

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

-----X	:	
In re:	:	Chapter 11
	:	
SCH Corp., et al., <sup>1</sup>	:	Case No. 09- 10198 (BLS)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----X		

**FIRST AMENDED DISCLOSURE STATEMENT IN  
SUPPORT OF FIRST AMENDED PLAN OF LIQUIDATION  
OF SCH CORP. AND AFFILIATED DEBTORS UNDER  
CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED  
BY LEVINE LEICHTMAN CAPITAL PARTNERS III, L.P.**

<b>Important Dates</b>	
Date by which Ballots must be received:	October 26, 2009 at 4:00 p.m.
Date by which objections to Confirmation of the Plan must be filed and served:	October 26, 2009 at 4:00 p.m.
Hearing on Confirmation of the Plan:	November 2, 2009 at 11:00 a.m.

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<sup>1</sup> The Debtors in these cases are SCH Corp.; American Corrective Counseling Services, Inc.; and ACCS Corp.

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## I.

### **PREFATORY STATEMENT AND DEFINITIONS**

Levine Leichtman Capital Partners III, L.P. (“LLCP”) submits this First Amended Disclosure Statement (the “Disclosure Statement”) in support of the First Amended Plan of Liquidation of SCH Corp., American Corrective Counseling Services, Inc., and ACCS Corp. under Chapter 11 of the Bankruptcy Code (the “Plan”). The definitions contained in the United States Bankruptcy Code, 11 U.S.C. section 101, et seq., are incorporated herein by this reference, provided that the definitions set forth in Article 1 of the Plan shall apply to capitalized terms that are not defined, or otherwise provided for, herein.

## II.

### **INTRODUCTION AND PLAN OVERVIEW**

#### **A. Introduction**

On January 19, 2009 (the “Petition Date”), the Debtors each commenced chapter 11 cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Chapter 11 Cases are being jointly administered in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). The Debtors are also referred to herein as the “Company”.

The Plan was filed with the Bankruptcy Court on August 5, 2009 and amended on September 18, 2009. This Disclosure Statement contains information with respect to the Debtors and the Plan. A copy of the Plan accompanies this Disclosure Statement.

Pursuant to section 1125 of the Bankruptcy Code, this Disclosure Statement is being distributed to you for the purpose of enabling you to make an informed judgment about the Plan. The Debtors have examined various alternatives and, based on information contained in this Disclosure Statement, have concluded that the Plan provides the best recovery to Creditors.

As discussed further below, the Plan is the product of extensive negotiations with the Debtors, certain of the Debtors' creditor constituencies, including the PA Class Representatives and the CFI Class Representatives, and LLCP, the Debtors' largest creditor. LLCP and the PA Class Representatives have executed a Plan Support Agreement pursuant to which the PA Class Representatives have agreed to support the Plan on the terms described herein. LLCP and the CFI Class Representatives have also executed a Plan Support Agreement pursuant to which the CFI Class Representatives have agreed to support the Plan on the terms described herein.

The Disclosure Statement describes the Plan and contains information concerning, among other matters: (1) the history, business, results of operations, management, liabilities of and pending litigation against the Debtors; (2) the sale on April 11, 2009, of substantially all of the Debtors' assets to National Corrective Group, Inc. ("NCG"), free and clear of liens, claims or interests; and (3) the consideration and cash that will be available for distribution under the Plan. LLCP strongly urges you to carefully review the contents of this Disclosure Statement and Plan (including the exhibits to each) before making a decision to accept or reject the Plan. Particular attention should be paid to the provisions affecting or impairing your rights as a Creditor.

Your vote on the Plan is important. In order for the Plan to be accepted by a Class of Claims, the holders of two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of Allowed Claims in such Class who vote on the Plan must vote for acceptance. Because they are to receive nothing under the Plan, the Holders of Class 6 Inter-Debtor Claims, Holders of Class 7 Subordinated Claims, Holders of Class 8 Equity Interests, and Holders of Class 9 D&O Indemnification Claims are deemed to have rejected the Plan, and, therefore, the votes of Holders of the aforementioned Classes are not being solicited. Because they are unimpaired, the Holders of Class 4B Secured Claims are not being solicited.

Non-acceptance of the Plan may lead to a liquidation under chapter 7 of the Bankruptcy Code, or to the confirmation of another plan. In LLCPS view, these alternatives will not provide for a distribution of as much value to Holders of Allowed Claims as the Plan. Accordingly, LLCPS urges you to accept the Plan by completing and returning the enclosed Ballot by no later than the Ballot Date.

**B. Information Regarding the Plan**

1. **Plan Governing Document**

All summaries of the Plan contained in this Disclosure Statement are qualified by the Plan itself and the documents described therein which are controlling.

2. **Source of Information**

Factual information contained in this Disclosure Statement has been provided by the Debtors or has been obtained from the Debtors' records, except where otherwise specifically noted. Substantially all financial information contained in this Disclosure Statement has been prepared by the Debtors or has been obtained from the Debtors' records. None of LLCPS or its counsel or professionals, nor the Debtors' attorneys, accountants, or other professionals make any representation regarding such information. The Debtors and LLCPS do not represent or warrant that the information contained in this Disclosure Statement is free from any inaccuracy. LLCPS has made great efforts to present the information accurately and fairly and believe that the information is substantially accurate. A significant portion of the information contained in this Disclosure Statement is taken from a prior disclosure statement submitted by the Debtors in the Bankruptcy Case, which LLCPS is informed and believes was accurate. The assumptions underlying the projections contained in this Disclosure Statement concerning sources and amounts of payments to Creditors represent the best estimate of LLCPS as to what LLCPS expects

will happen. Because these are only assumptions about or predictions of future events, many of which are beyond LLC's control, there can be no assurances that the assumptions will in fact materialize or that the projected realizations will in fact be met. Except as otherwise provided herein, this Disclosure Statement will not reflect any events which occurred subsequent to the date that LLC submitted the Disclosure Statement to the Bankruptcy Court for approval.

3. **Disclosure Regarding Federal and State Income Tax Consequences of the Plan**

The tax consequences of the Plan will vary based on the individual circumstances of each Holder of a Claim. Accordingly, each Creditor is strongly urged to consult with its own tax advisor regarding the federal, state, local and foreign tax consequences of the Plan and to carefully read this Disclosure Statement.

4. **Bankruptcy Court Approval**

Following a hearing held on September 21, 2009, the Bankruptcy Court approved this Disclosure Statement as containing information of a kind and in sufficient detail adequate to enable a hypothetical, reasonable investor to make an informed judgment about the Plan. Under section 1125 of the Bankruptcy Code, this approval enabled LLC to send you this Disclosure Statement and solicit your acceptance or rejection of the Plan. The Bankruptcy Court has not, however, passed on the Plan itself, nor has it conducted a detailed investigation into the contents of this Disclosure Statement.

C. **Voting Instructions**

1. **Who May Vote**

The Plan divides Allowed Claims and Equity Interests into multiple Classes. Under the Bankruptcy Code, only Classes that are "impaired" by the Plan are entitled to vote (unless the Class receives no compensation or payment, in which event the class is conclusively

deemed not to have accepted the Plan). A Class is impaired if legal, equitable or contractual rights attaching to the Claims or Equity Interests of the Class are modified, other than by curing defaults and reinstating maturities. Under the Plan, Administrative Claims, Professional Fee Claims and Priority Tax Claims are unclassified and are not entitled to vote. Class 4B, Other Secured Claims, is unimpaired under the Plan and therefore not entitled to vote. Holders of Class 6 Inter-Debtor Claims, Holders of Class 7 Subordinated Claims, Holders of Class 8 Equity Interests, and Holders of Class 9 D&O Indemnification Claims receive nothing under the Plan and, as they are conclusively deemed to have rejected the Plan pursuant to Section 1126(g) of the Bankruptcy Code, they do not vote. Accordingly, only the Holders of Claims in Classes 1, 2A, 2B, 3A, 3B, 4A, and 5 (the “Voting Classes”) are entitled to vote to accept or reject the Plan.

2. **How to Vote**

A form of Ballot is being provided to Creditors in the Voting Classes by which Creditors in such Classes may vote their acceptance or rejection of the Plan. The Ballot for voting on the Plan gives you one important choice to make with respect to the Plan – you can vote for or against the Plan. To vote on the Plan, please complete the Ballot, as indicated thereon (1) by indicating on the enclosed Ballot that (a) you accept the Plan or (b) reject the Plan; and (2) by signing your name and mailing the Ballot in the envelope provided for this purpose.

Administar Services Group, LLC, as the claims, notice and balloting agent (the “Claims Agent”) appointed by the Bankruptcy Court in the Chapter 11 Cases, will count the votes on the Ballots.

**IN ORDER TO BE COUNTED, BALLOTS MUST BE COMPLETED,  
SIGNED AND RECEIVED BY THE CLAIMS AGENT BY NO LATER THAN 4:00 P.M.  
EASTERN TIME ON OCTOBER 26, 2009 AT THE FOLLOWING ADDRESS:**

**If by overnight courier or hand delivery:**

**SCH Corp. Ballot Processing  
c/o Administar Services Group, LLC  
8475 Western Way, Suite 110  
Jacksonville, FL 32256  
(Attn: Jeff Pirrung)**

**If by standard mail (including U.S. Express Mail):**

**SCH Corp. Ballot Processing  
c/o Administar Services Group, LLC  
8475 Western Way, Suite 110  
Jacksonville, FL 32256  
(Attn: Jeff Pirrung)**

**DO NOT SEND YOUR BALLOT VIA FACSIMILE OR E-MAIL.**

In determining acceptances of the Plan, the vote of a Creditor will only be counted if submitted by a Creditor whose Claim is an Allowed Claim. Generally speaking, a Creditor holds an Allowed Claim if such Claim is duly scheduled by the Debtors as other than disputed, contingent or unliquidated, or the Creditor has timely filed with the Bankruptcy Court a Proof of Claim which has not been objected to or disallowed prior to computation of the votes on the Plan. The Ballot form which you received does not constitute a Proof of Claim.

IF YOUR BALLOT IS NOT PROPERLY COMPLETED, SIGNED AND RECEIVED AS DESCRIBED ABOVE, IT WILL NOT BE COUNTED. IF YOUR BALLOT IS DAMAGED OR LOST, YOU MAY REQUEST A REPLACEMENT BY ADDRESSING A WRITTEN REQUEST TO THE ADDRESS SHOWN ABOVE. FACSIMILE OR ELECTRONICALLY-TRANSMITTED BALLOTS WILL NOT BE COUNTED.

**D. Confirmation**

“Confirmation” is the technical phrase for the Bankruptcy Court’s approval of a plan under chapter 11 of the Bankruptcy Code. At the hearing on Confirmation of the Plan (the

“Confirmation Hearing”), LLCP must demonstrate that it has met the requirements of section 1129 of the Bankruptcy Code in order to confirm the Plan. If the Bankruptcy Court determines that all of the requirements of section 1129 have been satisfied, the Bankruptcy Court will enter an order confirming the Plan. LLCP believes that the Plan satisfies all the statutory requirements of chapter 11 of the Bankruptcy Code for Confirmation of the Plan.

Voting is tabulated by Class. A Class of Creditors has accepted a Plan if the Plan has been accepted by two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of Creditors holding Allowed Claims in that Class who actually vote to accept or reject the Plan.

Even if a Class of Creditors or Equity Interests votes against the Plan, the Plan may nevertheless be confirmed by the Bankruptcy Court, so long as certain statutory requirements are met by the Plan. This is called a “cram down.” If necessary, LLCP is prepared to seek confirmation of the Plan through a cram down.

**E. Hearing on Confirmation**

The Bankruptcy Court has scheduled the Confirmation Hearing to occur on November 2, 2009 at 11:00 a.m., to determine whether the Plan has been accepted by the requisite number of Creditors and whether the other requirements for Confirmation of the Plan have been satisfied. The Confirmation Hearing will be held at the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 3<sup>rd</sup> Floor, Wilmington, Delaware 19801 before the Honorable Brendan L. Shannon. The Confirmation Hearing may be continued from time to time and day to day by announcement in open court or the filing of an agenda without further notice. If the Bankruptcy Court confirms the Plan, it will enter the Confirmation Order.

**F. Objections to Confirmation**

Any objections to Confirmation of the Plan (“Confirmation Objections”) must be in writing, conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the District of Delaware and be filed with the United States Bankruptcy Court – registered users of the Bankruptcy Court’s case filing system must file electronically, and all other parties in interest must file in hard-copy form any Confirmation Objections with the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3<sup>rd</sup> Floor, Wilmington, Delaware 19801, and serve upon on counsel for the Debtors and the parties set forth below on or before October 26, 2009 at 4:00 p.m.(the “Confirmation Objection Deadline”), which is the date set forth in the notice of the Confirmation Hearing sent to you with this Disclosure Statement and the Plan.

Counsel on whom Confirmation Objections must be served are:

Counsel for the Debtors

Friedman Kaplan Seiler & Adelman LLP  
1633 Broadway  
New York, NY 10019-6708  
Telephone: (212) 833-1100  
Facsimile: (212) 833-1250  
Attn: William P. Weintraub, Esquire  
Attn: Shira D. Weiner, Esquire

Pepper Hamilton LLP  
Hercules Plaza, Suite 5100  
1313 Market Street  
P.O. Box 1709  
Wilmington, Delaware  
Telephone: (302) 777-6500  
Facsimile: (212) 833-1250  
Attn: David M. Fournier, Esquire  
Attn: James C. Carignan, Esquire

Counsel for LLCs

Irell & Manella LLP  
1800 Avenue of the Stars, Suite 900

Los Angeles, CA 90067-4276  
Telephone: (310) 277-1010  
Facsimile: (310) 203-7199  
Attn: Howard J. Steinberg, Esquire

Ciardi Ciardi & Astin LLP  
919 Market Street, Suite 700  
Wilmington, Delaware 19801  
Telephone: (302) 658-1100  
Facsimile: (302) 658-1300  
Attn: Daniel K. Astin, Esquire

and

Office of the United States Trustee  
Office of the United States Trustee  
J. Caleb Boggs Federal Building  
844 King Street, 2<sup>nd</sup> Floor  
Wilmington, DE 19801  
Attn: Richard Schepacarter, Esquire

**G. Disclaimers**

THIS DISCLOSURE STATEMENT CONTAINS INFORMATION WHICH MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE PLAN. PLEASE READ THIS DOCUMENT WITH CARE. THE PURPOSE OF THE DISCLOSURE STATEMENT IS TO PROVIDE “ADEQUATE INFORMATION” OF A KIND, AND IN SUFFICIENT DETAIL, AS FAR AS IS REASONABLY PRACTICABLE IN LIGHT OF THE NATURE AND HISTORY OF THE DEBTORS AND THE CONDITION OF DEBTORS’ BOOKS AND RECORDS, THAT WOULD ENABLE A HYPOTHETICAL REASONABLE INVESTOR TYPICAL OF HOLDERS OF CLAIMS OR INTERESTS OF THE RELEVANT CLASS TO MAKE AN INFORMED JUDGMENT CONCERNING THE PLAN. FOR THE CONVENIENCE OF CREDITORS, THIS DISCLOSURE STATEMENT SUMMARIZES THE TERMS OF THE PLAN, BUT THE PLAN ITSELF QUALIFIES ANY SUMMARY.

NO REPRESENTATIONS CONCERNING THE DEBTORS' FINANCIAL CONDITION OR ANY ASPECT OF THE PLAN ARE AUTHORIZED OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE WHICH ARE OTHER THAN AS CONTAINED IN OR INCLUDED WITH THIS DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION.

THE FINANCIAL INFORMATION CONTAINED HEREIN, UNLESS OTHERWISE INDICATED, IS UNAUDITED. MOREOVER, BECAUSE OF THE DEBTORS' FINANCIAL DIFFICULTIES, AS WELL AS THE COMPLEXITY OF THE DEBTORS' FINANCIAL MATTERS, THE BOOKS AND RECORDS OF THE DEBTORS, UPON WHICH THIS DISCLOSURE STATEMENT IN PART IS BASED, MAY BE INCOMPLETE OR INACCURATE. REASONABLE EFFORT HAS BEEN MADE, HOWEVER, TO ENSURE THAT ALL SUCH INFORMATION IS FAIRLY PRESENTED.

LLCP AND ITS COUNSEL HAVE RELIED UPON INFORMATION PROVIDED BY THE DEBTORS OR FROM THE DEBTORS' BOOKS AND RECORDS IN CONNECTION WITH PREPARATION OF THIS DISCLOSURE STATEMENT. DEBTORS' AND LLCP'S COUNSEL HAVE NOT INDEPENDENTLY VERIFIED ALL OF THE INFORMATION CONTAINED HEREIN.

THE CONTENTS OF THIS DISCLOSURE STATEMENT SHOULD NOT BE CONSTRUED AS LEGAL, BUSINESS OR TAX ADVICE. EACH CREDITOR OR INTEREST HOLDER SHOULD CONSULT HIS OR HER OWN LEGAL COUNSEL AND ACCOUNTANT AS TO LEGAL, TAX AND OTHER MATTERS CONCERNING HIS OR HER CLAIM.

## **H. An Overview of the Chapter 11 Process**

Chapter 11 of the Bankruptcy Code contains numerous provisions, the general effect of which is to provide the debtor with “breathing space” within which to propose a restructuring or other resolution of its obligations to third parties. The filing of a chapter 11 bankruptcy petition creates a bankruptcy “estate” comprised of all of the property interests of the debtor. Unless a trustee is appointed by the Bankruptcy Court for cause (no trustee has been appointed in the Chapter 11 Cases), a debtor remains in possession and control of all its assets as a “debtor in possession.” The debtor may continue to operate its business in the ordinary course on a day-to-day basis without Bankruptcy Court approval. Bankruptcy Court approval is only required for various enumerated kinds of transactions (such as certain financing transactions) and transactions out of the ordinary course of a debtor’s business. The filing of the bankruptcy petition gives rise to what is known as the “automatic stay” which is a federal injunction that, generally, enjoins creditors from taking any action to collect or recover obligations owed by a debtor prior to the commencement of a chapter 11 case. The Bankruptcy Court, however, can grant relief from the automatic stay, under certain specified conditions or for cause.

The Bankruptcy Code authorizes the creation of one or more official committees to protect the interests of some or all creditors or interest holders. The fees and expenses of counsel and other professionals employed by such official committees and approved by the Bankruptcy Court are generally borne by a bankruptcy estate. No committee was appointed in these Chapter 11 Cases to represent the collective interests of general unsecured creditors.

A chapter 11 debtor emerges from bankruptcy by successfully confirming a plan of reorganization. Alternatively, the assets of a debtor may be sold and the proceeds distributed to creditors through a plan of liquidation. A plan may either be consensual or non-consensual

and provides, among other things, for the treatment of the claims of creditors and interests of shareholders and holders of options or warrants. The provisions of the Plan in these Chapter 11 Cases are summarized below.

**I. Plan Overview**

The following is a brief overview of the material provisions of the Plan and is qualified in its entirety by reference to the full text of the Plan. The Plan is a plan of liquidation for the Debtors. The Plan represents the product of negotiations among LLCP and key parties in interest.

The Plan provides for the classification and treatment of Claims against and Equity Interests in the Debtors. The Plan designates 8 Classes of Claims and 1 Class of Equity Interests, which classify all Claims and Equity Interests in the Debtors. These Classes and their respective Plan treatments take into account the differing nature and priority under the Bankruptcy Code of the various Claims and Equity Interests. The Plan sets forth a proposal for the satisfaction of all Claims against the Debtors.

**1. Description of Property to be Distributed Under the Plan**

Following the Effective Date of the Plan, the Liquidating Debtors will be administered by the Responsible Officer and the General Litigation will be pursued by the Litigation Designee and General Litigation Recoveries will be distributed pursuant to the Plan.

2. **Summary of Classification and Treatment of Claims and Equity Interests under the Plan**

The following chart briefly summarizes the treatment of Creditors and Equity Interest Holders under the Plan.<sup>2</sup> Amounts listed below are estimated. Actual Claims and distributions will vary depending upon the outcome of objections to Claims and the General Litigation Recoveries. The Liquidating Debtors reserve the right to object to all Claims and Equity Interests.

<b>CLASS</b>	<b>DESCRIPTION</b>	<b>ESTIMATE OF CLAIM AMOUNTS AND RECOVERIES<sup>3</sup></b>	<b>TREATMENT</b>
n/a	Administrative Claims	\$0 <sup>4</sup>  estimated recovery: 100%	As soon as practicable following the later of the effective date or when allowed, cash in full in respect of such allowed claim without interest from the petition date, or with respect to administrative claims incurred in the ordinary course of business, upon such regular and customary payment or performance terms as may exist in the ordinary course of the debtors' business; provided, however, that such entity may be treated on such less favorable terms as may be agreed to in writing by such entity.
n/a	Professional Fee Claims	\$300,000 (est.)	Agreements have been reached with all or substantially all the Debtors'

<sup>2</sup> This chart is only a summary of the classification and treatment of Claims and Equity Interests under the Plan. References should be made to the entire Disclosure Statement and the Plan for a complete description of the classification and treatment of Claims and Equity Interests.

