

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:
RYIADH JAMIL ASMAR and
MAJIDA RYIADH ASMAR,
et al.,¹

Chapter 11
Case No. 13-54215
Judge Thomas J. Tucker

(Jointly Administered)

Debtors.

ORDER REQUIRING DEBTORS TO AMEND DISCLOSURE STATEMENT

On November 21, 2013, the Debtors in these jointly-administered cases filed a plan and disclosure statement, in a document entitled “Debtors’ Combined Plan of Reorganization and Disclosure Statement” (Docket # 106). The Court cannot yet grant preliminary approval of the disclosure statement contained within this document (“Disclosure Statement”). The Court notes the following problems, which Debtors must correct.

First, Debtors must revise the heading for Paragraph C of the Plan on page 5 so that it states: “Groups of claimants that are not subject to classification and are not entitled to vote on the Plan.” Debtors should include 2 groups in this section. Debtors must treat administrative claimants in Group 1 as they already have, and Debtors must treat priority tax claims under 11 U.S.C. § 507(a)(8) in Group 2, which they have not done. It appears that Group 2 claims are improperly classified in Paragraph D of the Plan on pages 6-7, and improperly treated in Paragraph F of the Plan on pages 8-9. See the discussion in the next paragraph, below.

Second, in Paragraph D of the Plan on pages 6-7, Debtors divide priority creditors into “classes.” Because in Paragraph F of the Plan on pages 8-9, Debtors state with regard to each of

¹ The Debtors in these jointly administered cases are: Ryiadh Jamil Asmar and Majida Ryiadh Asmar - Case No. 13-54215-TJT; Asmar & Sons, Inc. - Case No. 13-54218-TJT; Washington Square I, LLC - Case No. 13-54220-TJT; and Roberts Property Associates, LLC - Case No. 13-54223-TJT.

these priority creditors that they are in a “non-voting class,” it appears that all of these creditors are priority creditors under 11 U.S.C. § 507(a)(8), which should be treated in Group 2 rather than in a class. “ Priority tax claims . . . are not supposed to be classified in a Chapter 11 plan for voting or other purposes.” *In re Northwest Timberline Enterprises, Inc.*, 348 B.R. 412, 422 (Bankr. N.D. Tex. 2006)(citing 11 U.S.C. §§ 1123(a)(1)). Debtors must correct this problem.

Third, Debtors must revise Paragraph G.6 of the Plan on page 14 as follows:

Debtors must revise the second sentence of this paragraph so that it states: “Oakland County Treasurer’s claim is secured by a **[insert second or third]** priority lien for unpaid property taxes on the Northwestern Property owned by Debtor Roberts Property Associates, LLC.”² Debtors must revise the last sentence of the first paragraph so that it states: “**After deduction for the higher priority Class 4 claim of Farmington Hills in the amount of \$5,132.39 [add any other higher priority claimant if applicable]**, the Class 6 Secured Claim of Oakland County Treasurer is \$25,350.79.

Fourth, in Paragraph G.7 of the Plan on page 15, Debtors must state the priority of the lien on the Northwestern Property of the Class 7 claimant Water Resource Commission.

Fifth, in Paragraph G.15 of the Plan on pages 21-22, Debtors must state the priority of the lien of the Oakland County Treasurer in the Vineyard Property.

Sixth, in Paragraph G.16 of the Plan on page 22, Debtors must change “Class 6” to Class 15.”

Seventh, in Paragraph III.B of the Disclosure Statement on pages 41-42, Debtors must state whether any post-petition financing orders have been entered. If none have been entered,

² There are multiple creditors whose claims are secured by the Northwestern Property. Debtors must state the priority of each secured creditor in the Northwestern Property.

Debtors must say so.

Eighth, Debtors must make the following corrections on Exhibit A of the Disclosure Statement:

- On page 1 of Exhibit A, Debtors must change “Banl of America” to “Bank of America” in the column for the secured creditor on their primary residence.
- On page 4 of Exhibit A, Debtors must delete “#VALUE!” from the equity column.
- On page 5 of Exhibit A, Debtors must list the amount of the priority claims.

Ninth, on Exhibits B-D, Debtors must list the amount of priority claims.

Tenth, in Paragraph D on page 44 of the Disclosure Statement, Debtors must list the claims entitled to priority under § 507(a)(8).

Eleventh, Debtors must provide financial summaries for 3 years before the petition date. Debtors have only provided tax returns for year 2011. Debtors must also provide tax returns for years 2010 and 2012.

Twelfth, Debtors must clearly mark “Exhibit O” on the top of this exhibit.

Accordingly,

IT IS ORDERED that no later than **November 26, 2013**, Debtors must file an amended combined plan and disclosure statement that is consistent with this Order.

IT IS FURTHER ORDERED that no later than **November 26, 2013**, Debtors also must file a redlined version of the amended combined plan and disclosure statement, showing the changes Debtors have made to “Debtors’ Combined Plan of Reorganization and Disclosure Statement” filed November 21, 2013.

Signed on November 23, 2013

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge