

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE**

In re:

CHAPTER 11

FRED FULLER OIL & PROPANE CO., INC.,

Case No. 14-12188-JMD

Debtor

**DEBTOR'S DISCLOSURE STATEMENT DATED JULY 16, 2015
PERTAINING TO PLAN OF REORGANIZATION OF EVEN DATE**

Pursuant to Section 1125 of the Code of 1978, *as amended*, 11 U.S.C. §101 *et seq.*, the debtor and debtor in possession, **Fred Fuller Oil & Propane Co., Inc.**, respectfully submits this Disclosure Statement pertaining to the Debtor's Plan of Reorganization of even date to the United States Bankruptcy Court for the District of New Hampshire, creditors and all other parties in interest that have filed an appearance in this Case pursuant to Section 1127 of the Code. The Court approved this Disclosure Statement on _____ and authorized the Debtor to solicit acceptances of the Plan using this Disclosure Statement. Except as otherwise disclosed herein, this Disclosure Statement is based on the information available to the Debtor on the last day of the second calendar month preceding the date hereof.

All capitalized words, terms and phrases shall have and be given the meaning attributed to them in the Glossary attached to the Plan when used in the Plan or this Disclosure Statement. Except as otherwise defined herein, all words, terms and phrases defined in the Code and terms of art used in Chapter 11 reorganization cases shall have and be given the same meaning when used herein.

Respectfully submitted,

Dated: July 16, 2015

/s/ William S. Gannon

William S. Gannon, BNH 01222

Counsel to:

FRED FULLER OIL & PROPANE CO., INC.

WILLIAM S. GANNON, PLLC
889 Elm Street, 4th Floor
Manchester, NH 03101
PH: (603) 621-0833

CERTIFICATE OF SERVICE

I hereby certify that on this date I served the foregoing pleading on each person named on the attached Service List by causing it to be filed electronically via the CM/ECF filing system or mailed by first-class United States Mail, postage pre-paid, or in such other manner as may be indicated.

DATED: July 16, 2015

/s/ Beth E. Venuti
Beth E. Venuti

FRED FULLER OIL & PROPANE CO., INC., Case No. 14-12188-JMD
SERVICE LIST – LIMITED LIST FOR ADMIN MATTERS
(pursuant to Court Order dated 4/13/15 [Doc. 228])

CBIZ, Inc. – electronically via email
JVarsalone@CBIZ.com

Assistant United States Trustee that appeared or appears on behalf of the Office of the United States Trustee in this Case (electronically via CM/ECF)

The Chairman of the Committee:

George LeCours, Credit Manager
Sanel Auto Parts Co.
129 Manchester Street
P.O. Box 1254
Concord, NH 03049

Counsel to the Committee (electronically via CM/ECF)

Special Procedures Staff of the Insolvency Unit of the Internal Revenue Service (to attorney - electronically via CM/ECF)

New Hampshire Department of Justice (electronically via CM/ECF)

New Hampshire Department of Revenue Administration (to attorney - electronically via CM/ECF)

All persons and entities named on the CM/ECF Electronic Service List, including but not limited to the following:

Holly Barcroft – electronically via CM/ECF
Daren R. Brinkman – electronically via CM/ECF
Christopher M. Candon – electronically via CM/ECF
Eleanor Wm Dahar – electronically via CM/ECF
Leonard G. Deming, II – electronically via CM/ECF
Steven J. Dutton – electronically via CM/ECF
Lawrence M. Edelman – electronically via CM/ECF
Jeremy R. Fischer – electronically via CM/ECF
Edmond J. Ford – electronically via CM/ECF
Jay L. Hodes – electronically via CM/ECF
Leslie H. Johnson – electronically via CM/ECF
Geraldine Karonis – electronically via CM/ECF
James S. LaMontagne – electronically via CM/ECF
Benjamin E. Marcus – electronically via CM/ECF
Michael T. McCormack – electronically via CM/ECF
Richard K. McPartlin – electronically via CM/ECF
Office of the U.S. Trustee – electronically via CM/ECF

Edward D. Philpot, Jr. – electronically via CM/ECF
Peter C.L. Roth – electronically via CM/ECF
Daniel W. Sklar – electronically via CM/ECF
Frank P. Spinella, Jr. – electronically via CM/ECF

All persons and entities who have requested or request requesting special notice by filing an appearance, demand for notices and pleadings or any other written request which requests copies of all notices and pleadings filed in this Case, as follows:

Michael Beaudoin
22 Hooksett Road
Goffstown, NH 03045

Kevin McCabe
843 Beach Pond Road
Wolfeboro, NH 03894

Ben & Debbie Maurais
c/o Eprintinc
10 A Rebel Road
Hudson, NH 03051

C. Denise Noyes
32 Lovell Street
Nashua, NH 03060

Debra Adams
34 Westland Avenue
Manchester, NH 03103

Normand Pinard
87 Riverview Park Road
Manchester, NH 03102

Carroll E. Greenwood
Box 406
N. Woodstock, NH 03262

Raymond & Maria Maynard
c/o Heating Specialties of NH, Inc.
4 South Parrish Drive
Londonderry, NH 03053

Leo & Rose Grenon
1095 Smyth Road
Manchester, NH 03014

Laurie & Colleen Suter
28 Autumn Road
Hillsboro, NH 03244

Part One Executive Summary

A. Liquidating Pot Plan. From the remaining proceeds of the Rymes Sale, the Subsequent Rymes Transactions and the reduction of the pending Proceedings and retained Causes of Action and any other property of the estate to money, the Debtor, acting by and through the Plan Administrator, Jeffrey T. Varsalone, in consultation with an Oversight Committee will pay the dividends due creditors holding allowed claims through what is sometimes called a “Pot Plan.” The Plan Administrator will pay allowed claims on a Class by Class in a series of distributions from the Available Funds from time to time strictly in accordance with the following order of preference and priority or “waterfall:” (i) first and second, Classes 1 and 2, the Non-professional and Professional Administrative Expense Classes, which are pari passu with respect to each other, (ii) third, Class 3, the Priority Employee Benefit Class, (iii) the Priority Consumer Deposit Class, (iv) fourth, Class 5, the General Unsecured Claims Class, (v) fifth, the Subordinated Claims Class, and (vi) the Equity Interest Class. No dividends will be paid to any Class until those due the senior Class have been paid in full. Within each Class, creditors holding allowed claims will be paid a pro rata or fractional part of the money available for distribution to the Class from time to time, the numerator of which will be the amount of an allowed claim and the denominator of which will be the total amount of allowed claims in the Class.

B. Executive Summary Table. In the following table, the Debtor provides Plan Parties with key information regarding the Classes to be created by the confirmation of the Plan, including an estimate or projection of the dividends or range of dividends projected to be paid on account of allowed claims in each Class based on the best information available to the Debtor on the Disclosure Date. The “Total Projected Dividends” for each Class assumes, among other things that claims in all Classes will be allowed in the “Estimated Allowed Amount.” Although the Debtor cannot and does not guarantee that creditors holding allowed claims will be paid the Total Projected Dividends” for the Class, the Debtor believes that the estimate is reasonable based on the best information available to the Debtor on the Disclosure Date.

Executive Summary Table

Class Number, Title and Other Information	Estimated Maximum and Allowed Amounts, Dividend Formula and Projected Dividend
<p>Class 1: Non-professional Administrative Expense Claims Class</p> <p>Seniority: First, pari passu with Class 2</p> <p>Non-payment Risk: None foreseen at this time</p> <p>Dilution Risk: None foreseen at this time</p> <p>Impaired: No</p> <p>Voting Rights: None</p> <p>Known Disputed Claims: See Exhibit A</p>	<p>Estimated Maximum Amount: \$137,000.</p> <p>Estimated Allowed Amount: Undetermined</p> <p>Payment Formula or Method: From Available Funds for this Class from time to time, allowed claims in this Class will be paid to the extent possible beginning on or about the 15th day following the later of (i) the Effective Date or (ii) the last date on which a claim in this Class shall be allowed in whole or in part and/or (iii) such later date or dates as there shall be funds available to pay dividends to creditors holding allowed claims in this Class.</p> <p>Projected Dividend Payments: In full, without interest – 100 cents on the dollar.</p>
<p>Class 2: Professional Administrative Expense Claims Class</p> <p>Plan Priority or Seniority: First, pari passu with Class 1</p> <p>Non-payment Risk: None foreseen at this time</p> <p>Dilution Risk: None foreseen at this time</p> <p>Impaired: No</p> <p>Voting Rights: None</p> <p>Known Disputed Claims: See Exhibit A.</p>	<p>Estimated Maximum Amount: \$175,000 in accrued fees plus \$25,000 for other professionals, which will be included in Post-confirmation Reserve Budget although the amount could change dramatically depending on whether retained Proceedings and Causes of Action settle early or require extensive discovery and trial.</p> <p>Estimated Allowed Amount: Same as Estimated Maximum Amount</p> <p>Payment Formula or Method: From Available Funds for this Class from time to time, allowed claims in this Class will be paid to the extent possible beginning on or about the 15th day following the later of (i) the Effective Date or (ii) the last date on which a claim in this Class shall be allowed in whole or in part and/or (iii) such later date or dates as there shall be funds available to pay dividends to creditors holding allowed claims in this Class.</p> <p>Projected Dividend Payments: In full, without interest – 100 cents on the dollar – subject to Court approval.</p>
<p>Class 3: Priority Employee Benefit Claims Class</p> <p>Non-payment Risk: None foreseen at this time</p> <p>Dilution Risk: None foreseen at this time</p> <p>Plan Priority or Seniority: Third</p> <p>Impaired: No</p> <p>Voting Rights: None</p> <p>Known Disputed Claims: See Exhibit A.</p>	<p>Estimated Maximum Amount: \$24,000.</p> <p>Estimated Allowed Amount: \$24,000, which represents the estimated balance of the allowed claims in this Class after Rymes has paid the \$278,000 due Harvard Pilgrim under the Asset Purchase Agreement as long as the Court determines that it qualifies as a priority claim.</p> <p>Payment Formula or Method: From Available Funds for this Class from time to time, allowed claims in this Class will be paid to the extent possible beginning on or about the 15th day following the later of (i) the Effective Date or (ii) the last date on which a claim in this Class shall be allowed in whole or in part and/or (iii) such later date or dates as there shall be funds available to pay dividends to creditors holding allowed claims in this Class.</p> <p>Projected Dividend Payments: In full, without interest – 100 cents on the dollar – as long as allowed claims in senior classes do not exceed Estimated Allowed Amounts given herein and Rymes pays the \$278,000 due Harvard Pilgrim.</p>

Class Number, Title and Other Information	Estimated Maximum and Allowed Amounts, Dividend Formula and Projected Dividend
<p>Class 4: Consumer Deposit Claims Class</p> <p>Plan Priority or Seniority: Fourth up to \$2,775 per allowed claim in Class</p> <p>Non-payment Risk: Possible</p> <p>Dilution Risk: Possible if allowed claims in senior Classes exceed Estimated Allowed Amounts</p> <p>Impaired: Yes</p> <p>Voting Rights: Yes</p> <p>Known Disputed Claims: See Exhibit A.</p>	<p>Estimated Maximum Amount: \$459,000</p> <p>Estimated Allowed Amount: \$174,000.</p> <p>Payment Formula or Method: From Available Funds for this Class from time to time, allowed claims in this Class will be paid to the extent possible beginning on or about the 15th day following the later of (i) the Effective Date or (ii) the last date on which a claim in this Class shall be allowed in whole or in part and/or (iii) such later date or dates as there shall be funds available to pay dividends to creditors holding allowed claims in this Class.</p> <p>Projected Dividend Payments: Undeterminable before resolution of amount of Rymes assumption, payment and indemnification liability and objections to claims that may not qualify as consumer deposit claims, if any according to Rymes. There is a risk that allowed claims in this Class will not be paid in full depending on the amount of allowed claims in this Class that need not be paid by Rymes.</p>
<p>Class 5: General Unsecured Creditor Claims Class</p> <p>Plan Priority or Seniority: Fifth</p> <p>Non-payment Risk: Substantial</p> <p>Impaired: Yes</p> <p>Right to Vote: Yes</p> <p>Known Disputed Claims: See Exhibit A.</p>	<p>Estimated Maximum Amount: \$7,025,000</p> <p>Estimated Allowed Amount: Undetermined</p> <p>Payment Formula or Method: From Available Funds for this Class from time to time, allowed claims in this Class will be paid to the extent possible beginning on or about the 15th day following the later of (i) the Effective Date or (ii) the last date on which a claim in this Class shall be allowed in whole or in part and/or (iii) such later date or dates as there shall be funds available to pay dividends to creditors holding allowed claims in this Class.</p> <p>Projected Dividend Payments: The Debtor considers it unlikely that creditors holding allowed claims will be paid a meaningful dividend absent significant recoveries on account of retained Proceedings and Causes of Action.</p>
<p>Class 6: Subordinated Insider Claims Class</p> <p>Plan Priority or Seniority: Fifth</p> <p>Non-payment Risk: Extremely substantial</p> <p>Impaired: Yes</p> <p>Right to Vote: Yes, but only to reject.</p> <p>Known Disputed Claims: See Exhibit A.</p>	<p>Estimated Maximum Amount: \$8,669,000</p> <p>Estimated Allowed Amount: Undetermined</p> <p>Payment Formula or Method: From Available Funds for this Class from time to time, allowed claims in this Class will be paid to the extent possible beginning on or about the 15th day following the later of (i) the Effective Date or (ii) the last date on which a claim in this Class shall be allowed in whole or in part and/or (iii) such later date or dates as there shall be funds available to pay dividends to creditors holding allowed claims in this Class.</p> <p>Projected Dividend Payments: Undetermined. The Debtor considers it extremely unlikely that creditors holding allowed claims will be paid a significant dividend absent significant recoveries on account of retained Proceedings and Causes of Action.</p>

Class Number, Title and Other Information	Estimated Maximum and Allowed Amounts, Dividend Formula and Projected Dividend
Class No. 7: Equity Interest Class	Estimated Maximum Amount: N/A
Impaired: Yes	Estimated Allowed Amount: N/A
Right to Vote: Yes, may vote to reject only	Payment Formula or Method: N/A
Known Disputed Claims: No. See Exhibit A.	Total Projected Dividends: None

C. Disclosure Statement Summary and Purpose.

This Disclosure Statement is divided into Parts. This Part provides Plan Parties with an overview or executive summary of the Plan and this Disclosure Statement. Parts Two and Three summarize the most important articles, sections and paragraphs of the Plan itself in the sequence in which they appear in the Plan using the same article and section titles¹ as those used in the Plan for easy reference and comparison. In the remaining Parts of this Disclosure Statement, which have no Plan counterpart, the Debtor provides information considered necessary to evaluate the merits of the Plan.

The purpose of this Disclosure Statement is to provide Plan Parties with information adequate for them to make an informed judgment regarding the merits and benefits of the Plan, but is not an exhaustive discussion of the Plan. This Disclosure Statement provides Plan Parties with a summary in lay terms the most important provisions of the Plan and the means for implementing the Plan and provides the other information mandated by the Code and generally required by Courts as a condition to the approval of a disclosure statement. Since the Plan confirmed by the Court will establish and govern the parties' Plan obligations following confirmation, Plan Parties must read the Plan carefully.

Part Two

Plan Summary

I. Conditions Precedent, Confirmation and Effective Date.

¹ The numbers and letters used in this Disclosure Statement will not correspond to the Plan because this Disclosure Statement does not discuss each provision of the Plan.

On confirmation and the satisfaction or waiver of the conditions precedent described in this Plan Article, the Plan will become a valid, binding and enforceable contract, which benefits and binds the Debtor and each Plan Party. The Plan will become effective and binding on the Debtor and Plan Parties when (i) the Court has entered a confirmation order that is satisfactory in form and substance to the Debtor. In essence, the Plan creates a new relationship between the Debtor and the Plan Parties although it may be based in whole or in part on pre-petition documents in the case of secured creditors holding allowed claims.