<sup>3</sup> The numbers set forth below are estimates that are based upon what LLCP has been informed constitutes the Debtors' understanding of valid scheduled and filed claims. These estimates reflect adjustments made to total filed and scheduled claims.

<sup>4</sup> LLCP does not believe that there are any unpaid Administrative Claims other than the Professional Fee Claims. However, LLCP will not be able to determine the amount of unpaid Administrative Claims (if any) until the occurrence of the Administrative Claims Bar Date.

		Estimated recovery: 100% (inclusive of negotiated reductions)	professionals. Because of the interim fee procedures approved by the Bankruptcy Court, most of the fee claims have already been paid. The number in this chart reflects estimated unpaid and future fees. All fee claims will be subject to final review by the Bankruptcy Court.
n/a	Priority Tax Claims	\$0  Estimated recovery: 100%	As soon as practicable following the later of the effective date or when allowed, cash in full of such allowed priority tax claim without interest from the Petition Date.
1	Other Priority Claims	\$0  estimated recovery: 100%	On the later of the Effective Date or when allowed, cash in full in respect of such allowed claim without interest from the Petition Date; provided, however, that such entity may be treated on such less favorable terms as may be agreed to in writing by such entity.
2A	CFI Class Action Monetary Claims	\$123,589,999 <sup>5</sup>  Estimated recovery: unknown	If either Class 2A or 2B do not vote to accept the Plan, then each Holder of an Allowed Class 2A CFI Class Action Monetary Claim shall receive (i) its Allowed Distribution Amount and (ii) 25% off the tuition cost of any bad check diversion program class attended by such holder after the Effective Date (and not later than three (3) years after the effective date) conducted by NCG.  If Class 2A and 2B vote to accept the Plan, then they shall receive the treatment described in section V.A below.

<sup>5</sup> This amount is based on the proofs of claim purportedly filed on behalf of the CFI Class Action Claimants.

2B	CFI Class Action Non-monetary claims	\$0.00  Estimated average recovery: Unknown	If either Class 2B or 2A do not vote to accept the Plan, then each Holder of an Allowed Class 2B Non-monetary Claim shall receive 50% off the tuition cost of any bad check diversion program class attended by such Holder after the Effective Date (and not later than three (3) years after the Effective Date) conducted by NCG.  If Class 2A and 2B vote to accept the Plan, then they shall receive the treatment described in section V.A below.
3A	PA Class Action Monetary Claims	\$4,074,000.00 <sup>6</sup>  Estimated average Recovery: Unknown	So long as the PA Class Action Claimants comply with their obligations under the Plan Support Agreement, each Holder of an Allowed Class 3A Claim shall receive (i) 25% off the tuition cost of any bad check diversion program class attended by such Holder after the Effective Date (and not later than three (3) years after the Effective Date) conducted by NCG; and (ii) the proceeds of any recoveries against the Debtors' insurance carrier that are obtained by the PA Class Representatives, net of recovery fees and costs incurred by the PA Class Representatives.
3B	PA Class Action Non-monetary Claims	Unknown <sup>7</sup>  Estimated average Recovery per creditor: Unknown	So long as the PA Class Representatives comply with their obligations under the Plan Support Agreement, each Holder of an Allowed Class 3B Claim shall receive (i) 50% off the tuition cost of any bad check diversion program class attended by such Holder after the Effective Date (and not later than three (3) years after the Effective Date) conducted by NCG; and (ii) the proceeds of any recoveries against the Debtors' insurance carrier that

<sup>6</sup> Intentionally omitted.

<sup>7</sup> This amount is based on the amended proof of claim purportedly filed on behalf of the PA Class Action Claimants.

			are obtained by the PA Class Representatives, net of recovery fees and costs incurred by the PA Class Representatives.
4A	Other Unsecured Claims	\$1,312,649 (Est.)  Estimated Recovery: Unknown	If either Class 2A or 2B do not vote to accept the Plan, then Each Holder of an Allowed Class 4A Other Unsecured Claim shall receive its Allowed Minimum Distribution Amount.  If Class 2A and 2B vote to accept the Plan, then Class 4A shall receive the treatment described in Section V.A below.
4B	Other Secured Claims	Unknown <sup>8</sup>  Estimated recovery: 100%	Each Holder of an Allowed Class 4B Other Secured Claim shall receive, in full and final satisfaction of such Claim, in the sole discretion of the Liquidating Debtors, except to the extent any holder of an Allowed Other Secured Claim agrees to a different treatment, either:  (i) the collateral securing such Allowed Other Secured Claim; (ii) Cash in an amount equal to the value of the collateral securing such Allowed Other Secured Claim; or (iii) the treatment required under section 1124(2) of the Bankruptcy Code for such Claim to be reinstated or rendered Unimpaired.
5	LLCP Deficiency Claim	\$10,324,990 Estimated recovery: Unknown	The LLCP Deficiency Claim shall be subordinated to the Administrative Claims, Professional Fee Claims, Priority Tax Claims, and the monetary Claims of Classes 2A, 2B, 3A, 3B, 4A and 4B. After the foregoing classes have been paid in full, then LLCP shall be paid all sums owing on the LLCP Deficiency Claim prior to any other Class of Creditors receiving any Distributions.

<sup>8</sup> A number of alleged secured claims have been filed. LLCP believes that many, if not all, are objectionable.

6	Inter-Debtor Claims	\$0 estimated recovery: 0%	Holders of Allowed Class 6 Claims shall receive no distribution under the Plan.
7	Subordinated Claims	\$1,750,000 Estimated recovery: 0%	Holders of Allowed Class 7 Claims shall receive no distribution under the Plan.
8	Equity Interests	\$0 Estimated Recovery: 0%	No property or interest to be retained or received on account of Equity Interests.
9	D&O Indemnification Claims	\$60,000,000 <sup>9</sup> Estimated recovery: 0%	Holders of Allowed Class 9 Claims shall receive no distribution under the Plan.

### III.

#### **HISTORY, ORGANIZATION AND ACTIVITIES OF THE DEBTORS**

##### **A. Preliminary Statement**

Prior to the commencement of the Chapter 11 Cases, the Debtors' principal business activity consisted of providing educational seminars and administrative support services in connection with bad check diversion programs (the "Diversion Programs") adopted by state and local prosecutors' offices. The Diversion Programs typically allow individuals who have issued dishonored or "bad" checks (the "Participants") to avoid the prospect of criminal prosecution provided the Participant makes restitution to the victim of the bad check and attends an educational seminar. Each Participant is required to pay a tuition amount to attend the educational seminar.

As explained in greater detail below, the significant expense related to unresolved class action litigation under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k (the

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<sup>9</sup> Certain former officers and/or directors of the Debtors filed proofs of claim asserting indemnity claims against the Debtors (the "D&O Indemnity Claims"). LLCP intends to object to the D&O Indemnity Claims.

“FDCPA”), certain defaults under the Debtors’ prepetition secured loan facility, and foreclosure actions taken by LLCP, precipitated the Debtors’ filing of these Chapter 11 Cases.

On March 31, 2009, the Bankruptcy Court approved the sale of substantially all of the Debtors’ assets to NCG free and clear of all liens, claims (including successor liability claims), interests and encumbrances (the “Sale”). In connection with the Sale, the Debtors and LLCP executed an amendment to the Purchase Agreement (the “First Amendment”). Under the terms of the First Amendment, NCG is to provide up to \$1,000,000.00 that can be used by the Debtors to fund the Plan if the Plan is confirmed and becomes effective or up to \$500,000.00 in the event the Plan does not get confirmed and become effective (the “Sale Proceeds”).<sup>10</sup>

Following the Sale, the Debtors, certain former officers and directors of the Debtors (the “Former D&Os”) and LLCP agreed to terms regarding a plan of liquidation (the “Original Plan”). Thereafter, the Former D&Os withdrew their support of the Original Plan. Consequently, LLCP negotiated with the Debtors for the right to prosecute the LLCP Plan which is described herein. During the course of LLCP’s prosecution of the LLCP Plan, LLCP negotiated with the PA Class Representatives for the treatment described herein and the PA Class Representatives and LLCP have executed a Plan Support Agreement, described in more detail below. During the course of LLCP’s prosecution of the LLCP Plan, LLCP negotiated with the CFI Class Representatives for the treatment described herein and the CFI Class Representatives and LLCP have executed a Plan Support Agreement, described in more detail below.

The Plan described in this Disclosure Statement is the mechanism by which (i) the remaining assets which were not purchased by LLCP as part of the Sale (the “Excluded Assets”)

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<sup>10</sup> The foregoing amounts are subject to setoff or reduction under the circumstances enumerated in the First Amendment.

will be liquidated, and (ii) Plan Proceeds will be distributed to Creditors in accordance with the Class treatments set forth in the Plan and pursuant to the priority scheme set forth in the Bankruptcy Code or other agreement between applicable parties.

**B. Description of the Debtors**

**1. Description of the Debtors' Business and Operations**

The Debtors' predecessor was founded in 1987 by Donald Mealing. Prior to the Sale to NCG, the Debtors' principal business activity consisted of providing educational seminars and administrative support services in connection with bad check diversion programs (the "Diversion Programs") adopted by state and local prosecutors' offices. The Diversion Programs typically allow individuals who have issued dishonored or "bad" checks (the "Participants") to avoid the prospect of criminal prosecution provided the Participant makes restitution to the victim of the bad check and attends an educational seminar. The Diversion Program seminars are designed to eliminate or modify many of the behavioral rationalizations surrounding the writing of bad checks and focus on deficiencies in the areas of personal finance, communication, and stress management. Each Participant must pay tuition for the seminar and make full restitution to the victim of the bad check.

In the ordinary course of their business, the Debtors contracted with hundreds of state and local prosecutors' offices throughout the country to conduct seminars and provide administrative support in connection with the Diversion Programs adopted by such offices (the "Support Agreements"). Under the Support Agreements, the Debtors, among other things, (i) provided qualified instructors to conduct Diversion Program seminars, (ii) provided their proprietary seminar materials developed by the Debtors in conducting these seminars and for distribution to Participants, (iii) leased the facilities used to conduct the seminars at various

locations within the jurisdiction of the applicable prosecutor's office, (iv) monitored attendance of the seminars, and (v) communicated directly with Participants regarding scheduling, attendance, and related administrative details.

The Support Agreements also required the Debtors to provide assistance in developing administrative procedures to be followed with respect to the clerical and accounting functions of the applicable Diversion Program. Such procedures included, among other things: (i) maintaining thorough records to enable the generation of reports detailing the compliance and the disposition status of each Participant; (ii) maintaining a detailed current accounting record of all receipts and disbursements of the applicable Diversion Program; (iii) opening and sorting correspondence related to the Diversion Program; (iv) preparing monthly reports providing a summary of transactions and Diversion Program activity for the period; (v) maintaining physical files, computer files, and facilities required for performance under the agreements; (vi) depositing restitution payments and Diversion Program Fees in a federally insured account opened by the Debtors; and (vii) disbursing, on behalf of the applicable prosecutor's office, restitution payments owing to the victims of the bad checks. In addition, under the Support Agreements, the Debtors typically were required to implement and perform these functions.

The Debtors' primary compensation for their services was from the tuition paid by Participants to enroll in the seminars conducted by the Debtors.

### **C. Equity, Capital Structure, and Significant Indebtedness**

Prior to the Sale of the Debtors' assets to NCG, the Debtors' business was conducted through Debtor American Corrective Counseling Services, Inc. ("American Counseling"). American Counseling was formed on December 21, 1994 as a California corporation. American Counseling is wholly-owned by Debtor ACCS Corp., a Delaware

Corporation (“ACCS”). ACCS, in turn, is wholly owned by Debtor SCH Corp., a Delaware Corporation (“SCH”).

The current owners of the Debtors acquired their interests on November 10, 2004. Prior to November 10, 2004, all of the issued and outstanding stock of American Counseling was owned by (i) Donald Mealing, individually, (ii) Donald Mealing, as trustee of the Mealing Family Trust u/t/d 8/23/95 (collectively, “Mealing”), and (iii) Lynn Hasney (“Hasney”). Additionally, Nicholas Wallner (“Wallner”, and together with Mealing and Hasney, the “Prior Owners”) held an option to purchase 30% of American Counseling’s outstanding stock from Mealing and Hasney (such option, together with the outstanding stock of held by Mealing and Hasney, the “Securities”). Also at this time, certain of the assets (the “Assets”) necessary to conduct American Counseling’s business were owned by Fulfillment Unlimited, Inc., ACCS Administration, Inc. and Fundamental Performance Strategies (collectively, the “Selling Companies”, and together with the Prior Owners, the “Selling Parties”).

On September 21, 2004, the Selling Parties and Equity Pacific Advisors, LLC (“EPA”) entered into a Stock, Options and Asset Purchase Agreement (the “Old Acquisition Agreement”), pursuant to which EPA agreed to purchase all of the Securities from the Prior Owners, and to purchase the Assets from the Selling Companies.<sup>11</sup> EPA subsequently established Debtor SCH and Debtor ACCS (collectively, the “Buyers”) to carry out EPA’s obligations under the Old Acquisition Agreement. On November 10, 2004, the Selling Parties and the Buyers entered into an Amended and Restated Stock, Options and Asset Purchase Agreement (the “Acquisition Agreement”), which is governed by California law.

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<sup>11</sup> The key principals of EPA included Michael Schreck, Russell Schreck, Brett Stohlton, and Zanley Galton.

The Acquisition Agreement contained a standard indemnification obligation for breaches by the Prior Owners. In addition, the Prior Owners were required to indemnify the Buyers against all losses incurred by them in connection with certain covered litigation (“Covered Litigation Losses”). The Prior Owners’ indemnification obligations with respect to Covered Litigation Losses were subject to a \$125,000 basket and a diminishing cap (the “Cap”) that started at \$5,000,000. When the Buyers (i.e., SCH and ACCS) subsequently made a claim against the Prior Owners for Covered Litigation Losses (i.e., when insurance coverage for Covered Litigation Losses expired), the Cap was approximately \$2,500,000. Pursuant to release agreements entered into between the Prior Owners and Buyers, the indemnification obligations have now shifted such that the Buyers (i.e., SCH and ACCS) are responsible for indemnifying the Prior Owners for certain Covered Litigation Losses to the extent not covered by insurance.<sup>12</sup>

In order to consummate the acquisition described above, the Buyers obtained financing from LLCP. Specifically, the Buyers, American Counseling, and LLCP entered into a Securities Purchase Agreement, dated as of November 10, 2004 (as amended from time to time, the “SPA”). Pursuant to the SPA, LLCP provided the Buyers (i.e., ACCS and SCH) with \$27,900,000, and in exchange received the following securities<sup>13</sup>:

- Secured Senior Term A Discount Note Due 2009 in the aggregate principal face amount of \$21,949,091, issued by ACCS (as amended from time to time, the “Term A Note”).
- Secured Senior Term B Discount Note Due 2009 in the aggregate principal face amount of \$5,487,273, issued by ACCS (as amended from time to time, the “Term B Note”, and together with the Term A Note, the “Original Notes”).

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<sup>12</sup> Defenses to any such indemnification obligations may exist and nothing herein is intended to waive any defenses or validate any claims for indemnity.

<sup>13</sup> LLCP subsequently sold a 3.5842% participation interest in the following securities to Paul J. Isaac.

- Warrant to purchase 35,000 shares of Series A Common Stock of SCH, exercisable until November 10, 2014 (the “LLCP Warrant”); and
- 30,000 Series A Preferred Shares of SCH (including all shares issued as PIK dividends in respect thereof, the “Preferred Shares”).

The LLCP Warrant gave LLCP the right to put the warrant (and/or any shares issued pursuant thereto) to ACCS under certain circumstances (including on the maturity date of the Notes). The Preferred Shares are now owned by ACCS, which purchased them from LLCP on January 9, 2008, in consideration for \$2,000,000 in cash and a Secured Senior Term C Note in the aggregate principal face amount of \$2,808,029.42 (the “Term C Note”). The Term C Note bears interest as follows: (i) 14.333% until April 28, 2008, (ii) 15.833% from April 29, 2008 until December 31, 2008 and (iii) assuming no refinancing has occurred by December 31, 2008, 14.333% thereafter. Otherwise, the Term C Note has substantially the same terms as the Original Notes.

The obligations of ACCS and SCH under the SPA and related documents were secured throughout the Debtors’ ownership structure, including as follows:

- General and continuing guaranties (the “Guarantees”)
- Security agreements (the “Security Agreements”)
- Pledge agreements (the “Pledge Agreements”)
- Security interest in certain intellectual property
- Deposit account control agreements

For the transactions described above, EPA hired Libra Securities, LLC (“Libra”). As compensation for its services, Libra was issued a warrant to purchase 10,150 shares of Series B Common Stock of SCH, exercisable until November 10, 2014. The warrant, which has since been assigned to Libra FE, LP, gave Libra the right to put the warrant (and/or any shares issued pursuant thereto) to SCH under certain circumstances. SCH’s obligations to Libra have been

subordinated to SCH's obligations to LLCP pursuant to a Subordination Agreement dated as of November 10, 2004. Libra entered into a pledge agreement in favor of LLCP, and pledged its rights in the warrant to secure the Buyer's obligations under the SPA and related documents.

On October 31, 2005, LLCP made a \$700,000 bridge loan to ACCS and received a 16.333% Secured Senior Bridge Note. The bridge loan matured on July 31, 2006 and has since been repaid in full. Also on October 31, 2005, ACCS issued 7% Unsecured Subordinated Promissory Notes to three of its executives and SCH issued a similar note to one of its executives (who are all employees of EPA) in the aggregate amount of approximately \$28,500, in satisfaction of the fee for their services for October 2005. Each of ACCS and SCH was entitled to issue similar notes (collectively with the October notes, the "Management Notes") to these executives for the pay periods ending on November 2, 2005, January 11, 2006, February 8, 2006 and March 10, 2006. The Management Notes were subordinated to the 16.333% Secured Senior Bridge Note and the other obligations of ACCS to LLCP. The ownership structure of SCH as a result of the transactions described above, as well as the outstanding amounts due to LLCP as of December 31, 2008, are reflected in the following tables:

Current Equity Ownership

<b>Name</b>	<b>Type of Security Owned</b>	<b>Number of Shares Held</b>	<b>Ownership Percentage</b>
Equity Pacific Advisors, LLC	Series A Common Stock	44,850	70.57%
Employee Stock Option Pool	Series B Common Stock	8,700	13.69%
Mealing	Series B Common Stock	6,000	9.44%
Wallner	Series B Common Stock	3,000	4.72%
Hasney	Series B Common Stock	1,000	1.57%

Pre-Bankruptcy Debt Outstanding to LLC

<b>Type of Obligation</b>	<b>Approximate Amount Outstanding at 12/31/08<sup>14</sup></b>
Secured Senior Term Notes	\$32,132,008.08
Legal Fees and Expenses <sup>15</sup>	\$71,505.47
Total	\$32,203,513.55

**IV.**

**THE REORGANIZATION CASES**

**A. Events Precipitating the Debtors' Chapter 11 Filings**

**1. Financial Drain from Class Action Litigation**

As noted above, the Debtors are defendants in various federal class action suits.

The class actions relate, in part, to how business was conducted by the Selling Parties before the Buyers acquired the business and made operational changes to it. The class actions also relate, in part, to the period prior to the 2006 amendments to the FDCPA which clarified that business such as the Debtors are not subject to the FDCPA, so long as they meet certain criteria. The Debtors believe that the class actions have no merit, but the expense of defending this litigation has financially drained the Debtors. Each of the class action suits is briefly described below.

In Del Campo v. American Corrective Counseling Services, Case No. 01-21151-JW (N.D. Cal.) (the "California Class Action"), plaintiffs allege that the Diversion Programs operated by the Debtors for various California district attorneys violate the FDCPA, 15 U.S.C. §1692 et seq., as well as California's unfair trade practices act. Plaintiffs contend that the

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<sup>14</sup> The debt amounts stated herein have been reconciled in accordance with the stipulation entered into between the Debtors and LLC and approved by the Bankruptcy Court [Docket Nos. 163 & 299]. Generally speaking, pursuant to that stipulation, the allowed claim of LLC has been fixed at \$35,005,926.86 as of February 17, 2009.

<sup>15</sup> Incurred by LLC in enforcing its rights under the SPA and related documents, and payable by American Counseling pursuant to Section 8.6 of the SPA. This amount is approximate only and the actual amount will be paid. Under the Cash Collateral Stipulation, payment was made to LLC as described therein.

Debtors unlawfully mail “collection letters” on district attorneys’ letterhead and falsely threaten check writers with criminal prosecution unless the check writers pay certain tuition amounts and attend a financial accountability class. ACCS contends that the Diversion Programs are law enforcement programs wherein the local prosecutor offers bad check offenders the opportunity to be diverted from criminal prosecution and, therefore, that the programs are not governed by or subject to the FDCPA. In December 2008, the district court in the California Class Action certified a class of approximately 900,000 California residents who were contacted by the Debtors in connection with Diversion Programs. The pendency of the California Class Action preceded the Debtors’ acquisition of the Company.

