claims in each class and the holders of two-thirds in amount of equity security interests in each class voting on the plan.

If the requisite acceptances are not obtained, the Court may nevertheless confirm the Plan if the Court finds that the Plan accords fair and equitable treatment to the class or classes rejecting it and otherwise satisfies the requirements of § 1129(b) of the Code.

Check the appropriate line below, which describes your interest:

_____ The undersigned, a creditor with an allowed claim in the amount of \$_____:

_____ The undersigned, a holder of a bond in the amount of \$_____, with a stated maturity date of _____, registered in the name of _____, and bearing serial number(s)_____:

_____ The undersigned, the holder of _____ shares of _____ (explain type of stock) stock, with a certificate(s) No. _____:

[] Accepts the Plan

[] Rejects the Plan

101

Print or type name: _____

State which class you are a member of: _____

Signed: _____

If appropriate, by: _____ as _____

Address:

Return this ballot on or before **102** to **103**.

1. Insert petition date.
2. Insert name of Debtor.
3. Insert name of plan proponent; insert "Debtor" if "Debtor" is the proponent.

Less detail is required if the proponent is not the Debtor and does not have access to all relevant information, including all important financial documents, so long as the proponent has taken reasonable steps to procure such information.

4. Insert "and to reorganize the Debtor's business affairs" if the plan contemplates reorganization rather than liquidation.
5. Insert hearing date and time reserved for the motion to confirm the plan.
6. Insert appropriate courtroom number. Judge Ahart's hearings are in courtroom 1375; Judge Zurzolo's hearings are in courtroom 1368.

7. Insert name, telephone number, and address of Proponent.

8. Insert "Trustee" and "Committee" if appropriate.

9. For cases filed after October 22, 1994, please note that the Bankruptcy Reform Act of 1994 deleted §1124(3). Therefore, creditors who receive cash in full equal to their allowed claim by the effective date would be considered impaired under the Bankruptcy Reform Act of 1994.

10. Similarly, an interest holder who receives the greater of any fixed liquidation preference to which the terms of any security representing such interest entitle the interest holder or any fixed price at which the Debtor, under the terms of such security, may redeem such security from such holder is deemed impaired under the Bankruptcy Reform Act of 1994.

11. Insert bar date for filing proofs of claim. If the bar date for filing proofs of claim has not yet passed, so state, and insert the bar date.

12. Insert bar date for objecting to claims. If the bar date for objecting to claims has not yet passed, so state, and insert the bar date.

In most bankruptcy cases it is necessary that a bar date for filing proofs of claims and objections thereto has passed before a disclosure statement and plan are proposed. Without knowing

the amount and nature of the claims against the estate, it is impossible to complete a precise liquidation analysis and difficult to determine whether the Plan is feasible. If all bar dates have not yet passed, the motion for order approving the disclosure statement should explain why the disclosure statement and plan are propounded now instead of waiting for all bar dates to pass. The Proponent can file a motion for order temporarily allowing a claim or interest for the purpose of accepting or rejecting a plan in accordance with Fed. R. Bankr. P. 3018, as can any party in interest.

13. Identify all impaired classes. Change singular words to plural if appropriate.

14. Identify all unimpaired classes. Change singular words to plural if appropriate.

15. Insert Proponent's address.

16. Insert deadline for submitting ballots.

17. Insert "corporation," "partnership," "limited partner of partnership "x"," "general partner of partnership x," "an individual," "unincorporated association," "business trust," etc.

For cases filed after October 22, 1994, the proponent must disclose whether the debtor has elected under §1121(e) to be considered a small business.

18. Insert percentage of business conducted in the location given at note 18.

19. Insert city and state where business conducted.

20. Insert date Debtor began conducting business activity.

21. Insert summary of facts leading to bankruptcy.

Proponent must disclose the receipt of any notices from any governmental agency relating in any manner to actual or potential liability on the part of the Debtor for any environmental or toxic waste hazards, whether or not occurring on the Debtor's premises.

