

**REQUIREMENTS FOR INFORMATION TO INCLUDE
IN THE COMBINED PLAN AND DISCLOSURE STATEMENT¹**
(Judge Joel D. Applebaum)

- I. The Plan of Reorganization.
- II. A description of the debtor.
 - A. The debtor is: an individual (or, if a joint petition, a husband and wife); a partnership consisting of (identify the general partners and any limited partners, and the percentage interest of each); a corporation (identify the state in which incorporated, and the officers and directors). State whether the debtor is reorganizing and continuing its business, or liquidating its assets and not continuing its business.
 - B. Describe the principals.
 - 1. Their background.
 - 2. Their annual salary, compensation, draw or other remuneration, including fringe benefits.
 - 3. Their legal relationships, if any, with the debtor, e.g., lessor, lessee, creditor of the estate, debtor of the estate.
 - a. If any such relationships exist, fully explain the details.
 - b. If a lessor-lessee relationship exists, disclose the rental paid or received by the debtor and whether it is a fair rental.
 - C. Describe the debtor's business, its industry group and the causes for the Chapter 11 filing.
- III. Post-petition events of significance.
 - A. Disclose all post-petition transfers outside the ordinary course of business.

¹ This is an attachment to "Chapter 11 Case Management Order Establishing Deadlines and Procedures."

The disclosure statement shall provide the information required in the order and format listed herein.

If any required information does not apply or is not available, the disclosure statement shall so indicate explicitly.

- B. Provide summaries of the important details of cash collateral, post-petition financing and adequate protection orders.
 - C. Explain any litigation arising or continuing during the case, or which may be pending in any court.
- IV. A. Provide a liquidation analysis:
- See attached suggested format.
- B. State the risks, conditions and assumptions regarding the stated values. If appraisals have been done, disclose appraised values and the dates of the appraisals; otherwise, state the basis of the valuation (e.g., "SEV valuation").
 - C. Identify all potential claims and causes of action, including claims against insiders and avoidance actions. For each such cause of action, estimate the value of any expected recovery and the expected costs of such litigation. (The anticipated net value of any litigation that the debtor intends to pursue should be included in the required liquidation analysis.) If the debtor does not intend to pursue any such claims, state the reasons.
 - D. If any debt is guaranteed by anyone or if anyone is liable with the debtor on any debt, identify: (1) the guarantor or codebtor; (2) the nature and amount of debt involved and the balance due, (3) the collateral securing the debt or the guaranty, and (4) the value of such collateral.
- V. Details regarding implementation of the plan.
- A. Provide meaningful summaries of financial information in a consistent format for at least the following periods:
 - 1. Three years pre-petition, if possible.
 - 2. Post-petition to latest date possible.
 - 3. If the plan proposes that the debtor will continue in business, projections for the period of the plan, together with assumptions underlying those projections; and including, by class, payments required to be made under the plan during the projected periods.

(NOTE: Copies of tax returns and/or financial statements filed with the Court are not acceptable. Only appropriate spread sheets and stated sources of the information should be submitted. Any inability to provide the foregoing must be fully explained.)

- B. If the plan proposes that the business will continue, state who will be in charge and the annual compensation to be paid to each, including fringe benefits.
- C. State the tax ramifications for the continuing entity if the plan is confirmed.

VI. Legal requirements, as follows:

(The following shall be incorporated verbatim into the disclosure statement.)

A. Voting procedures

Under the Bankruptcy Code, the only classes that are entitled to vote to accept or reject a plan are classes of claims, or equity interest, that are impaired under the plan. Accordingly, classes of claims or interests that are not impaired are not entitled to vote on the plan.

Creditors that hold claims in more than one impaired class are entitled to vote separately in each class. Such a creditor will receive a separate ballot for all of its claims in each class (in accordance with the records of the Clerk of the Court) and should complete and sign each ballot separately. A creditor who asserts a claim in more than one class and who has not been provided with sufficient ballots may photocopy the ballot received and file multiple ballots.

Votes on the plan will be counted only with respect to claims: (a) that are listed on the Debtor's Schedules of Assets and Liabilities other than as disputed, contingent or unliquidated; or (b) for which a proof of claim was filed on or before the bar date set by the Court for the filing of proofs of claim (except for certain claims expressly excluded from that bar date or which are allowed by Court order). However, any vote by a holder of a claim will not be counted if such claim has been disallowed or is the subject of an unresolved objection, absent an order of the Court allowing such claim for voting purposes pursuant to 11 U.S.C. § 502 and Bankruptcy Rule 3018.