In Rosario v. American Corrective Counseling Services, Case No. 2:01-CV-221-FtM-29DNF, (M.D. Fla.) (the “Florida Class Action”), plaintiffs allege that the Diversion Programs operated by the Debtors for various Florida district attorneys violate the FDCPA, as well as Florida's consumer collection practices act. Plaintiffs contend that the Debtors unlawfully mail “collection letters” on the district attorneys’ letterhead and falsely threaten check writers with criminal prosecution unless the check writers pay certain tuition amounts and attend a financial accountability class. The Debtors contend that the Diversion Programs are law enforcement programs wherein the local prosecutor offers bad check offenders the opportunity to be diverted from criminal prosecution and, therefore, that the programs are not governed by or subject to the FDCPA. Class certification was briefed in the Florida Class Action in November 2005 but has never been decided, and it is unclear whether the district court will require the parties to supplement the class certification briefing. The pendency of the Florida Class Action preceded the Debtors’ acquisition of the Company.

In Hamilton v. American Corrective Counseling Services, Case No. 3:05-CV-434

(N.D. Ind.) (the Indiana Class Action, and collectively with the California Class Action and the Florida Class Action, the “CFI Class Actions”), plaintiffs allege that the Diversion Programs operated by the Debtors for various Indiana district attorneys violate the FDCPA, as well as Indiana common law. Plaintiffs contend that the Debtors unlawfully mail “collection letters” on district attorneys’ letterhead and falsely threaten check writers with criminal prosecution unless the check writers pay certain tuition amounts and attend a financial accountability class. The Debtors contend that the Diversion Programs are law enforcement programs wherein the local prosecutor offers bad check offenders the opportunity to be diverted from criminal prosecution and, therefore, that the programs are not governed by or subject to the FDCPA. In 2007, the district court in the Indiana Class Action certified a class of approximately 40,000 Indiana residents who were contacted by the Debtors in connection with Diversion Programs. Cross-motions for summary judgment have been fully briefed and pending before the court for over a year.

In Cataquet v. American Corrective Counseling Services, Case No. 3:08-CV-1175

(M.D. Pa.) (the “PA Class Action” and, collectively with the CFI Class Actions, the “Class Actions”), plaintiffs allege that the Diversion Programs operated by the Debtors for various Pennsylvania district attorneys violate the FDCPA, as well as Pennsylvania's unfair trade practices act. Plaintiffs contend that the Debtors unlawfully mail “collection letters” on district attorneys’ letterhead and falsely threaten check writers with criminal prosecution unless the check writers pay certain tuition amounts and attend a financial accountability class. The Debtors contend that the Diversion Programs are law enforcement programs wherein the local prosecutor offers bad check offenders the opportunity to be diverted from criminal prosecution

and, therefore, that the programs are not governed by or subject to the FDCPA. The PA Class Action is in the early pleadings stage, and no class has been certified.

Defending against the Class Actions has been extremely expensive for the Debtors, particularly after the applicable insurance that had been funding the costs of defense for the three CFI Class Actions was exhausted. In the fourth case -- the PA Class Action -- insurance coverage was denied by the carrier. By the time the Debtors decided to seek protection under chapter 11, the Debtors owed approximately \$1 million to the attorneys that had been representing them in the Class Actions and to various vendors who asserted claims against the Debtors for services rendered on behalf of or through such litigation counsel. The Debtors also owed in excess of \$500,000 of interest to LLCP and had no ability to simultaneously pay for the defense of the Class Actions and to continue servicing the debt owed to LLCP.

2. **Defaults under Secured Indebtedness**

At the time these Chapter 11 Cases were filed, the Debtors were in default to LLCP by reason of certain defaults under financial covenants contained in the SPA and related agreements and the failure of the Debtors to pay default interest to LLCP. The defaults declared by LLCP related to, *inter alia*, alleged violations of the Minimum EBITDA and Minimum Fixed Charge Coverage Ratio covenants contained in the SPA. By the time LLCP declared the Debtors to be in default in 2008, the debt was in excess of \$32 million due to the payment in kind interest feature of the financing arrangement.

The Debtors' defaults to LLCP dated back to July 2008. In addition to the default letters, there were several discussions between LLCP and the Debtors throughout this period about the Debtors' deteriorating ability to service their debt and pay their expenses and the Debtors' request to obtain additional capital from LLCP. The Debtors' distressed financial status

was occasioned in large part by the significant expense attendant to defending against the Class Actions.

3. **Notice of Foreclosure and Unsuccessful Out-of-Court Restructuring Attempts**

Because of the continuing defaults to LLCP and the depletion of the Debtors' resources, the Debtors attempted to effect an out-of-court restructuring with LLCP that included LLCP obtaining a large equity stake in the Debtors in exchange for LLCP providing the Debtors with additional funds to either continue defending or settle the Class Actions and to fund ongoing operations at a more sustainable level. In this regard, in order to attempt to settle the Class Actions, the Debtors conducted mediation sessions with the attorneys for the Class Action Claimants in February and October 2008. Counsel for the CFI Class Action Claimants failed to take sufficient steps to consummate the proposed settlement, and the Debtors were forced to file bankruptcy.

On January 12, 2009, based upon declared payment and covenant defaults that dated back six months, LLCP advised the Debtors in writing that it was accelerating the indebtedness owed by the Debtors to LLCP. At that time, even with the disputes over the calculation of interest resolved in their favor, the Debtors owed LLCP in excess of \$32 million. Also on January 12, 2009, LLCP scheduled a foreclosure sale of the pledged stock of the Debtors' operating unit (the "Pledged Stock") to occur on January 19, 2009.

Faced with imminent foreclosure by LLCP in a matter of days, the Debtors retained bankruptcy counsel, and began preparing to seek bankruptcy protection. Even though the Debtors were faced with pending foreclosure by LLCP, the Debtors made a final effort to settle with the attorneys for the Class Action Claimants in the hope that such a settlement would cause LLCP to rescind its foreclosure notice. LLCP was a necessary party to any settlement

because LLCPC would have provided the Debtors with the funds to pay for any settlement. The Debtors were not able to settle with the Class Action Claimants and, consequently, the Debtors were not able to convince LLCPC to rescind or further delay the foreclosure sale. As a result of the foregoing, and in order to prevent LLCPC's foreclosure on the Pledged Stock, on January 19, 2009, the Debtors commenced the Chapter 11 Cases.

**B. The Voluntary Petitions and Notice of Commencement of Cases**

On the Petition Date, the Debtors commenced the Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued to operate as debtors in possession subject to the supervision of the Bankruptcy Court in accordance with the Bankruptcy Code. The Debtors are authorized to operate in the ordinary course of business. Transactions out of the ordinary course of business require Bankruptcy Court approval. The Bankruptcy Court has authorized the Debtors' employment of attorneys, financial advisors and other professionals.

An immediate effect of the filing of the bankruptcy petitions was the imposition of the automatic stay under the Bankruptcy Code which, with limited exceptions, enjoined the commencement or continuation of all collection efforts by creditors, the enforcement of liens against the Debtors and the prosecution of litigation against the Debtors. This injunction remains in effect, unless modified or lifted by order of the Bankruptcy Court, until such matters are addressed through the Plan.

**C. Professionals Employed by the Debtors**

The Debtors employed the following Professionals (the "Debtors' Professionals") to assist it in carrying out its duties and to otherwise represent its interests in the Chapter 11 Cases: Friedman Kaplan Seiler & Adelman LLP as the Debtors' bankruptcy counsel; Pepper

Hamilton LLP as the Debtors' Delaware bankruptcy counsel; Schwartz & Cera LLP as the Debtors' special corporate counsel; Jenkins Goodman Neuman & Hamilton LLP as special litigation counsel for the Debtors; CRG Partners Group LLC as the Debtors' financial advisor; William Blair & Company, LLC as the Debtors' investment banker; Administar Services Group, LLC as the Debtors' claims agent; and Landau & Berger LLP as special California counsel to the Debtors. The Debtors' retention of each above-noted professionals was approved by the Bankruptcy Court. In addition, the Debtors also employed various professionals in the ordinary course of their business including Greenebaum Doll & McDonald PLLC as special Indiana counsel and Holland & Knight LLP as special Florida counsel.

**D. No Appointment of Official Committee of Unsecured Creditors**

The U.S. Trustee did not appoint an official committee of unsecured creditors in these Chapter 11 Cases. On February 11, 2009, the U.S. Trustee filed that certain *Statement That Unsecured Creditors' Committee Has Not Been Appointed* [Docket No. 177] (the "U.S. Trustee Statement"). The U.S. Trustee Statement noted that a committee had not been appointed in these Chapter 11 Cases because of insufficient creditor responses regarding potential service on such a committee.

**E. First Day Motions and Other Relief<sup>16</sup>**

In the days immediately following the Petition Date, the Debtors sought approval from the Bankruptcy Court of certain motions and applications (the "First Day Motions"). The Debtors sought this relief to, among other things, minimize disruption of the Debtors' business operations as a result of the chapter 11 filings. The First Day Motions, and other critical motions

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<sup>16</sup> Unless otherwise defined herein or in the Plan, capitalized terms used in the descriptions of motions and applications shall have the meanings ascribed to such terms in the respective motion or application where they appear.

filed following the commencement of the Chapter 11 Cases requested, among other things, the following relief:

1. **Employee Wages**

On January 20, 2009, the Debtors filed that certain “Employee Wages Motion” [Docket No. 6]. Pursuant to the Employee Wages Motion, the Debtors sought authority from the Bankruptcy Court to pay certain prepetition Claims and benefits of their employees.

The Bankruptcy Court entered an order [Docket No. 24] granting the Employee Wages Motion on January 22, 2009. Pursuant to the order, the Debtors were authorized to honor and/or pay the accrued pre-bankruptcy salaries and wages of their employees and benefits and programs described in the Employee Wages Motion, including inter alia: (a) outstanding Wages and associated administrative payroll processing obligations and expenses and any uncashed payroll checks that were issued prior to the Petition Date with respect thereto; (b) Withholding Obligations attributable to the period prior to the Petition Date and to remit the same to applicable taxing authorities or other appropriate third-parties; (c) reimbursement obligations that were incurred by Employees prior to the Petition Date and to continue such payments on a postpetition basis; (d) unpaid workers compensation premiums; and (e) allowing employees use of accrued and unused PTO in the ordinary course of business.

The Bankruptcy Court’s order also authorized the Debtors to continue, in their sole discretion, the following programs on a postpetition basis: (a) the Health and Welfare Plans; (b) the Workers’ Compensation Policy; (c) the 401(k) Plan, including any matching obligations; and (d) the PTO policy.

## 2. Cash Management

In the ordinary course of business, and as is common with other businesses of this size, the Debtors maintained an integrated and centralized cash management system to provide a mechanism for the collection, concentration, management and disbursement of funds used in the Debtors' operations (the "Cash Management System"). The Debtors' Cash Management System was somewhat unique because of the Debtors' role in administering bad check Diversion Programs for district attorneys' offices. As part of this administration, restitution payments to victims of bad checks were made through the Debtors who collected and remitted those payments -- in effect functioning as agent of the applicable prosecutors' office.

Thus, in addition to maintaining Operating Accounts that were used for payroll and the Debtors' operating expenses, the Debtors maintained bank accounts to receive and process payments to be remitted to bad check victims (the "Jurisdiction Accounts"). As of the Petition Date, the Cash Management System consisted of approximately 162 Jurisdiction Accounts and 18 Operating Accounts. Through the use of their Cash Management System, the Debtors efficiently and effectively managed receipts and disbursements for all of their operations.

On January 20, 2009, the Debtors filed that certain "Cash Management Motion" [Docket No. 9]. The relief sought by the Cash Management was essential to the functioning of the Debtors' operations because the Debtors did not want the flow of funds to victims to be interrupted by the bankruptcy filings. The Bankruptcy Court entered an order [Docket No. 23] granting the Cash Management Motion on January 22, 2009.

3. **Use of Cash Collateral and Debtor in Possession Financing**

Prior to the filing of these Chapter 11 Cases, the Debtors engaged in brief negotiations with LLCPC over the terms of possible debtor in possession financing. The Debtors did not accept LLCPC's initial financing proposal because the Debtors considered the terms to be unfair. Moreover, the Debtors believed they could operate their business without additional borrowing so long as they were freed of ongoing litigation expenses, were able to use cash generated in the course of their business, and were not required to pay postpetition interest to LLCPC during the Chapter 11 Cases. To that end, on January 20, 2009, the Debtors filed that certain "Cash Collateral Motion" [Docket No. 8]. The Cash Collateral Motion sought permission to use LLCPC's cash collateral on a non-consensual basis and sought to avoid paying LLCPC postpetition interest. The Cash Collateral Motion further (i) requested that the Bankruptcy Court make a determination as to whether LLCPC had a perfected security interest in the Debtors' cash and (ii) argued that any security interest of LLCPC should not attach to the Debtors' postpetition revenues by operation of Bankruptcy Code section 552.

Following a contested hearing in the Bankruptcy Court on January 22, 2009, the Bankruptcy Court entered an order granting the Cash Collateral Motion for an interim period and scheduled a final hearing for February 9, 2009 [Docket No. 32]. At the urging of the Bankruptcy Court, which had indicated at the hearing that the Debtors would probably be required to commence making postpetition interest payments to LLCPC, the Debtors engaged in negotiations with LLCPC regarding the consensual use of cash collateral and possible debtor in possession financing. These negotiations culminated in the parties' execution of that certain "Cash Collateral Agreement and Stipulation" and "DIP Loan Terms Agreement". The Cash Collateral Agreement and Stipulation set forth set the terms and conditions for the Debtors' use of cash

collateral to pay its operating expenses and professional fees and provided a framework for the future progression of these Chapter 11 Cases, including numerous milestones to be satisfied. The DIP Loan Terms Agreement set forth the terms under which the Debtors could borrow up to \$4 million in new credit from LLCP to be used to pay interest to LLCP (the “DIP Facility”).

On January 30, 2009, the Debtors filed on an emergency basis their “Cash Collateral/DIP Motion” [Docket No. 64]. Following the interim hearing on the Cash Collateral/DIP Motion held on February 3, 2009, the Bankruptcy Court entered the Second Interim Cash Collateral Order and Interim DIP Order granting the interim relief requested therein [Docket No. 74] (the “Second Interim Cash Collateral Order and Interim DIP Order”). The Second Interim Cash Collateral Order and Interim DIP Order provided that parties in interest would have until February 20, 2009, to (i) challenge the validity of LLCP’s pre-bankruptcy liens and claims and (ii) to object to the Debtors’ release of certain claims against LLCP. No challenges were filed.

The Second Interim Cash Collateral Order and Interim DIP Order approved the Cash Collateral Agreement and Stipulation and the DIP Loan Terms Agreement on an interim basis, pending a final hearing. A final hearing on the Cash Collateral/DIP Motion for entry of an order approving the relief requested therein on a final basis (the “Final Cash Collateral/DIP Order”) was scheduled to be held on February 17, 2009. Because of the absence of any objections to the relief requested, the Bankruptcy Court cancelled the final hearing and entered the Final Cash Collateral/DIP Order on February 18, 2009 [Docket No. 136].

The Cash Collateral Agreement and Stipulation and the DIP Loan Terms Agreement approved by the Bankruptcy Court contemplated a “dual track,” whereby the Debtors and LLCP were to immediately commence (i) negotiations in an effort to reach agreement on the

essential terms of a joint plan of reorganization and (ii) a process to sell all or substantially all of the Debtors' assets under section 363 of the Bankruptcy Code wherein LLCP would be the "stalking horse" bidder.

In connection with the Second Interim Cash Collateral Order and Interim DIP Order, the Debtors and LLCP negotiated a carve-out from LLCP's collateral to fund the Debtors' professional fees (the "Carve-Out") during the Chapter 11 Cases. The amount of the Carve-Out was subject to a professional fee budget negotiated between the parties (the "Professional Fee Budget"). Following entry of the Final Cash Collateral/DIP Order, however, the Debtors incurred significant costs in connection with these Chapter 11 Cases that were not originally anticipated by the parties and, therefore, not factored into the amount of the Professional Fee Budget and the DIP Facility. As such, the Debtors and LLCP subsequently negotiated for (i) additional borrowing under the DIP Facility and (ii) increases in the Professional Fee Budget and Carve-Out. To obtain Bankruptcy Court approval of the agreement reached between the parties, the Debtors filed their "Final DIP Amendment Motion" [Docket No. 353] on April 13, 2009. The Bankruptcy Court entered an order granting the Final DIP Amendment Motion on April 23, 2009 [Docket No. 382].

4. **Critical Vendor Motion**

On January 20, 2009, the Debtors filed that certain *Motion to Pay Prepetition Critical Trade Vendor Claims* [Docket No. 4] (the "Critical Vendor Motion"). The Critical Vendor Motion sought authority for the Debtors (i) to pay, in the reasonable exercise of their business judgment and in their sole discretion, the prepetition fixed, liquidated and undisputed claims of certain critical printers with whom the Debtors continued to do business and whose dealings were essential to the Debtors' operations (the "Critical Vendors"); and (ii) to allow such

Critical Vendors to apply postpetition payments by the Debtors to unpaid prepetition invoices. The Critical Vendors all provided printing services which were essential to the Debtors' operations. The Bankruptcy Court entered an order [Docket No. 34] on January 23, 2009.

5. **Ordinary Course Professionals**

In the ordinary course of operating their businesses, the Debtors retain and employ different professional firms that provide, among other things, various ongoing legal services that are unrelated to the Debtors' bankruptcy. On February 25, 2009, the Debtors filed that certain *Motion to Employ and Compensate Certain Professionals Utilized in the Ordinary Course of the Debtors' Business Nunc Pro Tunc to the Petition Date* [Docket No. 177] (the "OCP Motion"). Pursuant to the OCP Motion, the Debtors sought to obtain authority from the Bankruptcy Court to retain such "Ordinary Course Professionals" on a streamlined basis to render discrete services to the Debtors in a variety of matters affecting their day-to-day business operations. The Bankruptcy Court entered an order [Docket No. 271] granting the OCP Motion on March 20, 2009.

6. **Interim Compensation for Professionals**

On January 26, 2006, the Debtors filed that certain "Interim Compensation Motion" [Docket No. 42]. Pursuant to the Interim Compensation Motion, the Debtors sought to establish administrative procedures for the interim compensation and reimbursement of expenses for the Debtors' Professionals. The Bankruptcy Court entered an order [Docket No. 92] granting the Interim Compensation Motion on February 6, 2009.

F. **Other Significant Events during the Chapter 11 Cases**

1. **Sale of the Debtors' Assets**

As noted above, the Cash Collateral Agreement and Stipulation and DIP Loan Terms Agreement contemplated a dual track whereby the Debtors would simultaneously market

their assets for a sale and develop a chapter 11 plan of reorganization with LLCP. Unfortunately, because of the aggressive litigation activities of the Class Action Claimants in these Chapter 11 Cases, the professional fees of the Debtors were far greater than anticipated and grew to the point where the Debtors and LLCP believed the Debtors' limited resources could not sustain all of the mounting professional fees, ongoing payment of interest to LLCP, and the payment of operating expenses. For this reason, the Debtors and LLCP decided to focus primarily on a potential asset sale rather than the development of a plan of reorganization. In connection with the Sale process, the Debtors retained the respected investment banking firm of William Blair & Co., LLC ("Blair") to market and sell the Debtors' assets. Blair was selected in part because it was already familiar with the Debtors and therefore could act quickly to find potential buyers.

On February 3, 2009, in keeping with the milestones established by the Cash Collateral Agreement and Stipulation, the Debtors filed that certain *Motion for Order Approving Bidding Procedures and Payment of Topping Fee and Investment Banker Fees, and Granting Related Relief* [Docket No. 77] (the "Bidding Procedures Motion"). Pursuant to the Bidding Procedures Motion, the Debtors requested, among other things, approval of certain bidding procedures (the "Bidding Procedures") to govern the submission and consideration of competing bids for the Debtors' assets from interested parties. The Debtors also requested authorization to pay a topping fee in the event that LLCP's stalking horse bid for the Purchased Assets was overbid by an entity submitting a higher or better bid (the "Alternative Purchaser") and the Court has entered a final, nonappealable order approving the Alternative Purchaser's purchase of the Purchased Assets, and to pay certain investment banker fees in connection with the Sale transaction. The Bidding Procedures Motion was opposed by the Class Action claimants who argued, among other things, that the Debtors should not be permitted to use the Bankruptcy Code

to sell a business that the Class Action claimants considered to be illegal under the FDCPA. The Debtors' position was that even assuming arguendo that there was any merit to the Class Actions, the nature of the Debtors' business was inherently lawful because the FDCPA had been specifically amended to permit the operation of business such as the Debtors'. As such, the Debtors maintained, there was no policy reason to prohibit the sale of assets that could be put to a completely lawful purpose.