22. Briefly describe the Debtor's business and future business plans. Insert one of the following, if applicable:

a. **Debtor is in the business of renting real estate.**

1. **Location building <#1>:**

2. **Square footage:**

3. **Current occupancy rate:**

4. Debtor will continue to lease its real estate <other?>. [follow same format if additional properties]
- b. Debtor is a real estate developer.
1. Location of Lot <#1>:
 2. Size of lot<s>:
 3. Stage of development:
 4. Debtor will continue to develop and market real estate in order to sell <other?>. [follow same format if additional properties]
- c. Before bankruptcy, Debtor manufactured and<or> sold the following type of product<s>: _____. <Debtor provided the following services for pay: _____.> Debtor will continue this business <other?>.
- d. Debtor is an individual employed by _____ in the capacity as _____ <individual contractor who provides "x" hours of service/week to __ in the capacity as _____.> Debtor will continue this course of conduct <other?>.
23. Insert additional sources of funds; e.g.,
- b. Infusion of capital, consisting of:
 1. a loan; and <or>
 2. equity investment.
 - c. Sale of some or all of the Debtor's assets.
24. Insert date of first payment to general unsecured creditors.
25. Insert the amount of the first payment to unsecured creditors.
26. Insert frequency of further payments to unsecured creditors (e.g., monthly, quarterly).
27. Insert length of time creditors will receive these payments.
28. When preparing the Plan Payment Schedule on this page, you must follow a few rules regarding the WordPerfect 5.1 program.
- a. Unless you change your font size for this section of the document, you will not be able to enter information in the columns as seen in this sample. Change the font size on the line before the column headings and turn it off after you enter the last line of information for this section. The Plan Payment Schedule in this document uses helv 8 pt (Rmn-8)(25inOne!) but you can use another size so long as it is no larger than this one.
 - b. Enter the information while you are in "reveal codes," alt-F3. Do not under any circumstances delete the hard page

return [Hpg] because this command is what creates the columns.
c. Enter information one column at a time.

29. If the Plan provides for distributions of property other than cash, delete the word "payment" and substitute "distribution" where appropriate.

30. If timing of payments is not tied to the Effective Date, explain why.

31. After the Court has approved the Disclosure Statement, the Proponent should insert a specific date as the Effective Date, which date should be on or after the date set for the hearing on the motion to confirm the Plan.

32. If any claims are disputed and the bar date for objecting to claims has not passed, or if there are disputed administrative expenses, then add the following paragraphs:

"On the effective date <insert another date if applicable> the Disbursing Agent <insert another entity if applicable> will deposit into a segregated account ("Reserve Account") an amount of cash equal to <insert amount>% of the aggregate amount of disputed claims. Cash together with interest accruing thereon will be held in trust for the benefit of holders of disputed claims.

When a disputed claim becomes allowed, the Disbursing Agent will distribute to the holder thereof an amount equal to <insert amount>% of its claim plus accrued interest thereon. If a surplus arises from the fact that not all claims are allowed, then that money <shall be available to guarantee payment of other claims><shall revert back to the Debtor.>

33. Modify statement if any person or entity is an affiliate of the debtor.

34. If there are other types of administrative expenses in this case, define what they are. Also, § 507(a)(2) claims must be treated in the same manner as administrative expenses. Please note for cases filed after October 22, 1994, §503(b)(3)(F) allows expenses incurred by a committee member in performance of his/her committee duties as an administrative expense.

35. Change claimant to plural if necessary. If claimant(s) has (have) agreed to accept later payment, so state.

36. Holders of administrative expenses under § 507(b) are paid before other administrative expenses. If any such expenses must be paid, so state.

37. Insert the applicable information in the spaces provided for each class.

38. If there are other types of taxes in this case, change the definition accordingly. The applicable code section is §507(a)(8).

39. If the claimant(s) has (have) agreed to accept later payment, so state.

40. Insert percentage.

The Ninth Circuit in *In re Camino Real Landscape Maintenance Contractors Inc.*, 818 F.2d 1503 (9th Cir. 1987) and subsequent cases has addressed the issue of the proper interest rate.

41. Unless the election is not available, the plan proponent must disclose that each class of secured claim(s) may elect §1111(b)(2) treatment at any time prior to the conclusion of the hearing on the disclosure statement or within such time as the court may fix. See Fed. R. Bankr. P. 3014. If the court has fixed a later time for an §1111(b)(2) election, then so state.

If an § 1111(b)(2) election was made as to any of the following secured claims, then the treatment of any such claim must comply with § 1129(a)(7)(B) which states that "each holder of a claim of such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims." See also Fed. R. Bankr. P. 3014.

42. Insert priority of secured claim (e.g., 1st Deed of Trust).

43. Change to "Unimpaired" if appropriate.

44. If lien **is modified by the Plan, so state, and describe the modification(s).**

45. Place any additional secured creditors in separate secured classes and provide same information as that given above.

46. Interest must be paid on unsecured claims only if unsecured creditors would receive payment in full if the Debtor were liquidated under chapter 7 on the Plan's effective date.

47. Change to "Unimpaired" if appropriate.

48. Change to "Unimpaired" if appropriate.

49. Insider claims that are secured must be placed in separate classes because they are not "substantially similar to the other claims" of such class as required by § 1122.

50. **If applicable, insert "The Articles of Incorporation <insert "Bylaws" if appropriate> have been changed to include a provision prohibiting the issuance of nonvoting equity securities, as required by § 1123(a)(6)."**

51. If applicable, insert the following:

"2. Shareholders redeem their shares of stock and receive consideration as described below." OR

"Partner's interest<s> in partnership Debtor

1. Each partner's interest in the Debtor shall remain as it is now. The general partners are <insert identity of general partners> <If applicable, insert identity of limited partners.>
2. The interest of some <insert "all" if applicable> of the partners changes under the Plan, as described below."