Voting on the plan by each holder of a claim or interest in an impaired class is important. After carefully reviewing the plan and disclosure statement, each holder of such a claim or interest should vote on the enclosed ballot either to accept or to reject the plan, and then return the ballot by mail to the debtor's attorney by the deadline previously established by the court.

Any ballot that does not appropriately indicate acceptance or rejection of the plan will not be counted.

A ballot that is not received by the deadline will not be counted.

If a ballot is damaged, lost, or missing, a replacement ballot may be obtained by sending a written request to the debtor's attorney.

B. Acceptance

The Bankruptcy Code defines acceptance of a plan by an impaired class of claims as acceptance by the holders of at least two-thirds in dollar amount, and more than one-half in number, of the claims of that class which actually cast ballots. The Bankruptcy Code defines acceptance of a plan by an impaired class of equity interests as acceptance by holders of at least two-thirds in number of the equity interests of that class that actually cast ballots. If no creditor or interest holder in an impaired class votes, then that class has not accepted the plan.

C. Confirmation

11 U.S.C. § 1129(a) establishes conditions for the confirmation of a plan. These conditions are too numerous and detailed to be fully explained here. Parties are encouraged to seek independent legal counsel to answer any questions concerning the Chapter 11 process.

Among the several conditions for confirmation of a plan under 11 U.S.C. § 1129(a) are these:

1. Each class of impaired creditors and interest must accept the plan, as described in paragraph VI.B., above.
2. Either each holder of a claim or interest in a class must accept the plan, or the plan must provide at least as much value as would be received upon liquidation under Chapter 7 of the Bankruptcy Code.

D. Modification

The debtor reserves the right to modify or withdraw the plan at any time before confirmation.

E. Effect of confirmation

If the plan is confirmed by the Court:

1. Its terms are binding on the debtor, all creditors, shareholders and other parties in interest, regardless of whether they have accepted the plan.
2. Except as provided in the plan:
 - (a) In the case of a corporation that is reorganizing and continuing business:
 - (1) All claims and interests will be discharged.

- (2) Creditors and shareholders will be prohibited from asserting their claims against or interest in the debtor or its assets.
- (b) In the case of a corporation that is liquidating and not continuing its business:
 - (1) Claims and interests will not be discharged.
 - (2) Creditors and shareholders will not be prohibited from asserting their claims against or interests in the debtor or its assets.
- (c) In the case of an individual or husband and wife:
 - (1) Claims will be discharged, except as provided in 11 U.S.C. §§ 523 and 727(a). **Unless the court orders otherwise, the discharge will be entered after completion of plan payments as provided in § 1141(d)(5)(a). It is the usual practice of the court to close Chapter 11 cases after confirmation. It is the responsibility of the individual debtor to file a motion to reopen the case for entry of discharge upon completion of plan payments.**
 - (2) Creditors will be prohibited from asserting their claims except as to those debts which are not discharged or dischargeable under 11 U.S.C. §§ 523 and 727(a).

See Part II-A of this Disclosure Statement to determine which of the above paragraphs applies in this case.

**SAMPLE LIQUIDATION ANALYSIS FORMAT TO BE
USED IN DISCLOSURE STATEMENTS FILED UNDER
JUDGE APPLEBAUM'S CHAPTER 11 CASE MANAGEMENT ORDER
ESTABLISHING DEADLINES AND PROCEDURES**

A.

I. Valuation of Assets and Amount(s) Secured Claims in Relation Thereto (as of _____, 20 __)

(Sample amounts used for illustrative purposes)

<u>Describe the Assets and Collateral</u>	<u>Creditor Holding Lien</u>	<u>Market Value and Forced Sale Value</u>	<u>Amount of Secured Claim</u>	<u>Equity</u>	<u>Comments</u>
Machinery & Equipment	Hypothetical National Bank	\$500,000 (M) \$200,000 (FS)	400,000	100,000 (M) 0 (FS)	
Vehicle(s)	Seller Finance Company (1st)	15,000 (M) 10,000 (FS)	9,000	-----	
	Hypothetical National Bank (2nd)	-----	-----	6,000 (M) 0 (FS)	
Inventory	Imaginary State Bank	300,000 (M) 50,000 (FS)	450,000	0 0	Security interest disputed
Cash	Imaginary State Bank	20,000 (M) 20,000 (FS)	see above	0 0	Ditto
Accounts	Imaginary State Bank	80,000 (M) 20,000 (FS)	see above	0	Ditto
Total equity if fair market value used =		\$106,000			
Total equity if forced sale value used =		\$ 0			

II. Proceeds of Assets (before deducting amount of secured claims)

Estimated
Liquidation Amount(s)