A hearing on the Bidding Procedures Motion was held on February 9, 2009, and, by order dated February 10, 2009, the Bankruptcy Court granted the relief requested therein, with the exception of the approval of a topping fee, which was denied [Docket No. 112] (the "Bid Procedures Order"). Under the Bidding Procedures approved by the Bankruptcy Court, the Debtors' assets were marketed by Blair, and procedures were put into place to identify and qualify potential bidders for the Debtors' assets and for the conduct of an auction (the "Auction") among qualified bidders including LLCP. The Auction was scheduled for March 30, 2009. LLCP was selected as the lead or "stalking horse" bidder and, because LLCP held an unavoidable security interest in the assets, LLCP was permitted to credit bid for the assets. Under a credit bid, the secured creditor's claim is setoff against the bid amount. LLCP's initial credit bid was \$20 million. Because the amount of LLCP's secured claim was fixed at \$35,005,926.86 by a stipulation approved by the Bankruptcy Court on March 26, 2009 [Docket No. 299], LLCP could credit bid up to that amount if it wanted to do so.

On February 25, 2009, the Debtors filed that certain "Notice Procedures Motion" [Docket No. 165]. The Bankruptcy Court entered an order [Docket No. 218] approving the Notice Procedures Motion with certain revisions on March 5, 2009. Pursuant to the procedures approved by the Bankruptcy Court, the Debtors provided broad notice of the proposed Sale to all

parties in interest, including over 1,000,000 parties with potential claims against the Debtors under the FDCPA.

On March 3, 2009, the Debtors filed their “Sale Motion” [Docket No. 202]. The Sale Motion requested that the Sale be free and clear of all liens, interests and claims, including claims based on theories of successor liability. The Bankruptcy Court scheduled a hearing on the Sale Motion on March 31, 2009, the day after the scheduled Auction.

In connection with the Sale, the Class Action Claimants sought expedited discovery from the Debtors (the “Sale Discovery”). Through the Sale Discovery, the Class Action Claimants obtained thousands of pages of documents from the Debtors and deposed representatives of the Debtors and LLC. The Sale Discovery was subject to a confidentiality stipulation reached between the Debtors and counsel to the Class Action Claimants. The confidentiality stipulation was approved by the Bankruptcy Court on March 18, 2009 [Docket No. 265].

In marketing the Debtors’ assets, Blair contacted approximately 261 parties to solicit interest in the Sale. Thereafter, the Debtors entered into confidentiality agreements with 71 parties, 26 of whom conducted due diligence. After receiving a qualified bid from Bertram Capital Management LLP, the Debtors conducted the Auction on March 30, 2009. After multiple rounds of competitive bidding, the winning bidder was LLC with a bid of \$26,250,000.

Over the objections of the Class Action Claimants, the Bankruptcy Court granted the Sale Motion on March 31, 2009 [Docket No. 322] (the “Sale Order”). The Sale Order authorized the transfer of substantially all of the Debtors’ assets to NCG (an affiliate of LLC)

free and clear of all liens, claims, interests and encumbrances, including claims based on theories of successor liability. The Sale was consummated on April 11, 2009.

2. **Filing of Schedules and Statements**

On February 25, 2009, the Debtors filed their Schedules of Liabilities (the “Schedules”) [Docket Nos. 169, 171 & 173] and Statements of Financial Affairs (the “SOFAs”) [Docket Nos. 170, 172 & 174].

3. **Meeting of Creditors**

On February 26, 2009, the U.S. Trustee conducted the meeting of creditors for these Chapter 11 Cases pursuant to section 341 of the Bankruptcy Code. A representative of the Debtors attended the meeting of creditors and fulfilled the Debtors’ obligation with respect thereto.

4. **Establishment of Bar Dates**

In a chapter 11 case, prepetition claims against the debtor are generally established either as a result of being listed in the debtor’s schedules of liabilities or through assertion by a creditor in a timely filed proof of claim. Claims asserted by creditors are either allowed or disallowed. If allowed, the Claim will be recognized and treated pursuant to the Plan. If disallowed, the creditor will have no right to obtain any recovery on or to otherwise enforce the claim against the Debtors.

As noted above, the Debtors filed their Schedules on February 25, 2009, which set forth, among other things, scheduled prepetition claims against the Debtors based on the Debtors’ books and records. On February 21, 2009, the Debtors filed that certain “Bar Date Motion” [Docket No. 150]. Pursuant to the Bar Date Motion, the Debtors sought to establish the deadlines by which creditors must file proofs of claim in these Chapter 11 Cases.

On March 5, 2009, the Bankruptcy Court entered an order [Docket No. 219] (the “Bar Date Order”) granting the Bar Date Motion. Pursuant to the Bar Date Order, the Bankruptcy Court established: (i) **May 18, 2009** (the “Bar Date”) as the deadline for filing Proofs of Claim with the Bankruptcy Court for non-governmental prepetition claims against the Debtors; and (ii) **July 20, 2009** (the “Governmental Bar Date”) as the deadline for governmental units to file prepetition claims against the Debtors. A schedule of the filed Proofs of Claims is being maintained by the Claims Agent.

5. **Class Action Claimants’ Motion to Dismiss Chapter 11 Cases**

On March 11, 2009, the CFI Class Action Claimants filed a motion to dismiss these Chapter 11 Cases [Docket No. 230] (the “Motion to Dismiss”). The Motion to Dismiss was based primarily on the CFI Class Action Claimants’ argument that these Chapter 11 Cases were filed in bad faith and principally as a litigation tactic. The Debtors’ filed their objection to the Motion to Dismiss on March 25, 2009 [Docket No. 295]. The Debtors’ position was that the Motion to Dismiss was frivolous because the Debtors filed these Chapter 11 Cases in good faith as a result of significant financial distress including: (i) their inability to simultaneously fund operational expenses, service the debt to LLCPC, and cover litigation costs and (ii) LLCPC’s imminent foreclosure on the Debtors’ assets. The Bankruptcy Court denied the Motion Dismiss on March 31, 2009, and entered an order to that effect on April 3, 2009 [Docket No. 237].

6. **Class Action Claimants’ Motions for Relief from Automatic Stay**

The PA Class Action Claimants and the CFI Class Action claimants filed motions for relief from the automatic stay on February 10 and February 12, 2009 respectively [Docket Nos. 120 & 133] (collectively, the “Stay Relief Motions”). The Stay Relief Motions sought permission to continue the prepetition Class Actions in the courts where those actions were

pending. The Debtors opposed the Stay Relief Motions primarily on the ground that the Class Action Claimants had not met their burden to obtain discretionary stay relief and that the pending Sale was likely to moot the claims at issue. On March 4, 2009, the Bankruptcy Court declined to grant the Stay Relief Motions pending the completion of the Sale. The Bankruptcy Court agreed to reconsider the Stay Relief Motions following the Auction.

Following the Bankruptcy Court's approval of the Sale, the Debtors argued that the automatic stay should continue to apply to the Class Actions so that the Debtors could have the opportunity to develop a chapter 11 plan of liquidation and seek confirmation of the same. The Debtors argued that such a result was warranted in light of the fact that the Debtors had obtained sources of plan funding from LLCP and the Former D&Os. At a hearing on April 7, 2009, the Bankruptcy Court ruled that the automatic stay would remain in effect at least until July 7, 2009 (subject to further extensions as ordered by the Bankruptcy Court) so that the Debtors could formulate a chapter 11 plan. The Bankruptcy Court entered an order to this effect on April 30, 2009 [Docket No. 392]. The Bankruptcy Court entered a similar order extending the automatic stay through September 2, 2009.

#### 7. **Chapter 11 Plan Funding**

In connection with the Sale, the Debtors and LLCP executed the First Amendment. Under the terms of the First Amendment, LLCP is to provide up to \$1,000,000.00 to fund the Plan (the "Sale Proceeds") in the event the Plan is confirmed and becomes effective within 90 days of the closing of the Sale. In the event the Plan is confirmed and becomes effective, the Sale Proceeds are to be paid in installments of \$200,000 over a five-year period (the "Plan Payments").<sup>17</sup>

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<sup>17</sup> The First Amendment provides that in the event the Plan is not confirmed and effective within 90 days after the closing of the Sale, LLCP is to provide only up to \$500,000 of Sale Proceeds (the "Non-Plan Payments").

The Plan Payments are to be reduced, dollar for dollar, by certain losses and expenses incurred by LLCP or its affiliates prior to the date such payment is to be made and for which no offset has previously been made; provided, however, the payments due for any year shall not be reduced by more than \$100,000 for matters described in subparagraph (iv) of the next sentence. The losses for which such offsets can be made include post-closing losses related to litigation arising from (i) the Purchase Agreement and the Bankruptcy Court's order approving the Sale; (ii) "Excluded Liabilities" as defined in the Purchase Agreement; (iii) claims under the FDCPA or similar statutes relating to pre-closing conduct; and (iv) claims under the FDCPA or similar statutes relating to post-closing conduct (but such offsets are subject to the above-referenced cap).

On or about August 4, 2009, the Debtors and LLCP entered into a Second Amendment to the Asset Purchase Agreement (the "Second Amendment"), which contained provisions (among other provisions) that: (i) extended the date to confirm a Plan to November 30, 2009; (ii) provided for accelerated Plan Payments by NCG required under the First Amendment to fund certain unpaid administrative expenses necessary to confirm the Plan;<sup>18</sup> and (iii) granted LLCP the right to seek confirmation of the Plan and conferred derivative standing upon LLCP to pursue certain estate causes of action for the benefit of the Debtors' Estates, in furtherance of confirmation of the Plan. The Bankruptcy Court approved the Second Amendment on September 17, 2009 [Docket No. 627] and a copy of the Second Amendment is attached as Exhibit B to the Plan.

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The Non-Plan Payments are to be made in installments of \$100,000 over a five year period. The Non-Plan Payments are subject to reductions that are similar to the reductions discussed below for the Plan Payments.

<sup>18</sup> Specifically, the Second Amendment provided that NCG would advance \$75,000 of payments required under the First Amendment, approximately \$25,000 of which was earmarked for payment of a portion of the fees and costs of FK and PH for July, 2009, and approximately \$50,000 of which was earmarked for additional anticipated legal fees and costs to be incurred by them through the Effective Date of the Plan.

8. **The Debtors' Originally-Proposed Plan and Disclosure Statement**

On or about May 22, 2009, the Debtors filed a proposed plan and disclosure statement (the "Original Plan") [Docket No. 463] which contemplated a global settlement of the Debtors' claims against and allegedly owing to the Debtors' former officers and directors (the "Former D&Os"), in exchange for \$1.5 million from those individuals paid over time. One of the conditions to the Original Plan was the Bankruptcy Court approving third-party releases in favor of the Former D&Os and receipt of an agreed-upon percentage of third party releases in favor of the Former D&Os from class members of the CFI Class Actions. The Class Action representatives objected to the Original Plan, the Former D&Os withdrew their support of the Original Plan, and the Debtors abandoned the Original Plan.

9. **LLCP's Plan and Disclosure Statement**

On August 4, 2009, LLCP filed the Plan and Disclosure Statement. Thereafter, LLCP undertook negotiations with the Debtors and the PA Class Representatives with respect to an alternative plan, which is memorialized by the Plan and described in this Disclosure Statement.

The Plan Support Agreement with the PA Class Representatives contains the following key provisions: (i) the PA Class Representatives are authorized to vote the claims of the PA Class Action Claimants; (ii) the PA Class Action Claimants are certified as a class under Federal Rule of Bankruptcy Procedure 7023; (iii) so long as the PA Class Action Claimants comply with their obligations under the Plan Support Agreement, a Judgment in the amount of \$2,550,000 shall be entered in favor of the PA Class Action Claimants on the Effective Date of the Plan. The claim of the PA Class Representatives is solely enforceable against the Insurance Carrier. LLCP and the PA Class Claimants believe the foregoing represents a fair and equitable

compromise of the claims raised by the PA Class Claimants and will seek approval of the foregoing as a settlement under Rule 9019 of the Federal Rules of Bankruptcy Procedure at the Confirmation Hearing.

The Plan Support Agreement with the CFI Class Action Claimants provides for the treatment to be afforded to the CFI Class Action Claimants, in the event they vote to approve the Plan, as set forth herein. The CFI Class, through its representatives, filed proofs of claim that total \$123,589,999, based on the representatives' estimate of fees paid to the Debtor by members of the three classes. The Debtors and LLCP dispute these proofs of claim and also dispute the existence of cognizable legal injuries underlying the proofs of claim. The representatives of the CFI Class Action Claimants have indicated they believe that the proofs of claim may actually understate the value of their claims. Despite their continuing disagreements regarding these claims, the parties have nonetheless agreed to support the treatment of the CFI Class Action Claimants described below. **The Plan provides that the treatment of the CFI Class Action Claimants shall not be cited to or construed in any subsequent legal or administrative proceeding by any person or entity as an admission of any fact with respect to any of the claims, theories, or allegations set forth in the CFI Class Actions or otherwise, and nothing herein shall have any res judicata or collateral estoppel effect.**

## V.

### **DESCRIPTION OF THE PLAN**

#### **A. Classification and Treatment of Classified Claims**

##### **1. Class 1 – Other Priority Claims**

Classification: Class 1 consists of the Other Priority Claims against the Debtors.

Treatment: The Liquidating Debtors shall pay from the first available funds from Available Cash or Plan Proceeds) the Allowed amount of each Class 1 Other Priority Claim to each Entity holding a Class 1 Other Priority Claim as soon as practicable following the later of (a) the Effective Date and (b) the date such Class 1 Other Priority Claim becomes an Allowed Claim (or as otherwise permitted by law). The Liquidating Debtors shall pay each Entity holding a Class 1 Other Priority Claim in Cash in full in respect of such Allowed Claim without interest from the Petition Date; provided, however, that such Entity may be treated on such less favorable terms as may be agreed to in writing by such Entity.

Voting: Holders of Class 1 Claims are Impaired and, therefore, each Holder of a Class 1 Claim is entitled to vote to accept or reject the Plan.

2. **Class 2A – CFI Class Action Monetary Claims**

Classification: Class 2 consists of the Claims of Holders of CFI Class Action Monetary Claims.

Treatment: If either Class 2A or 2B do not vote to accept the Plan, then each Holder of an Allowed Class 2A CFI Class Action Monetary Claim shall receive (i) its Allowed Distribution Amount and (ii) 25% off the tuition cost of any bad check diversion program class attended by such Holder after the Effective Date (and not later than three (3) years after the Effective Date) conducted by NCG. Any calculation of the distributions to be made to the Holder of an Allowed Class 2A Claim shall be performed using such Holder's Allowed Calculation Amount. The aggregate dollar amount of all distributions made to the Holder of an Allowed Class 2A Claim in accordance with the calculations performed using such Holder's Allowed Calculation Amount shall be such Holder's Allowed Distribution Amount. In no event

shall the Holder of an Allowed Class 2A Claim receive aggregate distributions under this Plan in excess of such Holder's Class Claimant Distribution Cap.

If Class 2A and 2B vote to accept the Plan, then the following treatment shall apply:

- (i) The proofs of claim filed by or on behalf of the CFI Class Action Claimants shall be deemed disputed and objected to by LLCP and the Debtors and resolved as set forth herein.
- (ii) All distributions to the CFI Class Action Claimants (the "CFI Trust Funds") required hereunder shall be made to Paul Arons, Esq., (the "CFI Class Action Counsel") to be held in trust for the benefit of the CFI Class Action Claimants as contemplated herein.
- (iii) Ninety percent (90%) of the Net Plan Proceeds shall be paid to CFI Class Counsel to be held in trust for the benefit of the CFI Class Action Claimants, provided that up to \$175,000.00 of such amounts may be used by Class Counsel to pay and or reimburse legal fees and costs incurred by CFI Class Action Counsel in connection with the Debtors' Bankruptcy Case (the "CFI Bankruptcy Expenses").
- (iv) Upon payment of the CFI Bankruptcy Expenses, the remaining CFI Trust Funds shall be held in one or more interest bearing accounts for the benefit of the California Class Action CFI Claimants, the Florida Class Action CFI Claimants and the Indiana CFI Class Action Claimants, with such CFI Trust Funds to be apportioned to the particular trust account in an amount equal to the ratio to which the claim amount with respect to each Class Action bears to the entire aggregate claim amount of the CFI Class Actions. Distribution of the remaining CFI Trust Funds shall be subject to further order of the respective District Court presiding over the particular CFI Class Action.
- (v) The treatment described herein shall not be cited to or construed in any subsequent legal or administrative proceeding by any person or entity as an admission of any fact with respect to any of the claims, theories, or allegations set forth in the CFI Class Actions or otherwise, and nothing herein shall have any res judicata or collateral estoppel effect.
- (vi) Notwithstanding anything herein to the contrary, in the event a particular District Court fails to determine the appropriate distribution of the CFI Trust Funds which relate to the particular CFI Class Action over which that District Court presides, then the CFI Trust Funds allocated to such CFI Class Action Claimants shall be made available for distribution to the remaining CFI Class Action Claimants and distributed in accordance to further orders by the respective District Courts presiding over the other CFI Class Actions.

Voting: Class 2A is an Impaired Class and the Claims of each Holder of a Class 2A Claim shall be voted by the class action representatives for the CFI Class Action Claims in each respective CFI Class Action in accordance with the Solicitation Procedures Order.

Injunction: The Liquidating Debtors shall be permanently enjoined from conducting any business other than as explicitly permitted hereunder, and in no event shall the Liquidating Debtors conduct any business relating to a bad check diversion program.

**3. Class 2B – CFI Class Action Non-Monetary Claims**

Classification: Class 2B consists of the Claims of Holders of CFI Class Action Non-Monetary Claims.

Treatment: If either Class 2A or 2B do not vote to accept the Plan, then each Holder of an Allowed Class 2B shall receive 50% off the tuition cost of any bad check diversion program class attended by such Holder after the Effective Date (and not later than three (3) years after the Effective Date) conducted by NCG.

If Class 2A and 2B vote to accept the Plan, then the Holders of CFI Class Action Non-Monetary Claims shall be entitled to the portion of the CFI Trust Funds (after payment of the CFI Bankruptcy Expenses) authorized to be paid by the respective District Court presiding over the particular CFI Class Action.

Voting: Class 2B is an Impaired Class and the Claims of each Holder of a Class 2B Claim shall be voted by the class action representatives for the CFI Class Action Claims in each respective CFI Class Action in accordance with the Solicitation Procedures Order.

Injunction: The Liquidating Debtors shall be permanently enjoined from conducting any business other than as explicitly permitted hereunder, and in no event shall the Liquidating Debtors conduct any business relating to a bad check diversion program.

**4. Class 3A – PA Class Action Monetary Claims**

Classification: Class 3A consists of the Claims of Holders of PA Class Action Monetary Claims.

Treatment: So long as the PA Class Representatives comply with their obligations under the Plan Support Agreement, each Holder of an Allowed Class 3A Claim shall receive 25% off the tuition cost of any bad check diversion program class attended by such Holder after the Effective Date (and not later than three (3) years after the Effective Date) conducted by NCG.

Voting: Class 3A is an Impaired Class and the Claims of each Holder of a Class 3A Claim shall be voted by the class action representatives for the PA Class Action in accordance with the Solicitation Procedures Order.

Injunction: The Liquidating Debtors shall be permanently enjoined from conducting any business other than as explicitly permitted hereunder, and in no event shall the Liquidating Debtors conduct any business relating to a bad check diversion program.

Continued Litigation: Notwithstanding anything herein to the contrary, the PA Class Action Representatives shall be authorized to pursue a declaratory relief action against the Debtors' insurance carrier to determine whether the monetary claims asserted in the PA Class Action, and settled hereunder, are covered by the Debtors' prepetition insurance

policy. Furthermore, if actions are taken by the Class Action Representatives in accordance with the Plan Support Agreement between such Representatives on behalf of the PA Class and LLC, in consideration for which including relief from the automatic stay and the compromise and resolution of the PA Class claims asserted in its Proof of Claim, then a monetary Judgment in the form of Exhibit A to the Plan in the amount of \$2,550,000.00 in favor of the PA Class Claimants shall be entered upon the Effective Date of the Plan and the PA Class Action Representative may immediately proceed to enforce the Judgment solely against the Insurance Carrier (and against no other persons or entities (directly or indirectly), including without limitation LLC, NCG, or any officers, directors, employees, attorneys, representatives, consultants, managers, partners (limited or general) or affiliates of any of the foregoing) for recovery of any and all applicable insurance proceeds.

**5. Class 3B – PA Class Action Non-Monetary Claims**

Classification: Class 3B consists of the Claims of Holders of PA Class Action Non-Monetary Claims.

Treatment: So long as the PA Class Representatives comply with their obligations under the Plan Support Agreement, each Holder of an Allowed Class 3B Claim shall receive 50% off the tuition cost of any bad check diversion program class attended by such Holder after the Effective Date (and not later than three (3) years after the Effective Date) conducted by NCG.

Voting: Class 3B is an Impaired Class and the Claims of each Holder of a Class 3A Claim shall be voted by the class action representatives for the PA Class Action in accordance with the Solicitation Procedures Order.

Injunction: The Liquidating Debtors shall be permanently enjoined from conducting any business other than as explicitly permitted hereunder, and in no event shall the Liquidating Debtors conduct any business relating to a bad check diversion program.

Continued Litigation: Notwithstanding anything herein to the contrary, if actions are taken by the Class Action Representatives in accordance with the Plan Support Agreement between such Representatives on behalf of the PA Class, the Debtors and LLC, the consideration for which including relief from the automatic stay and the compromise and resolution of the PA Class claims asserted in its Proof of Claim, then a monetary Judgment in the form of Exhibit A to the Plan (or the Plan Supplement) in the amount of \$2,550,000.00 in favor of the PA Class Claimants shall be entered upon the Effective Date of the Plan and the PA Class Action Representative may immediately proceed to enforce the Judgment solely against the Insurance Carrier (and against no other persons or entities (directly or indirectly), including without limitation LLC, NCG, or any officers, directors, employees, attorneys, representatives, consultants, managers, partners (limited or general) or affiliates of any of the foregoing) for recovery of any and all applicable insurance proceeds.

**6. Class 4A – Other Unsecured Claims**

Classification: Class 4A consists of the Claims of Holders of Other Unsecured Claims.

Treatment: If either Class 2A or 2B do not vote to accept the Plan, then each Holder of an Allowed Class 4 Claim shall receive its Allowed Distribution Amount.

The Allowed Calculation Amount and the Allowed Distribution Amount for each Holder of an Allowed Class 4 Claim is the Allowed amount of such Claim.

If Class 2A and 2B vote to accept the Plan, then each Holder of an Allowed Class 4 Claim shall receive its pro rata share of ten percent (10%) of the Net Plan Proceeds.

Voting: Class 4 is an Impaired Class and each Holder of a Class 4 Claim is entitled to vote to accept or reject the Plan.

**7. Class 4B – Other Secured Claims**

Classification: Class 4B consists of the Claims of Holders of Other Secured Claims.

Treatment: Each holder of an Allowed Other Secured Claim will be placed in a separate subclass, and each subclass will be treated as a separate class for distribution purposes. On or as soon as practicable after the Effective Date, each holder of an Allowed Other Secured Claim shall receive, in full and final satisfaction of such Claim, in the sole discretion of the Debtors, except to the extent any holder of an Allowed Other Secured Claim agrees to a different treatment, either:

- (i) the collateral securing such Allowed Other Secured Claim;
- (ii) Cash in an amount equal to the value of the collateral securing such Allowed Other Secured Claim; or
- (iii) the treatment required under section 1124(2) of the Bankruptcy Code for such Claim to be reinstated or rendered Unimpaired.

Treatment/Voting: Class 4B is Unimpaired, and holders of Other Secured Claims are conclusively deemed to have accepted the Plan. All Other Secured Claims shall be subject to Allowance under the provisions of this Plan.

**8. Class 5 – LLCP Deficiency Claim**

Classification: Class 5 consists of the LLCP Deficiency Claim.

Treatment: The LLCP Deficiency Claim shall be subordinated to the Administrative Claims, Professional Fee Claims, Priority Tax Claims, and the monetary Claims of Classes 2, 3, and 4. After the foregoing classes have been paid in full, then LLCP shall be paid all sums owing on the LLCP Deficiency Claim prior to any other Class of Creditors receiving any Distributions. The Allowed Calculation Amount and the Allowed Distribution Amount for the Holder of the Allowed Class 5 Claim is the Allowed amount of such Claim.

Voting: Class 5 is an Impaired Class and LLCP is entitled to vote to accept or reject the Plan.

**9. Class 6 – Inter-Debtor Claims**

Classification: Class 6 consists of the Claims of Holders of Inter-Debtor Claims.

Treatment: The value of the Plan Assets and the amount of the Net Plan Proceeds will not be sufficient to satisfy the Allowed Claims in Classes 1, 2, 3, 4, and 5 in full. Accordingly, there shall be no distribution to the Holders of Class 6 Claims.

Voting: Holders of Class 6 Claims will receive no distribution under the Plan. Accordingly, Holders of Class 6 Claims are not entitled to vote and are deemed to have rejected the Plan.

**10. Class 7 – Subordinated Claims**

Classification: Class 7 consists of the Claims of Holders of Subordinated Claims.

Treatment: The value of the Plan Assets and the amount of the Net Plan Proceeds will not be sufficient to satisfy the Allowed Claims in Classes 1, 2, 3, 4, and 5 in full. Accordingly, there shall be no distribution to the Holders of Class 7 Claims.

Voting: Holders of Class 7 Claims will receive no distribution under the Plan. Accordingly, Holders of Class 7 Claims are not entitled to vote and are deemed to have rejected the Plan.

**11. Class 8 – Equity Interests**

Classification: Class 8 consists of all Equity Interests in the Debtors.

Treatment: The value of the Plan Assets and the amount of the Net Plan Proceeds will not be sufficient to satisfy the Allowed Claims in Classes 1, 2, 3, 4, and 5 in full. Accordingly, there shall be no distribution on account of Class 8 Equity Interests. After the entry of the Effective Date, the Equity Interests will be canceled and will cease to exist.

Voting: Holders of Class 8 Equity Interests will receive no distribution under the Plan. Accordingly, Holders of Class 8 Claims are not entitled to vote and are deemed to have rejected the Plan.

**12. Class 9 – D&O Indemnification Claims**

Classification: Class 9 consists of all D&O Indemnification Claims.

Treatment: The value of the Plan Assets and the amount of the Net Plan Proceeds will not be sufficient to satisfy the Allowed Claims in Classes 1, 2, 3, 4, and 5 in full. Accordingly, there shall be no distribution to the Holders of Class 9 Claims

Voting: Holders of Class 9 Claims will receive no distribution under the Plan. Accordingly, Holders of Class 9 Claims are not entitled to vote and are deemed to have rejected the Plan.

**B. Treatment of Unclassified Claims**

Each Holder of an Allowed Administrative Claim (other than Professional Fee Claims) shall receive from the first available funds from Available Cash, or Net Plan Proceeds, without interest, Cash equal to the Allowed amount of such Claim, unless such Holder shall have agreed to different treatment of such Claim, at the sole option of the Debtors or the Liquidating Debtors, as the case may be: (a) on or as soon as practicable after the later of (i) the Effective Date, or (ii) the date upon which the Bankruptcy Court enters a Final Order determining or approving such Claim; (b) in accordance with the terms and conditions of agreements that either have been or may be approved by the Bankruptcy Court between the Holders of such Claims and the Debtors or the Liquidating Debtors, as the case may be; (c) with respect to Administrative Claims representing obligations incurred in the ordinary course of the Debtors' business, upon such regular and customary payment or performance terms as may exist in the ordinary course of the Debtors' business or as otherwise provided in the Plan; or (d) with respect to statutory fees due pursuant to 28 U.S.C. § 1930(a)(6), until the entry of a Final Decree or an order converting or dismissing the Chapter 11 Cases.

Holders of Administrative Claims (including, without limitation, Professionals) requesting compensation or reimbursement of such expenses pursuant to sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code that do not File such requests by the applicable deadline provided for herein shall be forever barred from asserting such Claims against the Debtors, their Estates, the Liquidating Debtors, or their successors or assigns, or their property.

Any objection to Professional Fee Claims shall be Filed on or before the objection deadline specified in the application for final compensation or order of the Bankruptcy Court; provided that such objection deadline is at least twenty (20) days after the filing and service of such final fee application. As provided herein, the Claims Reserve Account will include funds sufficient to cover the aggregate asserted amount of all disputed Administrative Claims. Without limiting the foregoing, all fees payable under 28 U.S.C. § 1930 that have not been paid, shall be paid on or before the Effective Date.

Notwithstanding any provision in the Plan regarding payment of Administrative Claims to the contrary, and without waiver of any argument available that such Claim is already time-barred by prior orders of the Bankruptcy Court, all Administrative Claims that are required to be Filed and not Filed by the Administrative Claim Bar Date shall be deemed disallowed and discharged.

**Professional Fee Claims.** The Liquidating Debtors shall pay the Professionals all of their respective accrued and Allowed fees and reimburse all of their respective expenses arising prior to the Effective Date plus post-Effective Date fees and expenses approved by the Responsible Officer. Such payments shall be made from the first available funds from Available Cash or Plan Proceeds or as provided in the next paragraph.

Subject to the occurrence of the Effective Date and Allowance by the Bankruptcy Court, the Professional Fee Claims of following professionals shall be paid as set forth below (notwithstanding any rights of setoff under the First Amendment or Second Amendment):

1. Friedman Kaplan Seiler & Adelman LLP (main bankruptcy counsel to the Debtors) (“FK”) shall be paid (a) \$175,095.55 on the Effective Date of the Plan as payment in full for all of its Professional fees and costs incurred prior to July 1, 2009 (the “FK Pre-July

Unpaid Fees”) and any unpaid amounts owing for FK Pre-July Unpaid Fees owing after application of such amounts shall be paid from net plan proceeds after all other claims (administrative, secured and unsecured) have been paid in full (b) \$25,095.55 on the Effective Date to be applied to its unpaid Professional Fees and costs incurred for the month of July, 2009; and (c) its Allowed Professional Fees incurred from August 1, 2009 through the Effective Date which are unpaid as of the Effective Date as and when the Bankruptcy Court approves such amounts.

2. Pepper Hamilton LLP (local bankruptcy counsel to the Debtors) (“PH”) shall be paid (a) \$36,670.97 on the Effective Date of the Plan as payment in full for all of its Professional Fees and costs incurred in connection with representation of the Debtors prior to July 1, 2009 (the “PH Pre-July Unpaid Fees”) and any unpaid amounts owing for PH Pre-July Unpaid Fees owing after application of such amounts shall be paid from net plan proceeds after all other claims (administrative, secured and unsecured) have been paid in full; (b) \$13,509.88 on the Effective Date to be applied to its unpaid Professional Fees and costs incurred for the month of July, 2009; and (c) its Allowed Professional Fees incurred from August 1, 2009 through the Effective Date which are unpaid as of the Effective Date as and when the Bankruptcy Court approves such amounts.

3. Schwartz & Cera LLP (corporate counsel to the Debtors) shall be paid \$20,922.50 as and when such amount becomes available from Net Plan Proceeds in full and complete satisfaction for all accrued and unpaid Professional Fee Claims as of the Effective Date. In consideration of reducing its Professional Fee Claims, the Debtors and their Estates

shall release Schwartz & Cera LLP from any and all claims (including without limitation claims arising under Chapter 5 of the Bankruptcy Code).<sup>19</sup>

4. Jenkins Goodman Neuman & Hamilton LLP (special litigation counsel to the Debtors) shall be paid \$49,297.67 as and when such amount becomes available from Net Plan Proceeds in full and complete satisfaction for all accrued and unpaid Professional Fee Claims as of the Effective Date. In consideration of reducing its Professional Fee Claims, the Debtors and their Estates shall release Jenkins Goodman Neuman & Hamilton LLP from any and all claims (including without limitation claims arising under Chapter 5 of the Bankruptcy Code).

Professionals requesting compensation or reimbursement of expenses pursuant to sections 327, 328, 330, 331, 503(b) and 1103 of the Bankruptcy Code for services rendered prior to the Effective Date (other than for Bankruptcy Clerk's Office fees, the fees and expenses of the Claims Agent, and the U.S. Trustee's fees) must File and serve pursuant to the notice provisions of the Interim Fee Order, an application for final allowance of compensation and reimbursement of expenses no later than sixty (60) days after the Effective Date. All such applications for final allowance of compensation and reimbursement of expenses will be subject to the authorization and approval of the Bankruptcy Court. Only the amount of fees and expenses Allowed by the Bankruptcy Court will be owed and required to be paid under the Plan.

The Liquidating Debtors may retain and compensate Professionals for services rendered following the Effective Date without order of the Bankruptcy Court. If the Liquidating Debtors object in writing to the payment of any compensation, such Disputed amount shall not be paid prior to the earlier of the resolution of such dispute or a ruling by the Bankruptcy Court.

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<sup>19</sup> As of the date hereof, LLCP is still negotiating with Schwartz & Cera regarding this treatment.

**Priority Tax Claims.** On the later to occur of (i) the Effective Date or (ii) the date on which such Claim shall become an Allowed Claim, the Liquidating Debtors shall pay to each Holder of an Allowed Priority Tax Claim from the first available funds from Available Cash, or Plan Proceeds, the Allowed amount of such Allowed Priority Tax Claim without interest from the Petition Date in the manner required by the Bankruptcy Code.

**C. Implementation of the Plan**

The Plan will be implemented as follows:

1. **Substantive Consolidation**

Entry of the Confirmation Order shall constitute the approval, pursuant to section 105(a) of the Bankruptcy Code, effective as of the Effective Date, of the substantive consolidation of the Debtors for all purposes related to the Plan, including, without limitation, for purposes of voting, Confirmation, and distribution. On and after the Effective Date, (i) all assets and liabilities of the Debtors shall be treated, for purposes of the Plan, including, without limitation, for purposes of voting, Confirmation, and distribution, as though they were merged, (ii) no distributions shall be made under the Plan on account of any Equity Interest held by the Debtors in any of the Debtors, (iii) all guarantees of any of the Debtors of any of the Debtors shall be eliminated so that any Claim against any of the Debtors and any guarantee thereof executed by any of the Debtors and any joint or several liability of any of the Debtors shall be one obligation of the Debtors and (iv) each and every Claim Filed or to be Filed in the Chapter 11 Cases of any of the Debtors shall be deemed Filed against the Debtors and shall be one Claim against and obligation of the Debtors. The Plan and Confirmation Order provide that none of the General Litigation shall be adversely affected by the substantive consolidation of the Debtors.

2. **Available Cash**

On or as soon as practicable following the Effective Date, the Claims Reserve Account shall be opened by the Disbursing Agent, and the appropriate account shall be funded with the first installment of Sale Proceeds, and all Available Cash, as applicable. Thereafter, from time to time, (i) upon receipt of any additional proceeds, including, without limitation, installments of Sale Proceeds and Liquidation Proceeds, such funds will be promptly delivered by the Liquidating Debtors to the Disbursing Agent for deposit into the Claims Reserve Account and shall become part of the Plan Proceeds; and (ii) upon receipt of any General Litigation Recovery by the Litigation Designee, such funds (net of attorneys' and costs incurred in connection with such recovery) will be promptly delivered by the Litigation Designee to the Disbursing Agent for deposit into the Claims Reserve Account and shall become part of the Plan Proceeds.

3. **Handling of Plan Assets and Collection of Plan Proceeds**

On the Effective Date, the Plan Assets and any other property of the Estates shall revert in the Liquidating Debtors, free and clear of all Claims and Liens other than any Liens recognized by this Plan. The Plan Assets shall be held by the Liquidating Debtors in trust for Creditors and shall be distributed only in accordance with this Plan. From and after the Effective Date, the Liquidating Debtors shall retain and pursue (through the Litigation Designee) the General Litigation on such terms and conditions as are consistent with the interests of Creditors and the reasonable business judgment of the Liquidating Debtors (and the Litigation Designee), sell or liquidate Plan Assets, and collect the accounts receivable, if any, of the Debtors. In addition, from and after the Effective Date, except as otherwise provided in this Plan or in the Confirmation Order, the Liquidating Debtors shall be free to operate without any limitation or

restriction by, and without any requirement to comply with, the Bankruptcy Code, Bankruptcy Rules, or Guidelines of the United States Trustee. All Cash, all Liquidation Proceeds, and all General Litigation Recoveries realized or obtained by the Liquidating Debtors (or the Litigation Designee), net of fees and expenses associated therewith, shall be promptly delivered to the Disbursing Agent for deposit into the Claims Reserve Account, and such funds shall be held in trust by the Disbursing Agent as Plan Proceeds. Except as otherwise provided in this Plan and the Confirmation Order, such Plan Proceeds shall be free and clear of all Claims and Liens and shall only be expended in accordance with the provisions of this Plan. To the extent required to make distributions to the Holders of Allowed Claims, fund the Claims Reserve Account, pay Plan Expenses, and otherwise implement this Plan, all Plan Proceeds shall be held in trust by the Disbursing Agent and shall be distributed to Creditors in accordance with section 1123 of the Bankruptcy Code.

4. **General Litigation**

Except as otherwise provided in this Plan, all General Litigation is retained and preserved pursuant to section 1123(b) of the Bankruptcy Code. The General Litigation shall be owned by the Liquidating Debtors, however, the Litigation Designee shall have the sole authority and discretion on behalf of the Liquidating Debtors to evaluate and determine strategy with respect to the General Litigation (including the Mealing Litigation), and to commence, litigate, settle, transfer, release or abandon any and all General Litigation on behalf of the Liquidating Debtors, in each case, on any terms and conditions as it may determine in good faith based on the best interests of the Creditors. The Litigation Designee may, but is not required, to seek Bankruptcy Court approval for the settlement of any General Litigation. The Litigation Designee also shall have the sole and exclusive right to (i) retain legal counsel to pursue the

General Litigation, (ii) pay all reasonable out-of-pocket costs and expenses incurred in connection with the pursuit of the General Litigation, (iii) make distributions of proceeds of the General Litigation as set forth herein; provided however, to the extent the Litigation Designee seeks to hire one or more professionals whose compensation has not been approved in connection with the Plan, the Litigation Designee shall either (y) obtain the written consent of the Responsible Officer with respect to the retention and payment of amounts to such additional professionals or (ii) seek Bankruptcy Court approval of such retention. Prior to paying any invoices, costs or expenses incurred by its professionals, the Litigation Designee shall provide the Responsible Officer with copies of such invoices. If the Responsible Officer has not objected to the payments proposed to be made by the Litigation Designee within ten (10) days after receipt thereof by the Responsible Officer, then payment may be made and the Responsible Officer shall be deemed to have consented to such payments. If the Responsible Officer objects to any such payment, then the objectionable payment shall not be made unless the Responsible Officer withdraws the objection, or the Bankruptcy Court authorizes payment. The Litigation Designee shall provide monthly status reports to the Disbursing Agent as to the status of the litigation, settlement, administration and pursuit of the General Litigation. LLCP shall have the sole and exclusive right to choose the Litigation Designee. LLCP shall have the sole and exclusive right to replace the Litigation Designee, at which time LLCP shall promptly provide written notice to the Liquidating Debtors and the Disbursing Agent as to the identity of the successor Litigation Designee, including the name, address, telephone number and fax number of the successor Litigation Designee. LLCP shall file a notice of such replacement with the Bankruptcy Court.

LLCP (or the Litigation Designee) shall provide funding for costs and expenses associated with pursuing the General Litigation in an amount up to and not exceeding \$50,000. All such amounts shall be reimbursed to LLCP (or the Litigation Designee, as appropriate) from first dollars of any General Litigation Recovery obtained by the Litigation Designee.

To the extent any General Litigation is already pending on the Effective Date, the Liquidating Debtors as successor to the Debtors will continue the prosecution of such General Litigation. Any General Litigation Recovery from the General Litigation will be deposited in the Claims Reserve Account as Plan Proceeds.

5. **Mealing Litigation, Other General Litigation, and LLCP Plan Expenses**

Mealing Litigation. Upon the Effective Date, LLCP will either (in its sole and exclusive discretion) (i) assign all of its rights in the Mealing Litigation to the Debtors, and the Litigation Designee shall prosecute the Mealing Litigation or (ii) continue to prosecute the Mealing Litigation in its own name as Plaintiff. Any recoveries with respect to the Mealing Litigation obtained by the Litigation Designee or LLCP, as the case may be, will be paid as follows: (i) first, to reimburse LLCP and/or the Litigation Designee for any and all fees and expenses incurred in connection with prosecuting the Mealing Litigation;<sup>20</sup> (ii) second, of the remaining recoveries, 70% to the Disbursing Agent and 30% to LLCP.

Other General Litigation. The Litigation Designee shall prosecute all other General Litigation as provided (and subject to the limitations) herein for the benefit of the Liquidating Debtors, the Estates, and the Creditors. Although LLCP and the Litigation Designee have not completed their review and analysis with respect to all General Litigation to be pursued,

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<sup>20</sup> As of June 30, 2009, LLCP has incurred approximately \$20,000.00 in fees and costs with respect to the Mealing Litigation. LLCP expects to engage contingency counsel to pursue the Mealing Litigation on terms which will be set forth in the Plan Supplement.

attached hereto as Exhibit A is a list of potential defendants and the types of claims that may be pursued against such defendants. Any recoveries with respect to the Other General Litigation (exclusive of the Mealing Litigation) will be paid as follows: (i) first, to reimburse LLCP and/or the Litigation Designee for any and all fees and expenses incurred in connection with prosecuting such litigation;<sup>21</sup> (ii) second, of the remaining recoveries, 90% to the Disbursing Agent and 10% to LLCP.

LLCP Plan Expenses. LLCP shall be entitled to recover expenses, including legal fees, incurred by LLCP in connection with the Plan in an amount not to exceed \$75,000.00, which shall be paid after all Allowed Administrative Expenses and Allowed Professional Fees have been paid in full as required under the Plan.

6. **No Third Party Releases**

Nothing in the Plan shall be construed as releasing any non-Debtor defendants in any of the Class Actions.

7. **Payment of Plan Expenses**

All Plan Expenses may be paid by the Disbursing Agent from the Claims Reserve Account without further notice to Creditors or approval of the Bankruptcy Court. The Confirmation Order shall advise Creditors and other parties in interest of the right to deliver a written request to the Liquidating Debtors for notice of any post-Confirmation applications by the post-Confirmation professionals seeking approval of post-Confirmation fees and expenses. Any disputes concerning the payment of Plan Expenses shall be submitted to the Bankruptcy Court for resolution.