52. Insert exhibit number/letter.

The accounting method used to produce the financial information and the name of the accountant(s) who prepared the documents must be disclosed in the Declaration in Support of Disclosure Statement and Plan, Section XX.

53. Continue listing years of plan payments as applicable.

54. Insert last digit of first year of plan payments.

55. Insert last digit of second year of plan payments.

56. Insert "customers," "tenants," or other source of income.

If there are any additional sources or uses of cash from operating or nonoperating activities like the sale of property outside the ordinary course of business, then add and delete entries accordingly.

57. Insert amount to be paid on effective date.

If applicable, add: "The Court has ordered that prior to confirming the Plan, <insert amount> must be deposited in a special account established for the exclusive purpose of making

the distribution on this date.>

The motion for order seeking approval of this document as containing "adequate information" must be accompanied by evidence of the amount of funds available for Plan payments as of the date the Disclosure Statement and Plan is filed. If the Court has not ordered funds deposited prior to confirming the Plan, then provide evidence in this document of how, when, and in what amount funds will become available for payment on the effective date.

58. If the Plan proposes to pay all creditors on the effective date, then it is not necessary to include any financial documentation. However, the Court may require, prior to confirming the Plan, the deposit with the debtor-in-possession or the trustee of the consideration required by the Plan to be distributed on the effective date. See Fed. R. Bankr. P. 3020.

If the Debtor is a partnership, then the Proponent must disclose the financial condition of the general partners of the partnership, as required by § 1129(a)(7) (liquidation analysis) and § 723(a) (liability of general partner for partnership deficiency).

59. Insert number/letter of exhibit.

60. Unless the Proponent requests from the Court permission to do otherwise, all of these financial statements must be included even if this is a liquidating plan. That is because income and cash flow affects the valuation of assets and because these statements give creditors a basis for comparing the relative advantages and disadvantages of a liquidating plan versus a "going concern" plan.

Balance sheets are useful because they provide a historic view of the Debtor's assets and liabilities. A balance sheet records the relationship between the Debtor's assets and liabilities as of a specific date. The basic equation represented by the balance sheet is that assets equal liabilities plus equity. The bottom line of a balance sheet does not in itself provide the reader much information. That is because it looks at the solvency of the Debtor on one particular day. Moreover, the balance sheet only gives the reader information about assets and not about past nor future earnings.

An income and expense statement recognizes revenue in the period when earned rather than when cash is received. The income statement recognizes expenses in the period when incurred. In contrast, a cash flow statement describes the cash received and spent during the period.

Financial information should be provided for the most recent 12 month calendar year and all months subsequent thereto. For example, if the plan is proposed in June 1993, the proponent

should include financial information for all of 1992, plus the first 5 months of 1993.

An important point to bear in mind whenever disclosing financial data is that the financial data is usually presented in the form of voluminous illegible exhibits. This is worthless. It is much better to present this financial information in the form of clear and easily understood summaries. This area of disclosure must be fine-tuned to the particular case. For example, if all parties with the right to vote are sophisticated trades people or investors, then the information may be set forth in a more raw and less digested form. If, however, the Debtor has many consumer creditors or small trade creditors, then it is better that the financial information be presented in a simple and brief format. The Proponent must explain the basic accounting principles set forth above regarding balance sheets, cash flow statements, and income statements if Debtor's creditors and interest-holders are not sophisticated business people.

61. Insert number/letter of exhibit.

The exhibit should include the following information for all assets:

1. property description <e.g., commercial/residential>
 - A. **fair market value** <sales price> = <insert price>
<if Plan contemplates sale, no need to provide information below>
 1. **basis for opinion of value:** <income/sales approach>
 2. **qualifications of person rendering opinion:**
 3. **date of valuation:**
<if rental property, provide info. below>
 4. **monthly cash flow, deducting for debt service and ordinary, necessary operating expenses;**
Average over past two years = <insert amount>
Average over past three months = <insert amount>

TOTAL ASSETS = _____

Proponent must describe each item of property with particularity and give a value for each item separately. If possible, Proponent should also provide a going concern value for the business as a whole so long as the foundation for that opinion is explained. For accounts receivable, the Proponent must explain the likelihood of collecting the accounts and for what amount. In addition, the debtor's status as a plaintiff in a lawsuit<s> represents potential value to the estate. Although it may be difficult to estimate the exact value of a lawsuit, an effort must be made to present a low and high range of value and the foundation for such belief. The amount of cash on hand must also be disclosed, including for any real property, any prepaid

71. Items 1,2,3, and 4 of this column are not applicable if the plan provides for pyament from future income rather than from proceeds from sale of assets.