The Glossary defines the terms “Confirmation Date” and “Effective Date.” The Debtor expects the Plan to become effective on or about November 15, 2015. The Debtor will, however, continue its on-going efforts to reduce its Retained Proceedings and Retained Causes of Action to money for distribution to creditors holding allowed claims. On the Confirmation Date, Jeffrey T. Varsalone, the Debtor’s independent Chief Restructuring Officer and Rule 9001(5) Designee or another person appointed by the Court will become the Plan Administrator. Under the Plan, the Plan Administrator will be responsible for the implementation of the Plan for the benefit of creditors holding allowed claims.

II. Plan Classes; Impairment, Voting and Acceptance.

The confirmation of the Plan will create the Classes listed in the *Executive Summary Table*. The *Executive Summary Table* and this part of the Plan identify the impaired Classes, their eligibility to vote on the Plan in the Debtor’s opinion, the standard for determining acceptance of the Plan and the right of the Debtor to ask the Court to Confirm or “cram down” the Plan over the objection of one or more Classes. A claim or equity interest will be impaired by Confirmation if the Plan changes in any way the “legal, equitable, and contractual rights to which the claim or interest entitles the holder” outside of the Case unless the treatment of the claim satisfies the complex provisions of Section 1124(2). Except for insiders (who may vote to reject the Plan, but not to accept it) and creditors holding claims for which the Code prescribes specific treatment, creditors holding impaired claims may vote to accept or reject the Plan.

Part Three

Summary of Class Dividends and Treatment

III. Priority Claims Classes.

A. Class 1: Non-professional Administrative Expense Class. The Debtor incorporates the information given with respect to this Class in the *Executive Summary Table*. This Class includes (i) the United States Trustee and to the extent of its claim for quarterly fees, (ii) creditors holding claims for goods received by the Debtor within twenty (20) days of the Petition Date in the ordinary course of business to the extent entitled to priority under Code Section 503(b)(9) and (iii) creditors that provided goods or services to the Debtor after the Petition Date and are entitled to priority under Code Section 507(a)(2) to the extent of the value conferred on the Estate and, but excludes professionals described in the succeeding section. On the Effective Date, the Debtor shall pay in full in cash all quarterly fees then due the UST. All other allowed expenses in this Class will be allowed in such amount as set forth by order of this Court upon approval of an application for allowance of an administrative claim, and paid in full on the later of the Effective Date or the date on which payment is due under State law. All requests for non-professional fee administrative expense claims shall be upon application to the Bankruptcy Court and must be filed within sixty (60) days of the Effective Date. If creditor fails to seek Bankruptcy Court approval of a non-professional fee administrative expense claim within sixty (60) days of the Effective Date, such claim shall be barred pursuant to the terms of the Plan.

B. Class 2: Professional Administrative Expense Class. The Debtor incorporates the information given with respect to this Class in the *Executive Summary Table*. This Class includes all claims held or asserted against the Debtor by the attorneys, accountants, consultants and other professionals retained by the Debtor and Official Committee of Unsecured Creditors pursuant to Code Section 327 with Court approval, including without limitation, the Debtor's Counsel, the Debtor's Chief Restructuring Officer and Committee counsel. The Court has authorized the Debtor to pay the Chief Restructuring Officer and the Debtor's Counsel the sums of \$132,146.20 and \$ 120,435.98, respectively. The remaining unpaid claims in this Class are entitled to priority under Section 507(a)(2) if, and to the extent approved by the Court. No dividends will be paid to any professional until the Court enters an order granting a fee application filed by the professional in whole or in part. To the extent possible without diminishing cash reserves on the Effective Date, the allowed claims in this Class will be paid in full in cash no later than the 15th day following the later of the Effective Date or the allowance

date of such claim as described in the *Executive Summary Table* and the part of the Plan captioned *Professional Administrative Class*.

C. Class 3: Priority Employee Benefit Claims Class. The Debtor incorporates the information given with respect to this Class in the *Executive Summary Table*. This Class includes all claims relating to employee benefits asserted against the Debtor by creditors to the extent entitled to priority under Bankruptcy Code Sections 507(a)(4) and 507(a)(5), which are referred to as the Priority Employee Benefit claims and Priority Employee Benefit Creditors. The Debtor believes that at least \$278,000 of the employee health insurance premium claim asserted by Harvard Pilgrim Healthcare, a claim in this Class, must be paid by Rymes under the Asset Purchase Agreement. There may be \$24,000 in allowed claims in this Class for which the Debtor, not Rymes may be liable. The Debtor intends to seek an order requiring Rymes to pay the amount due on account of claims in this Class under the Asset Purchase Agreement. Further, this Class may include up to \$42,500 in employee severance and vacation claims for which Rymes is liable under the Asset Purchase Agreement in the Debtor's opinion.

D. Class 4: Priority Consumer Deposit Claims Class.

The Debtor incorporates the information given with respect to this Class in the *Executive Summary Table*. This Class includes all claims relating to consumer deposit claims asserted against the Debtor by creditors to the extent entitled to priority as consumer deposit claims under Bankruptcy Code Section 507(a)(7) and not assumed and payable by Rymes. Rymes obligated itself to assume Pre-Buy/Budget Contracts which included the customers named in lists given to Rymes as part of the Asset Purchase Agreement negotiations, which totaled approximately \$7,200,000 in this Class under the terms of the Asset Purchase Agreement by delivering a certain number of gallons of fuel to identified customers. The gallonage may be more important than the dollar amount because the price of oil fell significantly after the date of the APA. There may be \$174,000 in allowed claims in this Class for which it, not Rymes may be liable. The Debtor has not yet been able to determine whether any or all of the \$174,000 in potential Consumer Deposit Claims qualify as priority claims. To resolve the issues, the Debtor will file a Complaint for Declaratory Judgment against Rymes if the parties cannot compromise and settle the dispute themselves subject to Court approval and

appropriate claim objections with respect to any claim that does not qualify as a Consumer Deposit in the Debtor's judgment.

IV. Non-priority Unsecured Claims and Equity Interest Classes.

A. Class 5: General Unsecured Claims Class. The Debtor incorporates the information given with respect to this Class in the *Executive Summary Table*. This Class includes all non-priority unsecured claims against the Debtor, including without limitation, those held by the creditors named in the part of Exhibit A of the Plan captioned *General Unsecured Creditors*, except for those specifically placed in the *Subordinated Claims Class*. The Debtor incorporates the disclosures made with respect to this Class in the *Executive Summary Table* and Exhibit A with respect to this voting Class. Claims in this class are subject to reconciliation by the Debtor and certain claims may be objected to by the Debtor prior to any distribution, specifically including but not limited to unliquidated litigation related claims.

B. Class 6: Subordinated Claims Class. The Debtor incorporates the information given with respect to this Class in the *Executive Summary Table*. This Class includes all claims against the Debtor held by insiders and relatives by blood or relationship. No dividends will be paid to creditors holding allowed claims in this Class until the dividends due creditors in the senior classes have been paid in full.

C. Class 7: Equity Interest Class. This Class includes only the Debtor's sole equity holder, Frederick Fuller and any persons or entities claiming by, through or under him. Under the Plan, the equity interests held by Mr. Fuller will be canceled after the Plan has been fully consummated without the payment of any dividend to Mr. Fuller on account of the equity interests.

Part Four

Summary of Primary Means for Implementing Plan.

This part summarizes the means for implementing the Plan, which are set forth in the Articles XIII through XVII of the Plan. It explains the purpose of the acts, actions and transactions important to the successful implementation of the Plan. Like Part Three, this part uses the same article and section titles used in the Plan itself.