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<sup>21</sup> As of the date hereof, LLCP has not incurred any fees and costs in connection with any Other Litigation.

8. **Distribution of Plan Proceeds**

The Plan Proceeds shall be used to satisfy the payments required under the Plan, provided that the Disbursing Agent shall only distribute Plan Proceeds to the Holders of Allowed Claims in such amounts and at such times as are set forth in this Plan. No payments or distributions shall be made by the Disbursing Agent on account of Disputed Claims unless and to the extent such Claims become Allowed Claims. The Plan Proceeds allocated to Disputed Claims will not be distributed but will be held in the Claims Reserve Account by the Disbursing Agent in accordance with this Plan pending resolution of such Disputed Claims.

9. **Post-Confirmation Operations of the Liquidating Debtors**

Following the Effective Date, the Liquidating Debtors shall sell or dispose of any remaining assets, collect any accounts receivable, generate Liquidation Proceeds, prosecute or settle the General Litigation, promptly transfer all receipts and collections to the Disbursing Agent for deposit into the Claims Reserve Account, and generally administer the Plan. The Liquidating Debtors shall be permanently enjoined from conducting any business other than as explicitly permitted hereunder, and in no event shall the Liquidating Debtors conduct any business relating to a bad check diversion program.

10. **Power and Authority of Responsible Officer**

From and after the Effective Date, the Liquidating Debtors will be managed and governed by the Responsible Officer who shall act as the representative of the Liquidating Debtors. Activities of the Liquidating Debtors as permitted and limited under this Plan will be managed by the Responsible Officer. The Responsible Officer may use lower-priced employees of his or her firm as he or she deems appropriate. Compensation and reimbursement of the Responsible Officer, and any lower-priced employees from his or her firm, shall be considered

Plan Expenses. Confirmation of the Plan shall constitute the appointment by the Bankruptcy Court: (i) of the Responsible Officer as the representative of the Liquidating Debtors to (a) exercise the rights, power and authority of the Liquidating Debtors under applicable provisions of the Plan and bankruptcy and non-bankruptcy law, (b) retain professionals to represent the Liquidating Debtors in performing and implementing the Plan, (c) marshal and liquidate the Plan Assets and to collect the Plan Proceeds for the benefit of Creditors, (d) attempt to collect or realize upon the Plan Assets (other than the General Litigation), (e) resolve Disputed Claims and effectuate distributions to Creditors under the Plan, and (f) otherwise implement the Plan, wind up the affairs of the Debtors and close the Chapter 11 Cases; (ii) of the Litigation Designee as the representative of the Liquidating Debtors to investigate, commence, prosecute, settle and resolve the General Litigation. The compensation arrangements with the Responsible Officer shall be set forth in the Plan Supplement. On the Effective Date, (i) the Responsible Officer will be deemed to have retained the Debtors' Professionals under the arrangements existing on the Effective Date, without any need for new retention agreements or further orders of the Bankruptcy Court; and (ii) the Litigation Designee shall have the sole and exclusive authority to hire professionals in its sole and absolute discretion with respect to the General Litigation.

The Confirmation Order shall provide that the Responsible Officer is authorized to execute a certificate of dissolution for each Liquidating Debtor pursuant to applicable non-bankruptcy law, at such time as all Liquidating Debtors have fully wound up their affairs in accordance with applicable law pursuant to the provisions of the Plan. The Responsible Officer shall serve until all of the Liquidating Debtors are dissolved and a Final Decree is entered closing the Chapter 11 Cases, unless earlier removed by the Bankruptcy Court for cause shown, after notice and a hearing or otherwise by order of the Bankruptcy Court upon application of the

Responsible Officer, or with respect to any particular Debtor, the conversion of that Debtor's case to one under Chapter 7 of the Bankruptcy Code. Upon the removal of the Responsible Officer for cause, or the cessation of the Responsible Officer to act in such capacity, LLCP shall select a replacement Responsible Officer. The Responsible Officer shall be responsible for ensuring that the Liquidating Debtors comply with their obligation to pay statutory fees under 28 U.S.C. § 1930(a)(6) and the Responsible Officer shall File all post-Confirmation reports required by the Bankruptcy Rules, the Bankruptcy Court, the Local Bankruptcy Rules, or any applicable Guidelines of the United States Trustee.

11. **Liquidation and Dissolution of the Liquidating Debtors**

The Liquidating Debtors shall conduct no business following the Effective Date other than winding up their affairs in accordance with applicable law and the provisions of this Plan. Without limiting the generality or effect of the foregoing, following the Effective Date, the Liquidating Debtors shall: (i) undertake those transactions that are necessary, advantageous or practicable to obtain the maximum value from the Plan Assets; and (ii) exercise their best efforts and endeavor in good faith and without undue delay to liquidate all of the Plan Assets and to successfully prosecute the General Litigation. Pursuant to applicable bankruptcy and non-bankruptcy law, the Liquidating Debtors (acting through the Responsible Officer) shall be authorized to (i) wind up their affairs and dissolve, and (ii) put into effect and carry out the terms of the Plan and any orders of the Bankruptcy Court entered in the Chapter 11 Cases, without further action by their boards of directors or stockholders.

12. **Full and Final Satisfaction**

Commencing upon the Effective Date, the Disbursing Agent shall be authorized and directed to distribute the amounts required under the Plan to the Holders of Allowed Claims

according to the provisions of the Plan. Upon the Effective Date, all Debts of the Debtors shall be deemed fixed and adjusted pursuant to this Plan, and the Debtors shall have no further liability on account of any Claims or Interests except as set forth in this Plan. All payments and all distributions made by the Disbursing Agent under the Plan shall be in full and final satisfaction, settlement and release of all Claims.

13. **Distribution Procedures**

Except as otherwise agreed by the Holder of a particular Claim, or as provided in this Plan, all amounts to be paid by the Disbursing Agent under the Plan shall be distributed in such amounts and at such times as is reasonably prudent. On the Effective Date, or as soon as practicable thereafter, the Disbursing Agent shall: (i) marshal all then available Plan Proceeds; (ii) to the extent of unencumbered Cash or Cash distributable to the Holders of Allowed Claims, establish and fund the Claims Reserve Account pursuant to the Plan; (iii) promptly pay the Holders of (a) Allowed Administrative Claims, (b) Allowed Professional Fee Claims, (c) Allowed Priority Tax Claims and (d) Allowed Other Priority Claims; and (iv) make interim and final distributions of Plan Proceeds to the Holders of Allowed Claims in Classes 1, 2, 3, 4 and 5 from the Claims Reserve Account in the amounts and according to the provisions of and priorities set forth this Plan. Notwithstanding any provision to the contrary in this Plan, distributions may be made in full or on a Pro Rata basis depending on (i) the amount of the Allowed Claim, (ii) the then available Plan Proceeds in the Claims Reserve Account, and (iii) the then anticipated Plan Proceeds. The Disbursing Agent shall make the Cash payments to the Holders of Allowed Claims: (a) in U.S. dollars by check, draft or warrant, drawn on a domestic bank selected by the Disbursing Agent in its sole discretion, or by wire transfer from a domestic

bank, at the Disbursing Agent's option, and (b) by first-class mail (or by other equivalent or superior means as determined by the Disbursing Agent).

14. **Disbursing Agent**

The Disbursing Agent may employ or contract with other Entities to perform the obligations created under the Plan. Any third party Disbursing Agent shall receive reasonable compensation for services rendered and reimbursement for expenses incurred in connection with this Plan or any functions or responsibilities adopted under the Plan, which amounts may be deducted from the Claims Reserve Account as Plan Expenses. The Disbursing Agent (and Litigation Designee) shall be empowered to (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan, (ii) make all distributions contemplated hereby, (iii) employ professionals to represent it with respect to its responsibilities, and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent (or the Litigation Designee) to be necessary and proper to implement the provisions hereof. To the extent that the Liquidating Debtors act as the Disbursing Agent, the Liquidating Debtors shall not receive a fee for such services, although the Liquidating Debtors may employ and pay persons or Entities salaries, wages or ordinary compensation for services performed.

15. **Reserve Accounts**

On or as soon as practicable after the Effective Date, the Disbursing Agent shall (a) to the extent of any Available Cash or, where applicable, unencumbered Cash, create and fund the Claims Reserve Account, and (b) periodically deposit the Cash from Plan Proceeds into the Claims Reserve Account to satisfy the obligations created under the Plan. The Claims Reserve Account shall contain the following sub-accounts: (1) Administrative Claims, (2)

Professional Fee Claims, (3) Priority Tax Claims, (4) Other Priority Claims, (5) Allowed CFI Class Action Monetary Claims, (6) Allowed PA Class Action Monetary Claims, (7) Allowed Other Unsecured Claims, (8) LLC Deficiency Claim and (9) Plan Expenses. Each sub-account within the Claims Reserve Account shall contain an amount of Cash deemed sufficient by the Liquidating Debtors for the payment of Allowed Claims in accordance with the provisions, priorities and amounts set forth in the Plan, all anticipated Professional fees and expenses, Plan Expenses, and Disputed Claims. The Disbursing Agent shall be authorized to transfer funds among sub-accounts as necessary to replenish any sub-accounts as and when distributions are made to Creditors. All Plan Expenses may be deducted and paid from the appropriate sub-account without further order of the Bankruptcy Court. Subject to the priorities established under the Bankruptcy Code, the Disbursing Agent shall periodically transfer all earnings and interest income on the Claims Reserve Account for deposit to and distribution from sub-accounts 5, 6, 7 and 8 on a Pro Rata basis. Unless otherwise provided in the Confirmation Order, the Claims Reserve Account shall be invested by the Disbursing Agent in a manner consistent with the objectives of section 345(a) of the Bankruptcy Code.

16. **Resolution of Disputed Claims**

All objections to Claims shall be Filed and served not later than: (i) for each CFI Class Action, not later than ninety (90) days after judgment is entered in the respective Class Action case with respect to all non-Debtor defendants in such case; (ii) for the PA Class Action, not later than ninety (90) days following the date the Insurance Coverage Denial Order is entered; (iii) for all other Claims, not later than ninety (90) days following the Effective Date; provided, however, such dates may be extended by the Bankruptcy Court for cause shown. If an objection is not timely Filed by the deadline established in this Section, any remaining Disputed

Claims shall be deemed to be Allowed Claims for purposes of this Plan. Unless otherwise provided in the Confirmation Order, the Liquidating Debtors shall be authorized to settle, or withdraw any objections to, any Disputed Claim following the Confirmation Date without further notice to Creditors or authorization of the Bankruptcy Court, in which event such Claim shall be deemed to be an Allowed Claim in the amount compromised for purposes of this Plan. Under no circumstances will any distributions be made on account of Disallowed Claims.

17. **Reserve Provisions for Disputed Claims**

The Disbursing Agent shall implement the following procedures with respect to the allocation and distribution of Cash in the Claims Reserve Account, after payment of all senior Claims, to the Holders of Disputed Claims that become Allowed Claims:

- (i) Cash respecting Disputed Claims shall not be distributed, but, if necessary, shall be withheld by the Disbursing Agent in an amount equal to the amount of the distributions that would otherwise be made to the Holders of such Claims if such Claims had been Allowed Claims, based on the Disputed Claims Amount.
- (ii) All Holders of Allowed Other Unsecured Claims shall be entitled to receive interim distributions under the Plan. No distributions may be made to the Holders of Allowed Other Unsecured Claims unless adequate reserves are established for the payment of Disputed Claims, and sufficient funds are also reserved for payment of expected Plan Expenses. Upon the Final Resolution Date, after payment of all senior Claims, all amounts (if any) remaining in sub-accounts 1-9 of the Claims Reserve Account, after reservation of an appropriate amount for anticipated Plan Expenses, shall be transferred to sub-accounts 5, 6, 7 and 8 for final distribution pursuant to the Plan.
- (iii) Where only a portion of a Claim is Disputed, at the option of the Liquidating Debtors or Disbursing Agent, as applicable, interim or partial distributions may (but are not required to) be made with respect to the portion of such Claim that is not Disputed.
- (iv) The Bankruptcy Court may estimate the amount of any Disputed Claim pursuant to section 502(c) of the Bankruptcy Code, in which event the amounts so fixed or liquidated shall be deemed to be Allowed Claims pursuant to section 502(c) of the Bankruptcy Code for purposes of distribution under the Plan. In lieu of estimating the amount of any

Disputed Claim, the Bankruptcy Court or the Disbursing Agent may determine the Disputed Claims Amount to be reserved for such Disputed Claim, or such amount may be fixed by agreement in writing by and between the Liquidating Debtors and the Holder thereof.

- (v) When a Disputed Claim becomes an Allowed Claim, there shall be distributed to the Holder of such Allowed Claim, in accordance with the provisions of the Plan, Cash equal to a Pro Rata share of the Cash set aside for Disputed Claims within the applicable sub-account of the Claims Reserve Account, but in no event shall such Holder be paid more than the amount that would otherwise have been paid under the Plan to such Holder if the Claim (or the Allowed portion of the Claim) had not been a Disputed Claim.
- (vi) Interim distributions may be made from time to time to the Holders of Allowed Claims prior to the resolution by Final Order or otherwise of all Disputed Claims, provided that interim distributions shall be made no less frequently than once during each six (6) month period following the month of the Initial Distribution Date, and provided further that the aggregate amount of Cash to be distributed at such time from the Claims Reserve Account is practicable in comparison to the anticipated costs of such interim distributions. Notwithstanding the foregoing, no interim distribution shall be made to any Creditor if the cost of making such distribution in relation to the amount of the payment renders such interim distribution impractical or not economically feasible.
- (vii) No Holder of a Disputed Claim shall have any Claim against the Cash reserved with respect to such Claim until such Disputed Claim shall become an Allowed Claim. In no event shall any Holder of Disputed Claim be entitled to receive (under the Plan or otherwise) from the Debtors, the Liquidating Debtors, or the Claims Reserve Account any payment (x) which is greater than the amount reserved for such Disputed Claim by the Bankruptcy Court, or (y) except as otherwise permitted under the Plan, of interest or other compensation for delays in distribution. In no event shall the Liquidating Debtors have any responsibility or liability for any loss to or of any amount reserved under the Plan.
- (viii) To the extent a Disputed Claim ultimately becomes an Allowed Claim in an amount less than the Disputed Claim Amount reserved for such Disputed Claim, then the resulting surplus of Cash shall be retained in the Claims Reserve Account and shall be distributed among all Holders of Allowed Claims until such time as each Holder of an Allowed Claim has been paid the Allowed amount of its Claim.

18. **Allocation of Distributions**

Distributions to any Holder of an Allowed Claim shall be allocated first to the principal amount of any such Allowed Claim, as determined for federal income tax purposes, and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

19. **Rounding**

Whenever any payment of a fraction of a cent would otherwise be called for, the actual distribution shall reflect a rounding of such fraction down to the nearest cent.

20. **No Interim Cash Payments if Not Economically Feasible**

If an interim distribution to be received by the Holder of an Allowed Claim would not be economically feasible or prudent due to the cost of making such distribution in relation to the dollar amount of such distribution, then notwithstanding any contrary provision in the Plan, the Disbursing Agent, shall have the discretion to not make such interim payment to such Holder, and such Cash shall be held for such Holder until the earlier of (i) the time when making an interim distribution to such Holder would be economically feasible or prudent, or (ii), the date on which final distributions are made to the Holders of Allowed Claims.

21. **Disputed Payments**

In the event of any dispute between and among Creditors as to the right of any Entity to receive or retain any payment or distribution to be made to such Entity under the Plan, the Disbursing Agent may, in lieu of making such payment or distribution to such Entity, instead hold such payment or distribution until the disposition thereof shall be determined by the Bankruptcy Court.

22. **Unclaimed Property**

Any Entity which fails to claim any Cash within sixty (60) days from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under the Plan. Upon forfeiture, such Cash (including interest thereon) shall be deposited into the Claims Reserve Account to be distributed to the Holders of Allowed Claims for distribution of excess amounts. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtors, the Liquidating Debtors, or the Disbursing Agent or any Holder of an Allowed Claim to whom distributions are made by the Disbursing Agent.

23. **No Distributions on Late-Filed Claims**

Except as otherwise provided in a Final Order of the Bankruptcy Court, any Claim as to which a Proof of Claim was first Filed after the Bar Date shall be a Disallowed Claim, and the Liquidating Debtors shall not make any distribution to a Holder of such a Claim; provided, however, that to the extent such Claim was listed in the Schedules (other than as contingent, disputed, or unliquidated) and would be an Allowed Claim but for the lack of a timely Proof of Claim, the Liquidating Debtors shall treat such Claim as an Allowed Claim in the amount in which it was so listed.

24. **Withholding Taxes**

Pursuant to section 346(f) of the Bankruptcy Code, the Disbursing Agent shall be entitled to deduct any federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. The Debtors shall comply with all reporting obligations imposed on it by any Governmental Unit.

25. **U.S. Trustee Fees**

All outstanding amounts due under 28 U.S.C. § 1930 that have not been paid shall be paid by the Debtors on or before the Effective Date. Thereafter, the Liquidating Debtors shall

pay any statutory fees due pursuant to 28 U.S.C. § 1930(a)(6), and such fees shall be paid until entry of a Final Decree or an order converting or dismissing the Chapter 11 Cases.

26. **Compromise and Settlement**

This Plan represents a compromise and settlement of the Claims against the Debtors. The compromise is fair and equitable and is reasonable under the circumstances of these Chapter 11 Cases and the applicable standards used by the Bankruptcy Court for the approval of compromises and settlements. But for the confirmation of this Plan, there would be significantly less funds available for the distribution to Creditors and Administrative Claims.

**D. Executory Contracts**

1. **Rejection of Executory Contracts and Unexpired Leases**

Except with respect to executory contracts or unexpired leases that were (i) previously assumed or rejected by order of the Bankruptcy Court, (ii) are the subject of a pending motion to assume or reject, pursuant to section 365 of the Bankruptcy Code, or (iii) were assumed by the Debtors and assigned to the Purchaser pursuant to the Sale Order, on the Effective Date, each executory contract and unexpired lease entered into by any Debtor prior to the Petition Date that has not previously expired or terminated pursuant to its own terms shall be deemed rejected pursuant to section 365 of the Bankruptcy Code. Nothing in the Plan shall be construed as an acknowledgement that a particular contract or agreement is executory or is properly characterized as a lease. The Confirmation Order shall constitute an Order of the Bankruptcy Court approving such rejections pursuant to section 365 of the Bankruptcy Code, as of the Effective Date. The non-Debtor parties to any rejected personal property leases shall be responsible for taking all steps necessary to retrieve the personal property that is the subject of such executory contracts and leases.

2. **Claims Based on Rejection of Executory Contracts or Unexpired Leases**

All Proofs of Claim with respect to Claims arising from the rejection of executory contracts or unexpired leases pursuant to Confirmation of the Plan, if any, must be Filed with the Bankruptcy Court before the Rejection Bar Date. Any Claims arising from the rejection of an executory contract or unexpired lease pursuant to Confirmation of the Plan that is not Filed within such times will be forever barred from assertion against the Debtors, the Liquidating Debtors, or the Estates and their property. All such Claims for which Proofs of Claim are timely and properly Filed and ultimately Allowed will be treated as Other Unsecured Claims and subject to the provisions of the Plan.

**E. Conditions to Confirmation of the Plan**

There are no conditions to Confirmation of the Plan other than the Bankruptcy Court shall have signed the Confirmation Order.

**F. Conditions to Effective Date**

Provided that no stay of the Confirmation Order is then in effect, the following conditions are conditions precedent to the Effective Date, and this Plan shall become effective on the first Business Day following Confirmation on which all of the following conditions have either been satisfied or waived in writing by each of the Debtors and LLCP:

1. **Form of Confirmation Order.** The form of Confirmation Order is a condition to the Effective Date. The form of the Confirmation Order as entered or approved by or as acceptable to the Bankruptcy Court must be reasonably acceptable to LLCP.

2. **Automatic Stay Remains in Effect.** The automatic stay of Bankruptcy Code section 362 shall still be in effect as to all of the Class Actions.

3. Effective Date Administrative Claims. There are sufficient funds available to pay all Allowed Administrative Claims which the Bankruptcy Court orders must be paid on the Effective Date of the Plan.

**G. Effect of Failure of Conditions to Effective Date**

If any one or more of the conditions in Article 7 of the Plan is not met, LLCPC may, at its option, seek to revoke the Confirmation Order and withdraw this Plan.

**H. Effects of Confirmation**

1. **Binding Effect of Plan**

The provisions of the confirmed Plan shall bind the Debtors, the Liquidating Debtors, any Entity acquiring property under the Plan, and any Creditor or Interest Holder, whether or not such Creditor or Interest Holder has filed a Proof of Claim or Interest in these Chapter 11 Cases, whether or not the Claim of such Creditor or the Interest of such Interest Holder is impaired under the Plan, and whether or not such Creditor or Interest Holder has accepted or rejected the Plan. All Claims and Debts shall be as fixed and adjusted pursuant to the Plan. With respect to any taxes of the kind specified in Bankruptcy Code section 1146(c), the Plan shall also bind any taxing authority, recorder of deeds or similar official for any county, state, or Governmental Unit or parish in which any instrument related to under the Plan or related to any transaction contemplated under the Plan is to be recorded.