72. Insert percentage of total claims unsecured creditors would receive in chapter 7 liquidation.

73. Insert percentage of total allowed claims unsecured creditors would receive under the Plan.

74. Use this section if claims will be paid from post-confirmation operations of the Debtor. Insert the applicable information in the spaces provided.

75. Insert name of proposed disbursing agent.

76. Insert address and telephone number of disbursing agent.

77. Change to "has improved" if appropriate.

78. Insert explanation for improved economic state.

79. Insert assumptions underlying projections.

Specificity is required because this statement is the principle tool for determining whether the Plan is feasible. For example, specify if classes are not supposed to share the post-confirmation income pro rata and in proportion to the amount of their allowed claims.

80. If debtor is to be sold, insert "Section XIV provides that the Debtor will be sold to the Proponent <insert another entity if applicable>."

81. Insert applicable conditions and terms.

82. Insert any applicable facts.

83. If applicable, insert the following:
<MULTI-PURPOSE POST-CONFIRMATION AGENT> <DISBURSING AGENT>

If creditors will not be paid out of the Debtor's continuing post-confirmation operations nor from the sale of all of the Debtor's assets to the Proponent or other entity, choose one of the two titles depending upon whether the Plan appoints a representative of the estate to pursue causes of action and to resolve matters other than the sale of assets and distribution of sales proceeds.

Insert: "<name of Disbursing Agent> has agreed to be employed by the Debtor for the purpose of selling the assets of the estate

and distributing the proceeds in accordance with the Plan. He <or "she"> has no <or "has an"> affiliation with the Debtor. <Explain the nature of any affiliation with the Debtor.> The rate of compensation is as follows <insert compensation>. The Disbursing Agent will pay all amounts due under the Plan from a fund hereby authorized to be opened. This fund shall be maintained in a segregated, interest-bearing account in a depository approved by the United States Trustee for the Central District of California for deposits of funds by trustees."

If the Plan envisions a post-confirmation agent who will assume responsibility beyond simply liquidating assets and making distributions, then describe in detail the scope of the agent's responsibilities, qualifications, any affiliations with the Debtor, compensation, and attach as an exhibit any employment agreement.

84. Insert the relevant paragraphs from those listed here and add others as necessary.

- a. Sale of property of the estate
<identify type of property; identify buyer, terms of sale, buyer's financial condition. If § 1129(b)(2)(A)(ii) applies, then explain how that section impacts on the rights of a lienholder at a sale of the property.>
- b. The assumption, rejection, or assignment of an executory contract or unexpired lease.
<Identify subject of contract or lease and the parties to the agreement. If assumed, apply the requirements of § 365 to the facts of this case.>

If the Plan proposes a sale of all or substantially all of the Debtor's assets to one party, then disclose the financial solvency of the proposed buyer.

85. Describe and explain what orders have been entered and when, pending motions and adversaries, and whether all professionals' employment have been court-approved.

86. State the possible tax consequences of the Plan, even if uncertain. If the Proponent has no idea of what such consequences might be, then the document must disclose that fact and why it is so. If the Disclosure Statement and Plan is propounded by the Debtor, it is hard to imagine a situation where the tax consequences would not be considered because any tax liability would affect distribution to creditors, to whom the Debtor owes a fiduciary duty to maximize the return to the estate. Tax considerations might affect the likelihood of continued successful post-confirmation operation of the Debtor

and may also affect the feasibility analysis. For these reasons it seems unlikely that the Proponent would have no idea of the tax consequences of the Plan.

87. If the Plan will provide otherwise, so state.

88. If § 1141(d) does not provide for a discharge for the type of debtor involved in this case, state instead that the Debtor will not receive a discharge.

89. Describe all causes of action, including but not limited to avoiding actions, and designate proposed defendants, and, if applicable, the amount in controversy.

90. Insert name of entity designated as representative of the estate under 11 U.S.C. 1123(b)(3).

91. Insert name of declarant.

92. Insert name of individual<s> who prepared Plan.

93. Explain relationship of person preparing document to Proponent.

94. Insert source of financial data.

95. Insert name of accountant(s).

96. Describe the accounting method(s) (e.g., cash or accrual, generally accepted accounting principles, etc.).

97. Insert date declaration signed.

98. Insert name of Proponent.

99. Insert date on which Plan was filed.

100. If more than one plan is proposed, state that the first one listed is Plan A. Repeat these two sentences, changing Plan "A" to Plan "B" et seq.

101. If more than one plan filed, insert the following:

"The undersigned prefers the plans accepted in the following order:

First:

Second:"

102. Insert deadline for returning ballots.

103. Insert name and address to which ballots should be sent.