VII. Plan Administrator and Implementation of Plan.

To minimize the cost of administering the Plan and provide Plan Parties with a representative to monitor the implementation of the Plan, the Plan provides for the appointment of a Plan Administrator and Oversight Committee. The entry of the Confirmation Order will appoint Jeffrey T. Varsalone, the Debtor's Chief Restructuring Officer and Rule 9001(5) to serve as the Plan Administrator. He will be authorized and directed to implement the Plan with full power and lawful authority to exercise and perform all of the rights, powers and duties held by the Debtor and the estate, including without limitation, those created by, or arising or existing under this Plan and Code Sections 1106, 1107 and 1108. The Plan Administrator has broad authority with respect to the liquidation of the remaining property of the estate, resolving claim issues and paying the dividends due Classes of creditors under other matters pertaining to the implementation of the Plan, but unlike many plans that appoint administrators, the Court will retain authority over key issues such as the approval of fees and costs to be reimbursed the Plan Administrator and other professionals and proposed compromises of Retained Proceedings and Causes of Action which will have to be approved by the Court. Under the Plan, the Plan Administrator and professionals will be liable only for acts or omissions resulting from the Plan Administrator's own willful, knowing and material violation of law, or fraud. Further, the Debtor will be obligated to defend, indemnify and hold the Plan Administrator and professionals harmless from claims made against them for which they have no liability due to the exculpation provisions.

Although the Plan Administrator must consult with the Oversight Committee with respect to significant implementation issues other than those specifically permitted by the Plan.

"Consult" means providing the Oversight Committee with a copy of any pleading filed with the Court or prior written notice of any single act, action or document to be done, taken or executed by the Plan Administrator, which is outside of the ordinary course of business and involves more than \$20,000 at least 14 days "negative notice" before doing, taking or executing the act, action or document on and thereafter conducting good faith discussions with the Oversight Committee if it asks for an opportunity to confer with the Plan Administrator. In the absence of a written request for a discussion received prior to the expiration of the 14 day notice period, the Oversight Committee shall be deemed to have waived its consultation rights and to have consented to the

doing of the act, taking of the action or execution of the document, but may file an objection to the proposed act or action if the Committee reasonably deems it necessary to do so.

VIII. Post-Confirmation Ownership, Management and Business.

Following Confirmation, the Debtor will be owned by Frederick Fuller subject to the terms of the Plan, which will be administered by the Debtor in consultation with the Oversight Committee. Frederick Fuller will not be paid any salary, given any benefits or provided with any other form of compensation. To the extent that he consults with the Debtor or provides assistance that confers value on the Debtor and its estate at the written request of the Plan Administrator in consultation with the Oversight Committee, the Plan Administrator may reimburse him for out of pocket costs and expenses reasonable incurred by him in connection therewith.

The Plan Administrator, acting in consultation with the Oversight Committee, will be responsible for winding up the affairs of the Debtor pursuant to the Plan. The Plan Administrator may dissolve the Debtor when the Plan has been fully consummated. If the Plan Administrator elects to dissolve the Debtor, the Plan Administrator shall do so in accordance with applicable state law.

IX. Executory Contracts and Unexpired Leases.

The Plan Article captioned *Executory Contracts and Unexpired Leases* governs the assumption, assumption and assignment and rejection of executory contracts and unexpired real estate leases which are referred to collectively as “contracts.” The Plan permits the Debtor to assume, assume and assign or reject contracts at any time before the Effective Date by giving the non-debtor party thereto notice of the Debtor’s election to do so at which time it shall become an assumed or rejected contract or assumed or rejected lease, as appropriate. Under the Plan, the entry of the Confirmation Order automatically approves and authorizes the Debtor to implement its decisions regarding the assumption, assumption and assignment and/or rejection of executory contracts and unexpired leases as permitted by the Plan.

The Debtor will assume the Rymes Asset Purchase Agreement to the extent it constitutes an executory contract.

Except for those executory contracts and unexpired leases specifically assumed pursuant to the Plan, the Debtor will reject any other executory contract and unexpired lease on the Effective Date, whether known or unknown to the Debtor, including without limitation, the personal property lease with Maine Oxy. Each non-debtor party or a “counterparty” to a rejected contract shall have a general unsecured claim against the Debtor. The non-debtor party will have 30 days from the Effective Date to file a rejection claim with the Court; failing which such claim will be forfeited and barred forever.

XI. Proceedings and Causes of Action.

A. General. The Plan Article titled *Proceedings and Causes of Action* governs the settlement, termination and the retention and continued prosecution of pending proceedings and causes of action owned by the Debtor. The Article identifies for Plan Parties the Proceedings that will be terminated by the entry of the Confirmation Order and the Proceedings and Causes of Action that will be retained and prosecuted, compromised or settled by the Debtor to fund the Plan. In this Case, no Proceedings or Causes of Action will be compromised or settled by the confirmation of the Plan alone.

B. Proceedings to be Terminated to Conserve Cost. To limit cost and expense, the Proceedings pending in other courts identified in Exhibit D captioned “Terminated Proceedings” will be terminated automatically by the entry of the Confirmation Order and filing a copy of the Confirmation Order with each of such courts without prejudice to any timely Proof of Claim filed by a plaintiff in this Case. The Debtor may file an objection to a timely Proof of Claim within such period of time as may be set by the Confirmation Order. On request, each non-debtor party to a terminated Proceeding shall sign and deliver to the Debtor a stipulation for dismissal that conforms to the provisions of the preceding Paragraph.

C. Proceedings and Causes of Action to be Retained to Fund Plan. To fund and implement the Plan, the Debtor will retain the Proceedings and Causes of Action identified in this Section for the benefit of the Estate. The retained Proceedings and Causes of Action include:

1. All Proceedings pending before a court or administrative agency on the Petition Date in which the Debtor was the plaintiff or party seeking an award of damages or had filed a counterclaim, which are known as “retained Proceedings,” including without limitation:

a. The Proceeding against William Fuller pending in the Belknap Superior Court in which the Debtor seeks to recover \$100,000 lent to, or taken by William Fuller to finance the construction of a home located in Meredith, New Hampshire, plus interest at the statutory rate and attorneys’ fees, costs and expenses on the grounds that William Fuller forced the Debtor to seek judicial assistance to secure a clearly establish right.

b. The Proceeding against FairPoint Communications, Inc., Northern New England Telecommunications Operations, Inc., d/b/a FairPoint Communications – NNE, Enhanced Communications of Northern New England, d/b/a FairPoint Long Distance – NNE, NEC Corporation of America, Spaulding Hill Networks, LLC, Computel, Inc. and SIGNET Electronic Systems, Inc. pending in the Hillsborough Superior Court in which the Debtor seeks to recover more than \$5,000,000 worth of damages against the Defendants based on their breaches of contract, including express and implied warranties, and negligence.

c. The collection Proceedings against the former customers of the Debtor identified in Exhibit E, “Retained Proceedings” in which the Debtor seeks compensatory damages in the amount shown in the Exhibit.

2. All Causes of Action which the Debtor holds or may hold against any person or entity on the Effective Date, which are known as “retained Causes of Action,” including without limitation, the following:

a. Any and all Causes of Action against Rymes and/or its affiliates arising from, out or incidental to a breach of, or default under the Asset Purchase Agreement, including without limitation, those arising from, out of or incidental to Rymes failure to honor, indemnify, satisfy or pay to date **(i)** up to \$278,000 on account of the Harvard Pilgrim Employee Benefit Claim, **(ii)** up to \$7,200,000 on account of assumed Pre-

buy/Budget Accounts and (iii) up to \$42,500 in claims for employee severance and vacation benefits. The parties will meet and confer in an effort to resolve these issues short of litigation. Rymes has advised the Debtor that it has not made the decision not to make these payments although fuel deliveries were not made to certain customers and the other payments have not yet been made. In the event that any litigation on the foregoing issues is commenced, the Debtor will seek compensatory damages equal to the amount due, plus statutory interest and attorneys' fees, costs and expenses. Further, in the event of litigation of any of the foregoing issues is commenced, to the extent one or more of these Causes of Action constitutes an unfair act or deceptive practice, the Debtor will seek multiple statutory damages and an award of attorneys' fees.