2. **Revesting of Property of Debtors**

Upon the Effective Date, other than with respect to the Purchased Assets (which assets have been sold to NCG), title to all property of the Estates of the Debtors in the Chapter 11 Cases shall revert in the Liquidating Debtors, free and clear of any Liens or Claims except any Liens and Claims expressly preserved by (or explicitly set forth in) the Plan, the Confirmation Order, the Second Interim Cash Collateral Order, the Final DIP Order, the DIP Amendment

Order or the Sale Order, and shall be retained by the Liquidating Debtors for the purposes contemplated under the Plan. Without limiting the generality of the foregoing, all General Litigation Recoveries, rights to Liquidation Proceeds, and all resulting Plan Proceeds earmarked for disbursement to Creditors under the Plan, shall vest in the Liquidating Debtors upon the Effective Date and shall no longer constitute property of the Estates.

3. **Property Free and Clear**

Except as otherwise provided in the Plan or the Confirmation Order, all property that shall revert in the Liquidating Debtors shall be free and clear of all Claims, including Liens, interests, charges or other encumbrances of Creditors or Interest Holders, other than any Liens specifically recognized and continued under the Plan. Following the Effective Date, the Liquidating Debtors may transfer and dispose of any such property free of any restrictions imposed by the Bankruptcy Code or the Bankruptcy Rules and without further approval of the Bankruptcy Court or notice to Creditors, except as may otherwise be required under the Plan or the Confirmation Order.

4. **Limitation of Liability**

The Debtors, LLCP, NCG, and each of their respective officers, directors, managers, employees, agents, advisors, accountants, attorneys and representatives (collectively, the “Exculpated Parties”), will neither have nor incur any liability to any Entity for any action in good faith taken or omitted to be taken in connection with or related to the Chapter 11 Cases, the Sale, or the formulation, preparation, dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure Statement, or any agreement created or entered into in connection with the Plan or incident to the Chapter 11 Cases; provided, however, that this

limitation will not affect or modify the obligations created under the Plan, or the rights of any Holder of an Allowed Claim to enforce its rights under the Plan.

5. **Releases**

As part of the Plan, the releases set forth below shall be granted pursuant to the Plan and the Confirmation Order:

a. **Release by Debtors. On the Effective Date, the Debtors and Liquidating Debtors shall release and be permanently enjoined from any prosecution or attempted prosecution of any and all General Litigation or potential General Litigation that they have or may have against any of their present or former officers, directors, shareholders, parents, subsidiaries, affiliates, members, managers, partners, employees, agents, representatives, financial advisors, attorneys, accountants, predecessors, successors, and assigns, and their respective property; provided, however, that the foregoing shall not operate as a waiver of or release from any General Litigation or potential General Litigation arising out of (i) any express contractual obligation owing by any such present or former officers, directors, shareholders, parents, subsidiaries, affiliates, members, managers, partners, employees, agents, representatives, financial advisors, attorneys, accountants, predecessors, successors, and assigns (ii) the claims set forth in the Mealing Litigation or any claims of the Debtors against any defendants in the Mealing Litigation, or (iii) the willful misconduct or gross negligence of such present or former officers, directors, shareholders, parents, subsidiaries, affiliates, members, managers, partners, employees, agents, representatives, financial advisors, attorneys, accountants, predecessors, successors, and assigns in connection with, related to, or arising out of these Chapter 11 Cases, the**

**pursuit of Confirmation of the Plan, the Consummation of the Plan, the administration of the Plan, or the property to be distributed under the Plan.**

**In addition, on the Effective Date, the Debtors and Liquidating Debtors shall release and be permanently enjoined from any prosecution or attempted prosecution of any and all General Litigation or potential General Litigation against NCG or LLCP in its capacity as prepetition lender and/or lender under the DIP Loan Terms Agreement, and/or as Purchaser<sup>22</sup>, and their respective present or former officers, directors, shareholders, parents, subsidiaries, affiliates, members, managers, partners (limited or general), employees, agents, representatives, financial advisors, attorneys, accountants, predecessors, successors, and assigns, and their property, including, without limitation, any and all General Litigation or potential General Litigation which the Debtors and Liquidating Debtors may be entitled to assert, whether for tort, fraud, contract, violations of federal or state securities laws, or otherwise, whether known or unknown, foreseen or unforeseen, existing or thereafter arising, based in whole or in part upon any act or omission, transaction, or other occurrence taking place on or before the Confirmation, in any way relating to the Chapter 11 Cases or the Plan, including, but not limited to the Disclosure Statement, the negotiation, solicitation, Confirmation and Consummation of the Plan, or any Avoidance Actions that have been or may be brought against NCG or LLCP, in connection with (i) actions taken as or in its capacity as prepetition lender and/or lender under the DIP Loan Terms Agreement, and/or as Purchaser, or (ii) the Chapter 11 Cases.**

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<sup>22</sup> Although the Debtors are releasing such claims, if any, against LLCP, the Debtors previously transferred such claims to NCG -- as well as all other potential claims against LLCP that arose out of events occurring prior to the Closing -- under the terms of the Purchase Agreement.

b. **Release of Debtors Regarding Chapter 11 Cases. On the Effective Date, except as otherwise provided in the Plan or in the Confirmation Order, the Debtors and the Liquidating Debtors, and their present or former officers, directors, shareholders, parents, subsidiaries, affiliates, members, managers, partners, employees, agents, representatives, financial advisors, attorneys, accountants, predecessors, successors, and assigns, and their respective property, are released from any and all General Litigation or potential General Litigation which any non-Debtor may be entitled to assert against such parties, whether for tort, fraud, contract, violations of federal or state securities laws, or otherwise, whether known or unknown, foreseen or unforeseen, existing or thereafter arising, based in whole or in part upon any act or omission, transaction, or other occurrence taking place on or before the Confirmation, in any way relating to the Chapter 11 Cases or the Plan, including, but not limited to, the Disclosure Statement or the negotiation, solicitation, Confirmation and Consummation of the Plan (but, for clarity, excluding the Allowed Claims of Creditors); provided, however, that nothing shall release any person from any claims, obligations, rights, causes of action, or liabilities based upon any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the Consummation of the Plan, the administration of the Plan, or the Property to be distributed under the Plan arising out of such person's gross negligence or willful misconduct.**

Each party to which the foregoing releases applies shall be deemed to have granted the releases set forth herein notwithstanding that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without

regard to the subsequent discovery or existence of such different or additional facts, and such party expressly waives any and all rights that it may have under any statute or common law principle, including section 1542 of the California Civil Code or similar law or rule, which would limit the effect of such releases to those Claims or causes of action actually known or suspected to exist at the time of Confirmation. Section 1542 of the California Civil Code generally provides as follows: “A general release does not extend to claims which the creditors does not know or suspect to exist in his or her favor at the time of executing the Release, which if known by him or her must have materially affected his or her settlement with the debtor.”

6. **Plan Injunction**

In implementation of the Plan, except as otherwise expressly provided in the Confirmation Order or the Plan, and except in connection with the enforcement of the terms of the Plan or any documents provided for or contemplated in the Plan, all Entities who have held, hold or may hold Claims against or Interests in the Debtors, the Liquidating Debtors or the Estates that arose prior to the Effective Date are permanently enjoined from: (a) commencing or continuing in any manner, directly or indirectly, any action or other proceeding of any kind against the Debtors, the Liquidating Debtors, the Estates, or any property of the Debtors, the Liquidating Debtors, or the Estates, with respect to any such Claim or Interest, including without limitation the Class Actions; (b) the enforcement, attachment, collection or recovery by any manner or means, directly or indirectly, of any judgment, award, decree, or order against the Debtors, the Liquidating Debtors, the Estates, or any property of the Debtors, the Liquidating Debtors, or the Estates, with respect to any such Claim or Interest; (c) creating, perfecting or enforcing, directly or indirectly, any Lien or encumbrance of any kind against the Debtors, the Liquidating Debtors, the Estates, or any property of the Debtors, the Liquidating Debtors, or the

Estates, with respect to any such Claim or Interest; (d) asserting, directly or indirectly, any setoff, right of subrogation, or recoupment of any kind against any obligation due the Debtors, the Liquidating Debtors, the Estates, or any property of the Debtors, the Liquidating Debtors, or the Estates, with respect to any such Claim or Interest; and (e) any act, in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan with respect to such Claim or Interest. Nothing contained in this section shall prohibit the Holder of a timely-filed Proof of Claim from litigating its right to seek to have such Claim declared an Allowed Claim and paid in accordance with the distribution provisions of the Plan, or enjoin or prohibit the interpretation or enforcement by the Claimant of any of the obligations of the Debtors or the Liquidating Debtors under the Plan.

7. **Post-Confirmation Liability of Responsible Officer, Litigation Designee and Disbursing Agent**

Each of LLCP, NCG, the Responsible Officer, the Litigation Designee, and the Disbursing Agent, and the consultants, agents, advisors, attorneys, accountants, financial advisors, other representatives and the professionals engaged by the foregoing (collectively, the “Indemnified Parties”) shall not be liable for any and all liabilities, losses, damages, claims, causes of action, costs and expenses, including but not limited to attorneys’ fees arising out of or due to their actions or omissions, or consequences of such actions or omissions, to the Holders of Claims or Equity Interests for any action or inaction taken in good faith in connection with the performance or discharge of his or her duties under the Plan, except the Indemnified Parties will be liable for actions or inactions that are grossly negligent or that constitute willful misconduct. However, any act or omission taken with the approval of the Bankruptcy Court, and not inconsistent therewith, will be conclusively deemed to not constitute gross negligence or willful misconduct. In addition, the Liquidating Debtors and the Estates shall, to the fullest extent

permitted by the laws of the State of Delaware, indemnify and hold harmless the Indemnified Parties from and against and with respect to any and all liabilities, losses, damages, claims, costs and expenses, including but not limited to attorneys' fees arising out of or due to their actions or omissions, or consequences of such actions or omissions, with respect to the Liquidating Debtors and the Estates or the implementation or administration of the Plan if the Indemnified Party acted in good faith and in a manner reasonably believed to be in or not opposed to the best interest of the Liquidating Debtors and the Estates. To the extent the Liquidating Debtors indemnify and hold harmless the Indemnified Parties as provided above, the legal fees and related costs incurred by counsel to the Responsible Officer in monitoring and participating in the defense of such claims giving rise to the right of indemnification shall be paid as Plan Expenses. All rights of the Persons exculpated and indemnified pursuant hereto shall survive Confirmation of the Plan.

8. **Insurance**

On or after the Effective Date, the Responsible Officer and the Disbursing Agent shall obtain a fidelity bond or similar insurance. In addition, the Responsible Officer may obtain (if available) directors' and officers' liability insurance or errors and omission insurance (or equivalent insurance), provided that such insurance is available at a reasonable price. The cost of any fidelity bond or insurance obtained shall be a Plan Expense.

**VI.**

**DISTRIBUTIONS TO HOLDERS OF UNSECURED CLAIMS**

The Plan creates five (5) Classes of Allowed Unsecured Claims for which Cash distributions are contemplated: Class 1 (Other Priority Claims); Class 2A (CFI Class Action Monetary Claims); Class 3A (PA Class Action Claims); Class 4A (Other Unsecured Claims); and Class 5 (LLCP Deficiency Claim). The Debtors estimate that the Allowed Calculation

Amounts of the prepetition claims in these Classes are as follows: Class 1 – approximately \$0  
Class 2A – approximately \$1,009,613 Class 3A – approximately \$53,250; Class 4A –  
approximately \$1,312,649; and Class 5 – approximately \$10,324,990.

## VII.

### **NO DISTRIBUTIONS TO HOLDERS OF SUBORDINATED CLAIMS, EQUITY INTERESTS, AND D&O INDEMNIFICATION CLAIMS**

The Plan classifies Inter-Debtor Claims in Class 6, Subordinated Claims in Class 7, Equity Interests in Class 8 and D&O Indemnification Claims in Class 9. There will be no distributions of any kind to the Holders of Claims in the aforementioned Classes. In addition, each Equity Interest in the Debtors shall be deemed cancelled on the Effective Date.

## VIII.

### **KEY PLAN PROVISIONS**

#### **A. Source of Plan Funding**

The Plan will be funded by the “Plan Proceeds” which shall consist of:

##### **1. Sale Proceeds and Available Cash**

When the Sale closed, the Debtors and LLCP executed the First Amendment, and thereafter the Second Amendment, under which NCG is to provide the Debtors with the Sale Proceeds (i.e., up to \$1,000,000 if the Plan is confirmed and becomes effective). The Sale Proceeds can be used by the Debtors to fund the Plan. The Plan will also be funded with the Debtors’ Available Cash which consists of the aggregate amount of Cash held by the Debtors on the Effective Date.

2. **Liquidation Proceeds**

Liquidation Proceeds consists of the Cash or other consideration paid to or realized by the Debtors or the Liquidating Debtors, as applicable, upon the sale, transfer, assignment or other disposition of the Plan Assets.

3. **General Litigation Recovery**

The General Litigation Recovery consists of any Cash or other property received by the Litigation Designee from all or any portion of the General Litigation (net of costs associated with recovering such amounts), including, but not limited to, awards of damages, attorneys' fees and expenses, interest and punitive damages, whether recovered by way of settlement, execution on judgment or otherwise.

The General Litigation consists of the interest of the Estates or the Liquidating Debtors, as applicable, in any and all claims, rights or causes of action which have been or may be commenced by the Debtors or the Liquidating Debtors, as applicable, including the Mealing Litigation. General Litigation includes, without limitation, (i) any Avoidance Actions; (ii) any action for the turnover of property to the Debtors or the Liquidating Debtors, as applicable; (iii) for the recovery of property or payment of money that belongs to or can be asserted by the Debtors or the Liquidating Debtors, as applicable; (iv) any action for compensation for damages incurred by the Debtors; and (v) any equitable subordination actions against Creditors.

**B. Management of Liquidating Debtors**

The Liquidating Debtors will be managed and governed by the Responsible Officer. LLCP will designate the Responsible Officer at or before the Confirmation Hearing.

**C. Administrative Claims**

The Plan contemplates that Administrative Claims shall be paid in full. Under the Plan, the Administrative Claims Bar Date is thirty (30) calendar days after the date first set by the Bankruptcy Court for the Confirmation Hearing.

**D. Priority Tax Claims**

It is anticipated that the Estate will be obligated to satisfy certain tax claims entitled to priority under section 507(a)(8) of the Bankruptcy Code. It is estimated that Priority Tax Claims in this case will total approximately \$0. All Allowed Priority Tax Claims shall be paid in full under the Plan.

**E. Professional Fee Claims**

**1. Services By and Fees of Professionals Prior to the Effective Date**

Except as set forth in the Second Amendment, the Plan provides that fees and expenses for the Professionals for services rendered and costs incurred after the Petition Date and prior to the Effective Date will be paid by the Debtors or the Liquidating Debtors following approval by the Bankruptcy Court after notice and a hearing.

**2. Services by Professionals and Certain Parties After the Effective Date**

The Plan provides that fees for services rendered and costs incurred on and after the Effective Date by the Responsible Officer or by the Responsible Officer's Professionals or the Litigation Designee or by the Litigation Designee's Professionals to assist in the implementation of the Plan will be paid out of the Plan Proceeds. The Liquidating Debtors will likely need assistance from legal counsel to, among other things, analyze Claims and handle the sale, liquidation, or collection of the Plan Assets. The Liquidating Debtors will also likely require assistance from tax professionals to file final tax returns. In addition, the Liquidating

Debtors may require administrative or clerical assistance in tracking claims, accounting, document and file management and correspondence. Because Bankruptcy Court review of the fees and expenses of Professionals will entail additional costs, and thereby reduce distributions to Creditors, the Plan provides that all fees and expenses of the Responsible Officer and the Responsible Officer's Professionals in implementing the Plan and making distributions under the Plan may be paid without further notice to Creditors or approval of the Bankruptcy Court.<sup>23</sup> If the Liquidating Debtors object in writing to the payment of any compensation, such disputed amount shall not be paid prior to the earlier of the resolution of such dispute or a ruling by the Bankruptcy Court.

## IX.

### **OTHER CRITICAL INFORMATION REGARDING THE PLAN**

#### **A. Avoidance Actions and the Mealing Litigation**

The Litigation Designee has not yet fully analyzed the preference and fraudulent transfer claims (i.e., Avoidance Actions) that the Estate may have against third parties and has not commenced any actions against potential transferees. Attached hereto as Exhibit A is a list of potential defendants who may have Avoidance Action exposure. The Litigation Designee may not aggressively pursue certain Avoidance Actions such as preferences because the cost-benefit analysis for particular actions indicates there may be little benefit to the Estate in circumstances where there are possible credible defenses to the action and the expected dividend to Creditors is relatively high as compared to the cost of litigation and the value of the resulting Claim by the potential judgment debtor under Bankruptcy Code section 502(h) for the avoided

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<sup>23</sup> The Confirmation Order shall advise creditors and other parties in interest of the right to deliver a written request to the Liquidating Debtors for notice of any post-Confirmation applications by the post-Confirmation professionals seeking approval of post-Confirmation fees and expenses. Any disputes concerning the payment of Plan Expenses shall be submitted to the Bankruptcy Court for resolution.

transfer. Moreover, to the extent the Debtors assumed and assigned certain contracts to NCG in connection with the Sale, any potential Avoidance Actions against those contract counterparties were also assigned to NCG. Nevertheless, the fact that the Debtors have not commenced actions prior to the Effective Date of the Plan should in no way imply that it is waiving its rights to bring such actions.

The Litigation Designee expressly reserves the right to seek to avoid any transfer, including those listed in any Plan Supplement that the Debtors may file prior to the Confirmation Hearing, made within ninety (90) days of the Petition Date and one (1) year of the Petition Date (as to Insiders) or such longer periods as may be available under applicable non-bankruptcy law. The Litigation Designee intends to prosecute only those Avoidance Actions that are cost effective or otherwise can be raised as a valid defense to the allowance of a Claim pursuant to Bankruptcy Code section 502(d).

The Mealing Litigation is in the early stages of the litigation. Very little discovery has been undertaken and it is not clear at this time what the net recoveries will be available for distribution to Creditors. LLCP believes that the range of values with respect to such claims is approximately \$0.00 up to \$3-4 million. The defendants in the Mealing Litigation have denied any liability and have indicated they will aggressively defend the action. The Mealing Litigation is based upon the fact that the defendants in the Mealing Litigation represented and warranted to LLCP that the Debtors were in compliance with all applicable laws at the time of the sale transaction in 2004. The Debtors subsequently discovered (and informed LLCP) that in fact the defendants in the Mealing Litigation appear to have improperly charged certain amounts relating to bounced check fees which may not have been authorized under applicable law. LLCP believes that this misrepresentation has damaged LLCP and for that

reason LLCP commenced the Mealing Litigation, which under the Plan, is being pursued for the benefit of not only LLCP, but other Creditors as well. It should be noted that (i) there is no guaranty of any recovery with respect to the Mealing Litigation, and it is possible that no recovery will be obtained with respect to such claims; and (ii) even if the Litigation Designee is successful in obtaining a judgment against the defendants in the Mealing Litigation, those defendants may not have sufficient funds to satisfy any such judgment, or may file for bankruptcy protection themselves to prevent recovery on any such judgment.

**B. Tax Implications**

The United States federal income tax consequences of the distributions contemplated by the Plan to the Holders of Claims that are United States Persons will depend upon a number of factors. For purposes of the following discussion, a “United States Person” is any person or entity (1) who is a citizen or resident of the United States, (2) that is a corporation or partnership created or organized in or under the laws of the United States or any state thereof, (3) that is an estate, the income of which is subject to United States federal income taxation regardless of its source or (4) that is a trust (a) the administration over which a United States person can exercise primary supervision and all of the substantial decisions of which one or more United States persons have the authority to control; or (b) that has elected to continue to be treated as a United States Person for United States federal income tax purposes. In the case of a partnership, the tax treatment of its partners will depend on the status of the partner and the activities of the partnership. United States Persons who are partners in a partnership should consult their tax advisors. A “Non-United States Person” is any person or entity that is not a United States Person. For purposes of the following discussion and unless otherwise noted below, the term “Holder” shall mean a holder of a Claim that is a United States Person.

The United States federal income tax consequences to Holders and the character and amount of income, gain or loss recognized as a consequence of the Plan and the distributions provided for thereby will depend upon, among other things, (1) the manner in which a Holder acquired a Claim; (2) the length of time the Claim has been held; (3) whether the Claim was acquired at a discount; (4) whether the Holder has taken a bad debt deduction with respect to the Claim (or any portion thereof) in the current or prior years; (5) whether the Holder has previously included in income accrued but unpaid interest with respect to the Claim; (6) the method of tax accounting of the Holder; and (7) whether the Claim is an installment obligation for United States federal income tax purposes. Certain holders of Claims (such as foreign persons, S corporations, regulated investment companies, insurance companies, financial institutions, small business investment companies, broker-dealers and tax-exempt organizations) may be subject to special rules not addressed in this summary of United States federal income tax consequences. There also may be state, local, and/or foreign income or other tax considerations or United States federal estate and gift tax considerations applicable to holders of Claims, which are not addressed herein. EACH HOLDER OF A CLAIM OR INTEREST AFFECTED BY THE PLAN IS STRONGLY URGED TO CONSULT ITS TAX ADVISOR WITH RESPECT TO DISTRIBUTIONS RECEIVED UNDER THE PLAN.

1.  **Holders of Claims**

A Holder who receives Cash in satisfaction of its Claim may recognize ordinary income or loss to the extent that any portion of such consideration is characterized as accrued interest. A Holder who did not previously include in income accrued but unpaid interest attributable to its Claim, and who receives a distribution on account of its Claim pursuant to the Plan, will be treated as having received interest income to the extent that any consideration

received is characterized for United States federal income tax purposes as interest, regardless of whether such Holder realizes an overall gain or loss as a result of surrendering its Claim. A Holder who previously included in its income accrued but unpaid interest attributable to its Claim should recognize an ordinary loss to the extent that such accrued but unpaid interest is not satisfied, regardless of whether such Holder realizes an overall gain or loss as a result of the distribution it may receive under the Plan on account of its Claim.

2.  **Holders of Class 8 Equity Interests**

Pursuant to the Plan, all Class 8 Equity Interests will be cancelled, annulled and extinguished, and Holders of Class 8 Equity Interests will receive nothing in exchange for such Equity Interests. As a result, each Holder of a Class 8 Equity Interests generally should recognize a loss equal to the Holder's tax basis in its Class 8 Equity Interest extinguished under the Plan unless the Holder previously claimed a loss with respect to such Equity Interests under its regular method of accounting. In general, if the Holder held its Class 8 Equity Interest as a capital asset, the loss will be treated as a loss from the sale or exchange of such capital asset. Capital loss will be long-term if the Class 8 Equity Interest was held by the Holder for more than one year and otherwise will be short-term. Any capital losses realized generally may be used by a corporate Holder only to offset capital gains, and by an individual Holder only to the extent of capital gains plus \$3,000 of other income.

3.  **Non-United States Persons**

A holder of a Claim that is a Non-United States Person generally will not be subject to United States federal income tax with respect to property (including money) received in exchange for such Claim pursuant to the Plan, unless (i) such holder is engaged in a trade or business in the United States to which income, gain or loss from the exchange is "effective

connected” for United States federal income tax purposes, or (ii) if such holder is an individual, such holder is present in the United States for 183 days or more during the taxable year of the exchange and certain other requirements are met.

4. **Importance of Obtaining Professional Tax Assistance**

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A CLAIM HOLDER’S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, CLAIM HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE UNITED STATES FEDERAL, STATE AND LOCAL, AND APPLICABLE FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

C. **Settlement Embodied in Plan is Fair and Reasonable**

Absent the consummation of the Plan, LLCP does not believe that the Class Action Claimants or other unsecured creditors will receive any recovery in these Chapter 11 Cases because the Debtors will have virtually no funds to distribute to Creditors. Indeed, any available funds would be consumed through the expensive process of litigating the Class Actions and responding to discovery propounded by the Class Action representatives. Moreover, although the Debtors do not have any remaining assets to satisfy any judgment(s) that might eventually be obtained by the Class Action Claimants, even if the Debtors had assets, those assets would be small in relation to the size of the claims asserted by the Class Action Claimants and it could be a significant amount of time before the Class Action Claimants could realize any

recovery as compared to the relatively prompt distributions that would be made under the Plan. Such delay could occur for many reasons including the length and complexity of trials in these matters and the likelihood of appeals.

The distributions to the Class Action Claimants under the Plan are especially reasonable given the limited recovery available to the Class Action Claimants under the FDCPA. Under the FDCPA, absent actual damages, recovery in the Class Actions is limited to \$1,000 for each named plaintiff (of whom there are only ten) and the lesser of (i) \$500,000 or (ii) 1 per centum of the net worth of the Debtors for all other class members. Because the Debtors are insolvent, they have a negative net worth which is obviously less than \$500,000; arguably, therefore, the Class Action Claimants are entitled to nothing on account of their Claims. Even if some of the Class Action Claimants were able to prove actual damages, any such claims would be subordinated to the Professional Fee Claims (which are being compromised in significant respect under the Plan), and the LLCP Deficiency Claim. Thus, aside from the ten, named plaintiffs, practically all of the Class Action Claimants (who are estimated to exceed 1,000,000 in number) could obtain no monetary recovery under the FDCPA. By contrast, the Plan provides the opportunity for the Class Action Monetary Claimants to receive an actual monetary recovery and to obtain such a recovery in the near term.

**D. Risks under the Plan**

LLCP submits that there are no material risks to implementation of the Plan, since the majority of the Debtors' assets have already been reduced to Available Cash through the Sale, which closed on April 11, 2009, and if the conditions to the Effective Date of the Plan are met, the General Litigation will be pursued for distribution pursuant to the terms of the Plan.

**E. Liquidation Analysis**

Pursuant to section 1129(a)(7) of the Bankruptcy Code, unless there is unanimous acceptance of the Plan by an impaired Class, LLCP must demonstrate, and the Bankruptcy Court must determine that with respect to such Class, that each holder of a Claim will receive property of a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code on the Effective Date of the Plan. This requirement is commonly referred to as the “Best Interests of Creditors Test.” For the reasons set forth below, LLCP believes that the Plan satisfies the Best Interests of Creditors Test.

In a chapter 7 liquidation, Holders of Allowed Claims would receive distributions based on the liquidation of the assets of the Debtors. Such assets would not include the same assets being collected and liquidated under the Plan. In a chapter 7 liquidation, there would be no payments to be distributed on account of proceeds of the Mealing Litigation and \$500,000 less in payments from NCG. Moreover, if the Class Actions are permitted to continue, then it is expected that NCG will be required to incur additional fees and expenses in responding to discovery requests with respect to the Class Actions. That will further reduce the payments owing by NCG under the First Amendment to the Debtors by a significant amount (as much, potentially, as 50%). Moreover, LLCP would seek to satisfy the LLCP Deficiency Claim from any preference action recoveries, resulting in potentially no recovery for the other Creditors from those potential litigations.

Moreover, in a chapter 7 liquidation, the net proceeds from the collection, sale and or liquidation of property of the Estate available for distribution to Creditors would be reduced by the commission payable to the chapter 7 trustee and the trustee’s attorney’s and

accounting fees, as well as the administrative costs incurred during the Chapter 11 Cases (such as the compensation for chapter 11 Professionals). The Debtors have already reduced the vast majority of its assets to Available Cash through the Sale. Therefore, the Estate has already absorbed the cost of operating the Debtors' business to realize upon these and other assets.

In chapter 7 cases, the chapter 7 trustee would be entitled to seek a sliding scale commission based upon the amount of funds distributed by such trustee, even though the Debtors have already accumulated the majority of such funds and have incurred the expenses associated with generating those funds. Accordingly, there is a strong likelihood that Creditors would "pay again" for the funds already accumulated by the Debtors, because the chapter 7 trustee would be entitled to receive a commission in some amount for all funds distributed. It is also anticipated that a chapter 7 liquidation would result in significant delay in the distributions to Creditors. Among other things, a chapter 7 case would trigger a new bar date for filing Claims that would be more than 90 days following conversion of the Chapter 11 Case to chapter 7. *Fed. R. Bankr. P. 3002(c)*. Hence, a chapter 7 liquidation would not only cost more in the way of administrative fees and delay distributions, but also raise the prospect of the allowance of additional Claims that were not timely asserted in the Chapter 11 Cases. Based on the foregoing, the Plan provides the best opportunity to bring the greatest return to Creditors.

In addition, it is doubtful that a chapter 7 trustee would pursue the General Litigation as vigorously as the Litigation Designee, or be able to identify those Claims that are cost-effective to pursue as prudently as the Litigation Designee. Moreover, the Creditors would not benefit from any potential recovery on account of the Mealing Litigation. If the case converts to chapter 7, then LLCPC will continue to prosecute the Mealing Litigation for its own

benefits, whereas under the Plan, the Estates would receive 70% of any Net Plan Proceeds associated with the Mealing Litigation.

LLCP believes that, if the Plan is not confirmed, the most likely alternative will be conversion of the Chapter 11 Cases to a chapter 7 liquidation. The Plan is more likely to yield economic benefits to Creditors than a chapter 7 liquidation, because it will avoid a layer of administrative expense associated with the appointment of a chapter 7 trustee, while maximizing the efficiency of administrating the Debtors' remaining assets for the benefit of all Creditors.

Lastly, the Plan meets the Best Interests of Creditors Test for the holders of Allowed Claims in Class 7 (Subordinated Claims). Bankruptcy Code section 726(a)(4) subordinates Claims for penalties, forfeitures, and punitive damages, and similar Claims that do not compensate the Holder for actual pecuniary loss, to the Claims of Creditors for pecuniary loss, including tardy Claims for pecuniary loss. Under the Plan, Holders of Claims in Class 7 will be paid nothing because the Debtors are insolvent and cannot pay its unsecured Claims in full. Thus, subordination of Class 7 Claims under the Plan is the same treatment the Holders of such Claims would receive in a chapter 7 case.

## **X.**

### **CONFIRMATION OF THE PLAN**

LLCP will seek confirmation of the Plan at the Confirmation Hearing, pursuant to applicable provisions of the Bankruptcy Code.

#### **A. Confirmation Hearing**

The Bankruptcy Court will hold the Confirmation Hearing on November 2, 2009, at 11:00 a.m. to determine whether the Plan has been accepted by the requisite number of Creditors and whether the other requirements for Confirmation of the Plan have been satisfied.

**B. Requirements for Confirmation**

At the Confirmation Hearing, the Bankruptcy Court will determine whether the provisions of section 1129 of the Bankruptcy Code have been satisfied. If all of the provisions of section 1129 of the Bankruptcy Code are met, the Bankruptcy Court may enter an order confirming the Plan. LLCP believes that all of the requirements of section 1129 of the Bankruptcy Code will be satisfied. Among other things, LLCP believes the Plan will be accepted by the requisite number of votes and satisfies all of the statutory requirements of chapter 11 of the Bankruptcy Code. LLCP submits that it has complied or will have complied with all of the requirements of chapter 11, and that the Plan has been proposed and is made in good faith. In addition, LLCP submits that the Plan satisfies the “best interest” of Creditors and will not be followed by the need for further bankruptcy relief.

**C. Classification of Claims and Interests**

The Bankruptcy Code requires that a plan under chapter 11 place each creditor’s claim and each equity interest in a class with other claims or interests that are “substantially similar.” The Plan establishes eight (9) Classes of Claims and one (1) Class of Equity Interests. Under the Plan, Claims in the respective Classes are substantially similar to each other.

LLCP believes that the Plan’s classification of Claims and Equity Interests fully complies with the requirements of the Bankruptcy Code.

**D. Acceptance**

As a condition to Confirmation, the Bankruptcy Code requires that each class of holders of claims or interests accept the plan, with the exceptions described below. The Bankruptcy Code defines acceptance by a class of holders of claims as acceptance by holders of two-thirds in dollar amount and a majority in number of claims of that class, but for this purpose

counts only those who actually vote to accept or reject the plan. Holders of claims who fail to vote are not counted as either accepting or rejecting the plan.

Classes of claims and interest that are not “impaired” under a plan are deemed to have accepted the plan. A class is generally “impaired” if the legal, equitable, or contractual rights attaching to the claims or interests of that class are modified, other than by curing defaults and reinstating maturities or by payment in full in cash. A class that receives nothing under a plan is deemed to reject such plan.

**E. Best Interests of Creditors**

The Plan is in the best interests of the Holders of Claims, because it provides to holders of Impaired Claims distributions having a present value as of the Effective Date of not less than the value such holders would likely receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

As to Class 7 (Subordinated Claims), under the Plan, the Holders of Allowed Claims in Class 7 will receive at least as much as such Holders would receive in a chapter 7 case. In particular, pursuant to Bankruptcy Code section 726(a)(4), Claims for forfeitures, penalties, and punitive damages, and similar Claims that do not compensate for actual pecuniary loss, are treated differently than Claims for pecuniary loss, including tardy Claims for pecuniary loss. Thus, classifying and treating such Subordinated Claims as they are treated in chapter 7 satisfies Bankruptcy Code sections 1122 and 1129 (a)(7). Moreover, NCG would not be obligated to fund the additional \$500,000 under the First Amendment and Creditors would not share in as great a distribution on account of General Litigation Recoveries (especially with respect to the Mealing Litigation) in a chapter 7.

In sum, as reflected by the Liquidation Analysis above, the Holders of Claims will realize greater value under the Plan than they would in a chapter 7 liquidation—primarily because of the additional administrative costs and fees that would be incurred were the case to convert to chapter 7. As explained in the Liquidation Analysis, the same property would not be available for distribution in chapter 7 and the Debtors’ Creditors would essentially be forced to “pay again” for the funds actually available for distribution because the chapter 7 trustee would be entitled to receive a commission in some amount for all funds distributed. Consequently, the Plan is in the best interests of the Holders of Claims and Equity Interests in this case.

At the Confirmation Hearing, the Bankruptcy Court will determine whether the Holders of Claims and Equity Interests in any Impaired Class that has not voted to accept the Plan would receive a distribution under the Plan that is at least as great as the distribution that such Holders would receive upon a liquidation of the Debtors pursuant to chapter 7 of the Bankruptcy Code.

**F. Feasibility**

Section 1129(a)(11) of the Bankruptcy Code requires a finding that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further reorganization, of the Debtors or any successor to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan.

The Plan satisfies these requirements and is “feasible” because the implementation of the Plan and the wind-up of the Debtors’ affairs pursuant thereto will be funded by the Plan Proceeds. Because the Debtors will have the Plan Proceeds, distributions to Creditors under the Plan will occur and are not dependent upon any ongoing operations by the Debtors.

In particular, the Plan provides that all Available Cash will be accumulated by the Debtors or Liquidating Debtors, as applicable, and held as Plan Proceeds for distribution to the Holders of Allowed Claims in the order of priority. Thus, the Plan contemplates distribution of the Plan Proceeds as a waterfall, with the senior claims paid ahead of junior claims (except to the extent such senior claims have agreed to subordinate their claims under the Plan). Because a significant portion of the Debtors' assets have already been reduced to Cash (or the right to receive cash over time), it is expected that there will be sufficient Cash, and hence sufficient Plan Proceeds to pay all Administrative Claims, Priority Tax Claims, and Other Priority Claims in full, and to distribute the balance to the Holders of Allowed unsecured Claims.

Therefore, the Confirmation of the Plan is not likely to be followed by the need for a further bankruptcy relief by the Liquidating Debtors.

**G. Cramdown**

A court may Confirm a plan, even if it is not accepted by all impaired classes, if the plan has been accepted by at least one impaired class of claims and the plan meets the “cramdown” requirements set forth in section 1129(b) of the Bankruptcy Code. Section 1129(b) of the Bankruptcy Code requires that the court find that a plan is “fair and equitable” and does not “discriminate unfairly” with respect to each non-accepting impaired class of unsecured claims or interests. With respect to a dissenting class of unsecured claims, the “fair and equitable” standard requires, among other things, that a plan contain one of two elements. It must provide either that each holder of an unsecured claim in such class receive or retain property having a value, as of the effective date of a plan, equal to the allowed amount of its claim, or that no holder of allowed claims or interests in any junior class receive or retain any property on account of such claims or interests. With respect to a dissenting class of interests,

the “fair and equitable” standard requires that the plan contain one of two elements. It must provide either (i) that each holder of an interest in the class receive or retain property having a value, as of the Effective Date, equal to the greater of the allowed amount of any fixed liquidation preference to which such holder is entitled, or the value of such interests, or (ii) that no holder of an interest in any junior class receive or retain any property on account of such interests. The strict requirement of the allocation of full value to dissenting classes before junior classes can receive a distribution is known as the “absolute priority rule.”

In the event that any impaired Class shall fail to accept the Plan in accordance with section 1129(a)(8) of the Bankruptcy Code, the Debtors reserve the right to request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code or modify the Plan in accordance with the terms thereof.

#### **H. Alternatives to Confirmation of Plan**

If the Plan is not Confirmed by the Bankruptcy Court and consummated, the alternatives include (i) liquidation of the Debtors under chapter 7 of the Bankruptcy Code; or (ii) confirmation of an alternative plan of liquidation under chapter 11 of the Bankruptcy Code.

If the Plan is not confirmed, the Debtors will decide which alternative to pursue by weighing its available options and choosing the alternative that is in the best interest of the Debtors, its Creditors and other parties in interest.

**XI.**

**CONCLUSION**

LLCP believes that the Plan is in the best interest of Creditors and urges Creditors to vote to accept the Plan.

Dated: September 22, 2009  
Wilmington, Delaware

CIARDI CIARDI & ASTIN

/s/ Mary E. Augustine

Daniel K. Astin (No. 4068)

Anthony M. Saccullo (No. 4141)

Mary E. Augustine (No. 4477)

Carl D. Neff (No. 4895)

919 N. Market Street, Suite 700

Wilmington, Delaware 19801

Tel: (302) 658-1100

Fax: (302) 658-1300

dastin@ciardilaw.com

asaccullo@ciardilaw.com

maugustine@ciardilaw.com

cneff@ciardilaw.com

-and-

Irell & Manella LLP

Howard Steinberg, Esq.

1800 Avenue of the Stars

Suite 900

Los Angeles, CA 90067-4276

*Attorneys for LLC*

## **EXHIBIT A**

The following individuals or entities may be sued for return of preferential or fraudulent transfers under the Bankruptcy Code (and other applicable law):<sup>1</sup>

4Imprint Inc	Creative Forcus Inc-NWPRT Beach
ACCS CORP	CRG Partners Group LLC
Accurint, Inc	CTS Holding
Aetna	CurtYocam
Aetna-HMO Med. So. Cal.	Cynthia Wise
American Express	Devon & Devon Career Professionals
American Express - Schreck	Diversified Data & Comm.
American Express - Stohlton	Elena Ramos
Angie Fernandez	EMS Scheduling
Anthony Baer Creative Services	EPP, Inc.
Arkansas 6 <sup>th</sup> –AR	Equity Pacific Advisors
Armstrong/Robitaille/Riegler	Everest National Ins. Co.
Bank of America	Federal Express
Best Best & Krieger LLP	First Insurance Funding Corp.
Black Diamond Printing	Friedman Kaplan Seiler & Adelman LLP
Blue Shield of California	Front Range Community College-Boulder
Brad Jaehne	Great American Networks
BRETT STOHLTON	Hampton Inn
BTI Communications Group	Harland
C & R Marketing	Hasler, Inc.
California Baptist University	Holiday Inn Express-Warren MI
California Santa Barbara-CA	Holiday Inn-Chesapeake House
Calnorth Reporting Service	Illinois States Attorneys association
Candlewood Suites Colorado Springs CO	Infosend, Inc
Carrie Mulcahy	James Vogl
Cash	Jason R Harrington
Charlene Landeros	Jenkins Goodman Neuman & Hamilton
Chris Martin	Jesse Beckton
Cindy Wise	JMBM
Citrix Systems Inc	Jose Morfin
Complete Broadway Printing	Joyful Garden
Conexis	Julie Schwinn
Corporate Express, Inc.	Orlando Lopez
Cox Communications	Paul Sciacca

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<sup>1</sup> Some or all of the individuals (“Released Persons”) may have received a release of claims in connection with the bankruptcy case. The Litigation Designee will not commence litigation against any such Released Persons.

Karen Boyd  
Kathryn Robinson  
Key Equipment Finance  
King, King & Fishleder  
Kirby Tepper  
Kirk Barrus  
Konica Minolta Business SOL  
Korn/Ferry International  
Kristy Silguero  
Lance Johnson  
Levine Leichtman Capital Partners III, LP  
Libra Securities, LLC  
Linda Greener  
Madison Rivers Partners  
McDemott & Bull  
McGuirewoods  
Michael Schreck  
Mike Wilhelms  
Mutual of Omaha Retirement Services  
NAPC  
New Mexico Taxation & Revenue Dept  
New York State Insurance Fund 401 (k) Bond  
Insurance Provider for  
Northern Illinois University  
Office Max  
Omid Missaghian  
Orange County Tax Collector A

Paychex  
Pennsylvania Northampton-PA  
Pepper Hamilton LLP  
Pitney Bowes  
Platinum Advisors  
Porter IN and Hawaii  
Project Professional Search Group, LLC  
Protus IP Fax (174785)  
Protus IP Voice (185574)  
R. J. Ferjo Co, Printing  
Reprodox  
Russell Schreck  
Saddleback Memorial Heart Institute  
SCH Corp  
Schwartz & Cera LLP  
Scott Galovan  
SY Corporation  
Symetra Life Insurance Co.  
Symetra Life Insurance Company  
Tamco Capital Corp  
Tracy Tibbetts  
University of Phoenix-Main  
USPS  
Vision Service Plan  
Wendy Mcfarland  
YD Image  
Zan Galton III