List each of the Asset types and Collateral as set forth in I. above using whichever of the values set forth is thought to be appropriate, and total same

\$ _____

III. Claims

Estimated Amount(s)

(a) Secured Claims

List separately and total \$ _____

(b) Administrative Expenses

(List Separately and Total)

United States Trustee Fees
Debtor's Attorneys
Debtor's Financial Advisors and Accountants
Appraiser and other professionals
Unsecured Creditors' Committee/Counsel
Post-petition Trade Payables
Post-petition Rent Payable
Post-petition Accrued Payroll
Post-petition Taxes Payable
Other

Total \$ _____

(c) Pre-petition Unsecured Priority Claims

Priority Tax Claims Consisting of:

(List separately amounts owed to each
taxing authority and total) \$ _____

(d) Total Secured, Administrative and
Pre-petition Priority Claims

\$ _____

IV. Distribution of Proceeds of Assets in the Event of Liquidation

(a) Gross Proceeds Available from
Liquidation of Assets

\$ _____

(b) Less Total of

Secured Claims \$ _____

Administrative Expenses	\$ _____
Priority Claims	\$ _____
Pre-petition Unsecured	\$ _____
Total	\$ _____
(c) <u>Net Proceeds</u>	
Proceeds Available to Pre-petition Unsecured Creditors (including deficiency claims) (all of which total \$ _____) i.e., the difference between IV.(a) and (b) above	\$ _____
(d) % Available to Pre-petition Unsecured Creditors	_____ %
(e) Proceeds Available for Equity Interests	\$ _____

Based upon the Liquidation Analysis set forth above, the Debtor believes that a liquidation would result in a substantially smaller distribution to every class of its creditors (other than _____) than the proposed treatment set forth in the Plan.

Checklist for Preliminary Approval of Fastrack Plan and Disclosure Statement

S = Satisfactory

U = Unsatisfactory

Case Name/Number: _____

Date Reviewed: _____

Plan of Reorganization _____

Description of Debtor

Nature (Individual/Partnership/Corporation) _____

Principals' Background _____

Principals' Annual Salary/Fringe Benefits _____

Principals' Relationship w/Debtor (creditor, lessee) _____

Nature of Business and Cause of Chapter 11 Filing _____

Post-Petition Events of Significance

Transfers Outside Ordinary Course of Business _____

Orders re: Cash Collateral, Financing & Adequate Protection _____

Litigation During Case _____

Assets and Liabilities

Liquidation Analysis _____

Risks, Conditions & Assumptions of Stated Values _____

Potential Claims and Causes of Action _____

Priority Claims, Including Administrative Expenses _____

Total of Non-Priority Unsecured Claims _____

Any Guaranteed Debt _____

Implementation of Plan

Financial Summary (3 year pre-petition, post-petition to date, and 3 year projection) _____

Future Principals of Business and Compensation _____

Tax Ramifications for Continuing Entity _____

Legal Requirements (from Judge's Form)

Voting Procedures (only impaired classes) _____

Acceptance of Plan (2/3 dollar amount, 1/2 number) _____

Confirmation _____

Modification _____

Effect of Confirmation _____

Remarks: _____

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Chapter 11

Case No.

Debtor.

Hon. Joel D. Applebaum

**ORDER GRANTING PRELIMINARY
APPROVAL OF THE DISCLOSURE STATEMENT**

The Debtor has filed a combined plan and disclosure statement. The Court has reviewed the disclosure statement and has decided to grant it preliminary approval. Accordingly,

IT IS HEREBY ORDERED that the disclosure statement is granted preliminary approval, subject to any timely and proper objections.

IT IS FURTHER ORDERED that the Debtor shall within 5 days arrange for service by mail in accordance with L.B.R. 3018-1(a) (E.D.M.).

IT IS FURTHER ORDERED that for that purpose the debtor shall use an updated copy of the matrix, available from the Clerk, and the Debtor shall file with the Court as promptly as possible a Certificate of Service which shall set forth to whom notice has been given.

IT IS FURTHER ORDERED that the deadline to return ballots on the plan, as well as to file objections to final approval of the disclosure statement and objections to confirmation of the plan, is _____. The completed ballot form shall be returned by mail to the Debtor's or plan proponent's attorney, _____.

IT IS FURTHER ORDERED that the hearing on objections to final approval of the disclosure statement and confirmation of the plan shall be held on _____ **at 10:30 a.m.**, before the Honorable Joel D. Applebaum, in the U.S. Bankruptcy Court, Flint, Michigan 48502.

IT IS FURTHER ORDERED that the deadline for all professionals to file final fee applications is _____.

Joel D. Applebaum
United States Bankruptcy Judge

Entered: _____