b. All Causes of Action arising under Chapter 5 of the Code or the New Hampshire Uniform Fraudulent Transfer Act, including without limitation, those which the Debtor has or may have against the persons and entities named in Exhibits G and H captioned "Summary of Potential 90 Day Preference Claims" and "Summary of Potential Insider Fraudulent Transfer Claims," respectively.

c. All Causes of Action against current and former directors, officers and employees of the Debtor, including without limitation, those arising from negligence, breaches of fiduciary duty, diversion, looting and/or misuse of money or property of the Debtor, deepening the insolvency of the Debtor, excessive compensation, fraud, negligence or other misconduct, or misuse of the Debtor, including without limitation, Frederick Fuller, Dawn Coppola, Sharen Fuller, William Fuller, and other insiders with respect to the Debtor or Frederick Fuller.

d. All Causes of Action seeking to recharacterize or recast loans or other financial accommodations granted to the Debtor by Frederick Fuller, Sharen Fuller, William Fuller and others as equity instead of debt.

e. Any and all other Causes of Action which the Debtor has or may have against any person or entity named or identified in the preceding Paragraphs which arise from, out of or incidental to the circumstances, events or facts that gave rise to the Proceeding or Cause or Causes of Action identified in the preceding Paragraphs of this

Section.

D. Right to Retain Additional Proceedings and Causes of Action. At any time before the 5th day preceding the beginning of the hearing on the confirmation of this Plan, the Debtor may elect to retain additional Proceedings and Causes of Action by filing a notice of the amendment of Exhibit I Retained Proceedings with the Court. The Debtor shall contemporaneously give each defendant or potential defendant notice of the Debtor's election to add a Proceeding or Cause of Action. Each Proceeding or Cause of Action designated by the Debtor in the notices shall automatically become and be a retained Proceeding or Cause of Action, as appropriate. Any Plan Party that voted to accept the Plan prior to that date may change the vote at the hearing.

E. Rights with Respect to Retained Proceeding and Causes of Action.

1. Subject to the further provisions hereof, Debtor may in the exercise of its business judgment choose to prosecute, compromise and settle or release any Retained Proceeding or Action. The Debtor will consider the net benefit of asserting any retained action, including the probable recovery and the estimated cost of prosecuting the action. To the extent provided for herein, the Debtor will consult with the Oversight Committee

1. The Plan permits the Debtor to retain counsel on a standard contingent fee basis or modified contingent fee basis. The Debtor's Counsel, who has already been approved by the Court, may be retained on a standard contingent fee basis without prior Court approval. Any other attorney selected by the Debtor must be approved by the Court. Except for retained proceedings or causes of action involving less than \$2,499, no retained proceeding or cause of action may be settled without prior Court approval.

2. From the proceeds of any recovery made on account of a retained Proceeding or retained Cause of Action, whether by settlement, the collection of a judgment or otherwise, the Debtor will pay the attorney's fees, costs and expenses incurred in connection to the extent approved by the Court. Any proceeds remaining after the payment of the attorneys' fees, costs and expenses and other sums pursuant to the preceding Paragraph shall be distributed to creditors holding allowed claims in accordance with the priority provisions of

this Plan.

B. Additional Causes of Action Retained to Implement Plan. In furtherance of the Plan, the Debtor also retains the right to prosecute and/or compromise and settle the following types of Proceeding and Causes of Action

1. All objections to claims and adversary proceedings filed to dispute claims pursuant to this Plan and the Confirmation Order.
2. Any other application, contested matter or adversary Proceeding which falls within the post-confirmation jurisdiction retained by this Court.
3. All other matters over which the Court retains jurisdiction under the Plan Article captioned “Retained Jurisdiction.”

XII. Claims Objections and Payment of Dividends Generally.

This Article establishes the procedures for resolving disputes pertaining to claims and the payment of dividends on allowed claims. The Class and Claims Summary attached as Exhibit A lists the claims known to the Debtor on a Class by Class basis. Undisputed claims will be allowed in the estimated allowed amount thereof, except for accounting disputes and disputes unknown to the Debtor on the Disclosure Date. In this regard, creditors should understand that the Debtor may object to any claims in Exhibit A.

The Debtor will pay the dividends becoming due under the Plan by mailing a check to the allowed creditor. Dividend checks will be mailed to the addresses given by allowed creditors in (i) their proofs of claim or (ii) any written notice of change of address delivered to the Debtor. Since “undeliverable dividends” will become the property of the Debtor, creditors should make sure that they notify the Court and the Debtor of any change of address.

XI. Generally Applicable Implementation Provisions.

This Article establishes the Debtor’s authority to implement the Plan, which will become a contract between the Debtor and each holder of an allowed claim or interest. It obligates the Debtor and each Plan Party to implement the Plan – pay, perform and satisfy their Obligations

to each other under the Plan and execute any Plan documents that satisfy the requirements of the parts of the Plan and Disclosure Statement captioned *Plan Documents*. Confirmation may impose on Plan Parties the implied contractual duties of good faith and fair dealing arising under state law. The Debtor and the Plan Parties must do, execute or cause to be done and executed all further acts and documents as may be reasonably necessary to implement the Plan in the form included in the Appendix or a form mutually acceptable to the Debtor and the Plan Party or Parties to the document which conforms to the specific requirements of the Plan and is otherwise in a form generally accepted by parties to a similar transaction. In addition, the entry of the Confirmation Order will authorize the Debtor to do or take, or cause to be done or taken, close or cause to be closed and execute or cause to be executed any other act, action, document or transaction, which the Debtor reasonably believes to be necessary for the successful implementation of the Plan or incidental thereto.

XII. General Provisions Pertaining to Treatment of Secured and Unsecured Claims.

In an effort to avoid repetition and accidental inconsistencies, the Plan article titled *Generally Applicable Treatment Provisions* contains provisions that relate to more than one Class. There are no secured claims in this Case. Rymes assumed the secured claims held by Sprague Energy under the Asset Purchase Agreement after Sprague reduced the secured claims by approximately \$1,000,000. Not only did the assumption result in the payment of the only secured claims in this Case, but it saved other creditors holding allowed claims from significant dilution – a reduction in the amount of their dividends resulting from increasing the allowed amount of General Unsecured Claims by \$1,000,000.

In this part, the Debtor summarizes the most important of the provisions applicable to more than one Class of unsecured creditors. A Class may be exempted from a generally applicable treatment provision in the part of the Plan that addresses specifically the treatment of claims in the Class. Under the Plan, an exemption is the exception, not the rule.

The Plan section captioned *Provisions Generally Applicable to All Classes* sets basic rules applicable to unsecured creditors. The Debtor reserves in the Plan the right to object to a claim or claims not marked disputed in Exhibit A if in any case: (i) the Debtor did not have actual knowledge of the circumstances, conditions, events or facts which gave rise to a dispute

on or before the Disclosure Date or (ii) the creditor holding the claim rejects the offer to allow the claim in the Estimated Allowed Amount by filing a specific objection to the allowance of the claim in the amount proposed by the Debtor. Finally, this part of the Plan allows creditors in any Class to accept less favorable treatment than proposed in the Plan and preserves their offset and recoupment rights under the Code.

Part Five

The Debtor and Relevant Business and Case History

This Part does not have a Plan counterpart. It provides Plan Parties with pre-petition information regarding the ownership and management of the Debtor and the primary reason or reasons that the Debtor sought protection under the Code and a summary of the significant events that occurred during the Case.

XIII. History of Debtor, Including Primary Cause or Causes of Bankruptcy.

On the Petition Date, the Debtor was the largest retail oil and propane distributor in New Hampshire and northern Massachusetts. Frederick Fuller built the Debtor by buying smaller distributors. The retail heating oil and propane business has always been capital intensive and cyclical. The Debtor always had to purchase millions of inventory during late November, December, January, February and March, the period known as the “heating season.” The Debtor purchased up to \$100,000 per day during the November, 2015. On average, it took the Debtor approximately 60 days to collect its accounts receivable. As a result, the Debtor knew that it would experience significant negative cash flow during December, January and February 2014 and 2015 just as it had in the past.

During early 2014, the Debtor had a significant amount of cash derived from “Pre-buy Contracts” and “Budget Accounts.” A “Pre-buy Account” is an agreement under which customers bought, and paid for oil or propane based on an assumed price and the Debtor agreed to deliver the oil or propane at that price. A customer might or might not have money left over in the Pre-buy Account at the end of a heating season. Some “Pre-buy Accounts” that existed in 2014-2015 resulted from money being left on deposit on the Pre-buy Account with the Debtor for the next heating season.

The Debtor also had Budget Accounts or Contracts with customers during 2014-2015. A Budget Account is an account that requires the customer to make pre-determined monthly payments against an estimated fuel cost. In certain cases, customers made monthly payments into November 2014 and then stopped allegedly at the instruction of the Debtor's employees although that has not been confirmed at this time.

Finally, the Debtor had Credit Accounts with customers that were treated as "Budget Accounts." The Budget Accounts were divided into what the Debtor and its Chief Restructuring Officer called "Active Credit Accounts," which included the customers of the Debtor who continued to buy oil and propane from the Debtor on a regular basis using the credits in their accounts and making additional payments when necessary. Other accounts with a credit balance owed customers who no longer in business with the Debtor became known as the "Old and Cold Credit Accounts" during the negotiations with Rymes regarding the purchase and sale of the Debtor's operating assets.

As of the Petition Date, the Debtor owed customers at least \$7,200,000 millions of dollars. The amounts due customers calculation made by the Debtor assumed and assumes a per gallon cost of approximately \$3.49 per gallon of oil as was the case on the Petition Date. The wholesale market price dropped significantly following the Rymes Sale. It is uncertain how the drop in the wholesale price affects the calculation of the amounts due customers. Although disputes with Rymes exist, Rymes assumed and agreed to pay "approximately \$7,200,000" of the Debtor's liabilities under "Pre-Buy/Budget Contracts" based on lists provided by the Debtor's Chief Restructuring Officer.

During the months preceding the Petition Date, the Debtor faced several, critical issues. It did not enough capital or a line of credit sufficient to pay its operating costs and expenses, including inventory purchases, going into the heating season. The Debtor had used a substantial portion of the money held in one form or another for customers. The Debtor could not find a lender willing to make a working capital loan to the Debtor despite an effort made by Frederick Fuller. Without credit, the Debtor had little hope of continuing its business because Sprague and its suppliers had put the Debtor on COD payment terms.

Second, Sprague had filed the Sprague Proceeding, which is known as a replevin

proceeding against the Debtor in the Rockingham Superior Court. Sprague claimed to be owed approximately \$4.7 million dollars and sought permission to take possession of the Debtor's delivery vehicles and its other personal property. The Debtor had to enter into a "Final Stipulation" with Sprague during October, 2014 which required the Debtor to deliver its property to Sprague on November 19, 2014 in the hope of finding a buyer for its stock or assets. Although Frederick Fuller made a significant effort to sell the Debtor's business and assets to suppliers and competitors, he could not find a buyer willing to sign an agreement for the purchase and sale of the assets.

In addition, the Debtor knew that the trial of the Wilkins Proceeding funded and to be tried by the Equal Employment Opportunity Commission would start on or about what turned out to be the Petition Date. Ms. Wilkins, a Plaintiff Intervener, claims to have suffered damages in excess of \$2,000,000. Ms. Mulcahy also claims to have sustained damages as the result of a hostile work environment created by Frederick Fuller. Following the Petition Date, Ms. Wilkins and Ms. Mulcahy re-opened their case against Frederick Fuller for the purposes of recovering damages against him.

In the Wilkins Proceeding, the Wilkins requested permission to make a \$2,500,000 attachment in of Frederick Fuller property. The Debtor attended the hearing for the purpose of making certain that the District Court understood that the Proceeding could not proceed against the Debtor. In addition, the Debtor reserved its right to seek an injunction preventing Ms. Wilkins and Ms. Mulcahy from going forward unless the Plaintiff Interveners agreed that a judgment against Mr. Fuller would not bind the estate.

During the hearing, the District Court heard offers of proof testimony made by Wilkins' Counsel regarding her damages. The District Court authorized Ms. Wilkins to make a \$75,000 attachment of real and personal property standing in the name of Frederick Fuller. In order to implement the Plan, the Debtor will ask the Court to estimate and allow the Wilkins claim in the amount of \$75,000 because that that amount will not file the dividends paid to General Unsecured Creditors much.

During 2013, the Debtor had filed suit against William Fuller in the Belknap Superior Court to recover \$100,000 lent to, or taken by William Fuller to finance the construction of his

home. It does not seem that William Fuller has any defense to the Cause of Action asserted by the Debtor to recover the \$100,000. As a result, the Debtor will file a Motion for Summary Judgment against Mr. Fuller.

After the Debtor filed suit against William Fuller, he began championing Ms. Wilkins and Mulcahey. He became a “Charging Party” in the Wilkins Proceeding before the Equal Employment Opportunity Commission. In addition to filing a Proof of Claim against the Debtor in the amount of \$2,500 000, he filed an action against the Debtor in the District Court seeking compensatory damages based on an alleged retaliatory termination resulting in lost income.

The Debtor and William Fuller agreed to stay the District Court action. Trying the case will be expensive because a substantial amount of fact discovery will be needed to test Mr. Fuller’s alleged altruism and his lost income claims. Expert testimony will also be necessary. The Debtor will also assert Chapter 5 Causes of Action and other Causes of Action against William Fuller. As part of the Plan implementation process, the Debtor will ask the Court to estimate the amount of this claim for distribution all purposes.

During late 2012, the Debtor decided to replace its telecommunications system through which it communicated with customers. It purchased a sophisticated system from NEC America at the recommendation of FairPoint. The Debtor retained the other defendants to participate in the design and installation of the system. Almost immediately, the Debtor experienced a catastrophic failure that disrupted the Debtor’s relationship with customers, prevented the Debtor from managing deliveries and precipitated an investigation by the New Hampshire Department of Justice, which ignited a media storm of adverse publicity.

Instead of immediately replacing the system as demanded by the Debtor, NEC and the other Defendants tried to fix the system. It took months during which the Debtor incurred unnecessary costs and expenses, suffered bad publicity and lost money. At the end of the day, it appears none of the Defendants, which held themselves out as telecommunications experts, bothered to install surge protection.

XVII. Significant Events During Case.

A. Cash Collateral and Appointment of Chief Restructuring Officer.

Immediately after filing the Petition, the Debtor needed permission to use its inventory, accounts receivable and cash often known as “cash collateral” to continue its business operations. Sprague objected strenuously. The Debtor agreed to retain the Chief Restructuring Officer to ensure transparency and instill some degree of confidence in Sprague and the other creditors. After an unusual and lengthy, evidentiary hearing, the Court allowed the Debtor to use cash collateral for a very brief period of time, but made it clear that the Debtor needed to find a buyer for its property on a very expedited basis.

B. The Rymes Transactions.

Following the conclusion of the evidentiary cash collateral hearing, the Debtor and Chief Restructuring Officer met with Rymes to negotiate an agreement for the purchase and sale of all, or substantially all of the Debtor’s operating assets. The first meeting lasted from the end of the cash collateral hearing until 5:00 the following morning. It produced a Term Sheet – a document that lays out the essential points of a transaction. Over the next several days, the Debtor and Rymes drafted the Asset Purchase Agreement.

On November 18, 2014, less than ten (10) days into this Case, the Debtor filed its Motion for Order Expediting Sale Process to shorten the standard twenty-one (21) day period and establish the schedule for an expedited sale process. The Court scheduled the hearing on the proposed Rymes Sale for November 24, 2014. On November 21, 2014, the Debtor filed its Motion for Order Authorizing Private Sale of All or Substantially All of the Estate Property to Rymes. The Internal Revenue Service, Sharen Fuller and Raymond Green Funding, LLC objected to the sale. After diligent and good faith negotiations, however, the Debtor and the objecting parties resolved to the objections.

On November 25, 2014, the Debtor and Rymes entered into the Rymes Asset Purchase Agreement. On the first (1st) day of the hearing on the sale motion, issues regarding the nature, extent and scope of liens on property of Frederick Fuller held by the Internal Revenue Service derailed the hearing. The United States Attorney, New Hampshire Attorney General, Rymes and the Debtor conferred for hours. They reached and documented a shared understanding that the Internal Revenue Liens did not prevent the closing of the transaction. On November 26, 2014, the Court authorized the Rymes Asset Sale.

On December 1, 2014, Rymes and the Debtor closed the Rymes Asset Sale pursuant to the Rymes APA. The Debtor kept its cash on hand, approximately \$526,626.25. Rymes paid the Debtor \$275,000 by executing and delivering to the Debtor or a promissory note in that amount, without interest, which has been paid subject to a small accounts receivable adjustment required by the fact that, on the closing date, the Debtor's accounts receivable were approximately \$23,000 less than \$1,800,000. It also discharged the \$4,750,000 Sprague claim by paying Sprague \$3,645,000 freeing the Debtor and the estate from a potential, unsecured claim of approximately \$1 million. Sprague also released Frederick Fuller as part of the settlement eliminating Sprague as a competitor with respect to claims against Frederick Fuller. In addition, Rymes assumed and agreed to pay (i) approximately \$7,200,000 in Pre-Buy/Budget Contracts, which included the customers named in lists provided to Rymes, (ii) the "Seller's liabilities to its employees for unused vacation and sick pay estimated to be \$42,000" and (iii) \$278,000 to Harvard Pilgrim if it is allowed as a priority claim.

Following the Rymes Asset Sale, Rymes made the Rymes Minor Purchases of property of the estate. The Debtor sold Rymes its Patriots Season Ticket License, including right to buy season tickets in the future for approximately \$10,000 with Court approval. Rymes also dropped its demand that the Debtor reimburse the State of New Hampshire for fuel assistance payments given to its customers, who received fuel from Rymes following the closing. Subsequently, the Debtor sold its 50% interest in the Debtor's accounts receivable that were over 89 days old on the Petition Date for approximately \$141,500 with Court approval.

C. The Frederick Fuller Motor Vehicle Sale. After the Rymes Asset Sale closed, Frederick Fuller offered to buy four (4), "personally owned" motor vehicles from the estate, including a so-called Camper Van. Rymes believed that it owned the motor vehicles, but agreed to join with the Debtor in selling them to Frederick Fuller for \$31,100, a fair price based on publications reviewed by the Chief Restructuring Officer. The Debtor and Rymes agreed to divide the purchase price equally to resolve their dispute regarding ownership. The Court approved the transaction, but a dispute broke out regarding the Camper Van. On July 14, 2015, the Court agreed to enter an order that will result in the sale of the Camper Van to Mr. Fuller for its fair market value. As a result, the Debtor, or will receive at least \$20,000 from the sale of the motor vehicles.

Part Six

Significant Property and Value, Plan Use and Hypothetical Liquidation

This Part has no counterpart in the Plan. It describes and values the Debtor's significant property on a reorganization and liquidation basis based on the proposed use of the property under the Plan and the assumptions made by the Debtor. It also provides Plan Parties with the projected distributions from a liquidation of the significant property. This part also discusses the feasibility of, and risks inherent in the Plan. Finally, this part explains why the Debtor believes that the Plan satisfies the best interests of creditors test.

XVIII. Significant Property, Plan Use and Value.

A. Scope and Liquidation Analysis and Summary. This Article describes for Plan Parties the significant property of the estate, the proposed use of the property under Plan and the projected reorganization and liquidation values of the property. The values are summarized in the *Liquidation Analysis and Summary* included in the Appendix as Exhibit C. The Debtor did not include property having a value of less than \$5,000, except in those instances in which the failure to identify cash and other types of property seemed likely to raise questions. Property worth less than \$5,000 seemed to be inconsequential in terms of value and immaterial to an evaluation of the merits of the Plan.

B. Reorganization Valuation Assumptions. In this rather unusual bankruptcy proceeding, the Debtor's tangible, personal property has already been reduced to cash. The cash has the same value in a liquidating reorganization that it does in a liquidation. On the other hand, it is almost impossible to value the Proceedings and Causes of Action to be retained by the Debtor given the fact that litigation is inherently uncertain. Under the Plan, creditors holding allowed claims will be represented by the Oversight Committee giving them a voice in the decisions which will have to be made regarding the resolution of the retained Proceedings and Causes of Action based on their cost-benefit analysis as opposed to giving up control to a Chapter 7 trustee.

C. Real Property, Plan Use and Values. The Debtor has no real property or interests in real property other than real subsequently recovered from Frederick Fuller or another

insider or other person in an avoidance action.

D. Cash and Plan Use.

The Debtor had approximately \$369,678 in cash on hand as of June 29, 2015. The Debtor will recover another \$138,000 net from the sale of the Debtor's Patriots Season Ticket License, the sale of motor vehicles and fifty percent (50%) interest in the Debtor's Over-89 Day Accounts Receivable (other than certain insider receivables).

E. Net Operating Losses. At the moment, the Debtor is taxed under the provisions of Subchapter S of the Internal Revenue Code and Treasury Regulations. It files and information will return in which its profits and losses are "passed through" to the equity holder, Frederick Fuller. The net operating losses are substantial, but unusable unless the Debtor revokes the so-called S-election within 45 days of the last day of its fiscal year – believed to be December 31, 2015. If the Debtor, acting through the Plan Administrator should revoke the S-election based on an opinion letter from a qualified, certified public accountant that the estate will not incur any tax liability for preceding years, then it may be able to negotiate a merger, which will give value to the net operating losses and any other special tax attributes although the Debtor will have to find a all aside I hear.

F. Retained Proceedings and Causes of Action. Based on the information available to the Debtor and its Chief Restructuring Officer on the Disclosure Date, the Debtor believes that the property of the estate includes the Proceedings and Causes of Action described in the part hereof titled "Proceedings and Causes of Action" and the part of the Plan bearing the same title. The Debtor will not value the retained Proceedings and Causes of Action in this Disclosure Statement. It is a public document available to the potential Defendants. Disclosing the Debtor's evaluation of the Proceedings or Causes of Action will be detrimental to the Debtor. If the Court enters an order approving the proposed Confidentiality Agreement with the Debtor, the Debtor will share its opinion of the values of the retained Proceedings and Causes of Action.

G. No Other Personal Property. Based on the best information available to the Debtor on the Disclosure Date, the Debtor has no other personal property, except for the Proceedings and Causes of Action disclosed in the part hereof captioned "Proceedings and Causes of Action."

A. Hypothetical Liquidation Analysis.

Putting aside the value of participation, which the Plan gives creditors holding allowed claims an opportunity to direct their own destiny, a liquidation will produce a very different result for creditors holding allowed claims than the Plan for a number of reasons as shown by Exhibit C. The conversion of this reorganization Case to a Chapter 7 liquidation case will inevitably result in the appointment of a Chapter 7 trustee. A Chapter 7 trustee will charge creditors the statutory fee on all monies disbursed or turned over to parties in interest in the Chapter 7 case, whether the Trustee collected the money or not. The fee is: 25% of the first \$5,000, 10% of the next \$45,000, 5% from \$50,001 to \$1,000,000 and 3% of the balance without credit for the work already done by the Chapter 11 professionals and payments made, or administrative liabilities incurred for that work. A Chapter 7 trustee will also retain himself or his law firm to act as counsel to the Trustee and an accountant at an estimated cost of 10% of the monies disbursed or turned over to creditors and other parties in interest. In this Case, the Debtor estimates the Trustee's and Trustee's professional fees would be approximately \$325,000.00.

Further, a Chapter 7 trustee will not likely explore actively and seriously the possibility of merger with another entity to monetize the Debtor's net operating losses. It is a transaction that has not often been done in a bankruptcy case. The Debtor's Counsel has, however, engaged in similar transactions twice when supported by knowledgeable and sophisticated certified public accountants. Given the potential value, however, the transaction has the potential to add several hundreds of thousands of dollars to the estate.

Similarly, the retained Proceedings and Causes of Action should produce more money in the hands of the Debtor than a Chapter 7 trustee. The Debtor's Chief Restructuring Officer has already done the analysis necessary for the Chapter 5 Actions. Letters demanding the payment of apparent preferences have been prepared and will be sent next week. Letters demanding the payment of the value of transfers to be avoidable will be sent the following week. As a result, the Debtor has begun the liquidation of the Chapter 5 Actions.

Some of the retained Causes of Action will be more unusual. The deepening insolvency claims, recasting of debt to equity and subordination claims are unusual. They require a combination of business and legal analysis. In this case, much of the work has already been

done by the Debtor. Even if a Chapter 7 trustee had previously prosecuted or defended similar claims as some have, duplicating the cost and expense seems imprudent.

Under the circumstances, the Debtor believes creditors will fare better under the Plan than in a liquidation.

Part Seven

Confirmation Generally, Feasibility, Best Interests Of Creditors and Cram Down

XIX. Confirmation Generally.

At the Confirmation Hearing, the Court will confirm the Plan only if all of the requirements of section 1129 of the Code are met. The requirements for confirmation of the Plan are that:

1. The Plan is feasible,
2. The Plan is accepted by all impaired Classes of claims and equity interests, and
3. To the extent that any holder of a claim or interest in an impaired Class does not vote for the Plan, it will receive or retain under the Plan property of a value that is not less than the amount that would have been received or retained if the Debtor were liquidated under Chapter 7 of the Code.

Even if an impaired voting Class rejects the Plan, the Court may confirm the Plan by “cramming it down” if the Plan satisfies all of the requirements of Code Section 1129(a), except (a)(8), and "does not discriminate unfairly" and is "fair and equitable" as to such Class:

XX. Risk and Feasibility.

A. Risk Factors and Analysis. With respect to Class 1 through 4, the Debtor does not believe that there is any substantial risk because the Debtor has enough cash on hand to pay

the dividends promised by the Plan. Class 5 creditors are largely dependent on success in settling or reducing to judgment the Retained Proceedings and Causes of Action. Although the Debtor believes that it will be successful, the cost to litigate some of the Retained Proceedings and Causes of Action will be substantial.

B. Plan Is Feasible. The Debtor expects the Plan to be substantially consummated with respect to the Class 1 through 4 creditors on the Effective Date establishing that it is feasible.

XXI. BEST INTERESTS OF CREDITORS, ACCEPTANCE AND CONFIRMATION

A. Plan Is in the Best Interests of Creditors.

Confirmation of the Plan is in the best interests of creditors within the meaning of the Code. Determining whether or not the Plan satisfies the "best interests test" requires a comparison of the dividends are expected to receive under the Plan to the distributions that impaired creditors would receive in the hypothetical liquidation described earlier in this Disclosure Statement. Exhibit A shows that creditors holding allowed claims will recover more under the Plan than they would in a Chapter 7 liquidation.

B. Acceptance of Plan.

Pursuant to Section 1126(c) of the Code, a Class of impaired claims has accepted a plan of reorganization when such plan has been accepted by creditors (other than an entity designated under Section 1126(e) of the Code) that hold at least two-thirds in aggregate dollar amount of allowed claims in such Class and more than one-half in number of the allowed claims of such Class held by creditors (other than any entity designated under Section 1126(e) of the Code) that have actually voted to accept or reject the plan. Section 1126(e) of the Code allows the Court to designate the votes of any party that did not vote in good faith or whose vote was not solicited or procured in good faith or in accordance with the Code. Holders of claims who fail to vote are generally not counted as either accepting or rejecting the plan.

C. Cramdown and Absolute Priority.

Section 1129(b) of the Code permits a court to confirm a plan even if an impaired voting

Class rejects the plan or a creditor objects to its confirmation through a procedure commonly known as "cram down," so long as the plan does not "discriminate unfairly" and is "fair and equitable" with respect to each Class of claims or equity holders that is impaired under, and has not accepted, the plan. The Debtor will seek nonconsensual confirmation of the Plan with respect to each Class of claims that is entitled to vote to accept or reject the Plan if such Class rejects the Plan. The Debtor reserves the right to alter, amend, modify, revoke or withdraw the Plan or any Plan Exhibit or schedule, including amending or modifying it to satisfy the requirements of section 1129(b) of the Code, if necessary. Given the treatment of all Classes of claims and interests under the Plan, the Debtor believes that the Plan satisfies "cramdown" requirements for the nonconsensual confirmation of the Plan.

Part Eight

Additional Disclosures

XXII. Tax Returns and Tax Consequences to Creditors.

A. Status of Federal and State Tax Returns. The Debtor has filed all of the federal and state tax returns due on or before the Disclosure Date.

B. Tax Consequences to Creditors. The confirmation and implementation of the Plan may result in federal income and/or state tax consequences to creditors. The tax consequences may and more probably than not will vary among the creditors because of their unique business and tax considerations and the claim itself. Consequently, creditors are urged to consult with their tax advisors in order to determine the tax implications of the Plan under federal and state law.

XXIII. Acquisition of Claims by Insiders. No claims have been acquired by any insider since the Petition Date.

XXIV. Proofs of Claim.

A. Claims Listed as Contingent, Disputed or Unliquidated. In Schedules D, E and F to the Petition and Appendix Exhibit A, the Debtor described some of the claims asserted by creditors as being contingent, disputed or unliquidated. The Notice of First Meeting of

Creditors warned each creditor holding a disputed claim that the creditor had to file a Proof of Claim on or before the Bar Date, which has now passed. As a result, the Debtor will object to any disputed claim listed in the Petition with respect to which the creditor did not file a Proof of Claim.

B. Administrative Claims. All professionals holding administrative claims against the Debtor must file a written notice of estimated administrative claim with the Debtor's Counsel at least 5 days before the Confirmation Hearing, which shall be accompanied by a detailed statement describing the services, rendered to the bankruptcy Estate. Within 30 days after the Confirmation Date, final applications for compensation must be filed pursuant to Section 330 unless the Court enters an order extending such date.

C. Rejection Claims. Any creditor holding a rejection claim, as defined in the Glossary, must file a Proof of Claim within the period of time specified in the Plan.

XXV. Qualifications and Limitations

A. Primary Source of Information. The information contained in this Disclosure Statement came from the Debtor's management and its books of account and other business and financial records.

B. Dating of Information and Statements. All of the statements contained in this Disclosure Statement are being made as of the Disclosure Date unless otherwise stated in the body of this Disclosure Statement.

C. Limited Use of Disclosure Statement. Only Plan Parties are intended to receive and use the information contained in this Disclosure Statement. It has been prepared by the Debtor to provide Plan Parties with adequate information to permit them to make an informed decision about the merits of the Plan. Although the Court determined that this Disclosure Statement provides adequate information, its Order approving the Disclosure Statement does not mean and should not be interpreted to mean that the Court has endorsed or determined that the Plan will or will not be successful or that creditors should vote for it.

D. No Approval of Securities Regulators. No benefits offered to Plan Parties

under the Plan have been approved or disapproved by the SEC, NASD or any other governmental authority. Neither the SEC, NASD nor any other governmental authority has passed, or will pass upon the merits of the Plan except for the Court.

E. No Other Representations. No representations concerning the Debtor, particularly regarding future business operations or the value of the Debtor's assets, have been authorized by the Debtor, except as set forth in this statement.

F. Projections. Much of the information contained herein consists of projections of future performance of a very complicated and uncertain business. The Debtor has made a reasonable effort to insure that the assumptions, estimates, financial projections and predictions have a reasonable basis in fact. The Plan term is 10 years. During that period, factors beyond the control of the Debtor and its management will affect the implementation and success of the Plan. Under no circumstances should any Plan Party view the information as a guaranty, representation or warranty.