IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: WOODBRIDGE GROUP OF COMPANIES, LLC, *et al.*,[1] Debtors.	Chapter 11 Case No. 17-12560 (KJC) (Jointly Administered) **Hearing Date: August 21, 2018, at 1:00 p.m. (ET)** **Ref. Docket Nos. 2249, 2313 & 2323**

DEBTORS' REPLY IN FURTHER SUPPORT OF
THE DISCLOSURE STATEMENT MOTION

The Debtors[2] respectfully submit this reply in further support of the Disclosure Statement Motion and in response to the pending objections thereto filed by (i) Mr. James Fiore [Docket No. 2313] (the "Fiore Objection") and (ii) a group of self-styled "Dissident Noteholders" [Docket No. 2323] (the "Dissident Objection").[3]

REPLY

1. Neither Mr. Fiore nor the Dissident Noteholders provide any reason for the Court not to approve the Disclosure Statement under Bankruptcy Code section 1125. The Disclosure Statement, in its final proposed form to be submitted before the August 21 hearing, is robust and

[1] The last four digits of Woodbridge Group of Companies, LLC's federal tax identification number are 3603. The mailing address for Woodbridge Group of Companies, LLC is 14140 Ventura Boulevard #302, Sherman Oaks, California 91423. Due to the large number of debtors in these cases, which are being jointly administered for procedural purposes only, a complete list of the Debtors, the last four digits of their federal tax identification numbers, and their addresses are not provided herein. A complete list of this information may be obtained on the website of the Debtors' noticing and claims agent at www.gardencitygroup.com/cases/WGC, or by contacting the undersigned counsel for the Debtors.

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to those terms in the *Debtors' Motion for Entry of an Order (I) Approving Disclosure Statement, (II) Fixing Voting Record Date, (III) Scheduling Plan Confirmation Hearing and Approving Form and Manner of Related Notice and Objection Procedures, (IV) Approving Solicitation Packages and Procedures and Deadlines for Soliciting, Receiving, and Tabulating Votes on the Plan, and (V) Approving Forms of Ballots and Notice to Non-Voting Classes* [Docket No. 2249] (the "Disclosure Statement Motion").

[3] An additional objection was filed by the plaintiffs in a pending class action lawsuit, but that objection was subsequently withdrawn in its entirety. *See* Docket No. 2322. In addition, the Debtors received and believe they have resolved informal comments from the United States Trustee.

thorough; its more than 130 pages of narrative discussion and hundreds of additional pages of exhibits and schedules provide comprehensive information about the Debtors, their bankruptcy cases, and the Plan that easily constitutes "adequate information" under Bankruptcy Code section 1125(a)(1). The handful of issues raised by Mr. Fiore and the Dissident Noteholders largely go to substantive complaints, rather than disclosure, but none of those issues provides any reason for the Court to decline to approve the Disclosure Statement at this juncture.

A. Fiore Objection

2. The Fiore Objection outlines Mr. Fiore's view that because he invested in Woodbridge Notes shortly before the initial December 4, 2017 Petition Date, he should receive full repayment of his claim. The Fiore Objection accordingly proposes a substantive revision to Section 3.4 of the Plan that would provide 100% recoveries for "cases where Woodbridge had received funds within 30 days of the 12/5/2017 notification to investors about the restructuring under chapter 11 (plus interest rate on such funds between the date invested and the date of investor reimbursement)."

3. The Fiore Objection raises a substantive treatment issue rather than an objection to the Disclosure Statement. In any case, the objection should be overruled. Although the Debtors deeply regret Mr. Fiore's circumstances and losses on his investment, Mr. Fiore is not differently situated from other individuals who invested their prepetition funds. Congress has not codified any special priority for investors within the 30-day period proposed by Mr. Fiore. *Cf.* 11 U.S.C. § 503(b)(9) (special priority for "the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business"). Absent such a priority, Mr. Fiore stands on equal footing with other prepetition investors and fundamental

bankruptcy principles require that such similarly-situated creditors be treated equally.[4] As a result, it would be inappropriate to modify the Plan to provide the enhanced treatment Mr. Fiore desires, which would boost Mr. Fiore's recoveries at the expense of other innocent investors.

B. Dissident Objection

4. The Dissident Objection raises three main issues, none with any merit.[5] Before turning to the specific issues, however, it may be useful to provide some context regarding why the Dissident Noteholders' litigation would be largely mooted by the Plan.

5. The Dissident Noteholders' primary argument appears to be that they hold validly perfected security interests in the intercompany notes and deeds of trust held by the Fund Debtors against the MezzCo and PropCo Debtors. As discussed in detail in the Disclosure Statement, the Debtors believe that the intercompany notes and deeds of trust were fraudulently created and must be avoided.[6] As explained in the Disclosure Statement, substantially all of the money invested by Noteholders (and Unitholders) was commingled (at least once) and used on an as-needed basis (e.g., to fund overhead, personal expenses, commissions to brokers, payments

[4] *See, e.g.*, *Howard Delivery Serv. v. Zurich Am. Ins. Co.*, 547 U.S. 651, 667 (2006) (finding guidance in "the equal distribution objective underlying the Bankruptcy Code, and the corollary principle that provisions allowing preferences must be tightly construed"); *Sampsell v. Imperial Paper & Color Corp.*, 313 U.S. 215, 221 (1941) ("[T]he theme of the Bankruptcy Act is equality of distribution."); *Shawhan v. Wherritt*, 48 U.S. (7 How.) 627, 644 (1849) (noting how the "policy and aim of bankrupt laws are to compel an equal distribution of the assets of the bankrupt among all his creditors"; further observing that this "aim is to divide the assets equally, and therefore equitably"); *In re Combustion Eng'g, Inc.*, 391 F.3d 190, 239 (3d Cir. 2004) ("The Bankruptcy Code furthers the policy of 'equality of distribution among creditors' by requiring that a plan of reorganization provide similar treatment to similarly situated claims. Several sections of the Code are designed to ensure equality of distribution from the time the bankruptcy petition is filed."); *Remington Rand Corp.-Del. v. Bus. Sys. Inc.*, 830 F.2d 1260, 1271 (3d Cir. 1987) ("Both American bankruptcy law and the Dutch doctrine of *paritas creditorum* share the fundamental principle that assets be distributed equally among creditors of similar standing.").

[5] The Dissident Objection is drafted very imprecisely and includes numerous loose statements unconnected to the specific points made therein. For the avoidance of doubt, the Debtors disagree with virtually every statement in the Dissident Objection, such as the off-the-cuff assertion that "[b]ecause the Debtors operated for over a month post-petition, the Elder Abuse Claims may also constitute administrative claims," Dissident Obj. ¶ 11 – a disclosure statement objection is not the proper vehicle for pursuing such a claim and the entire premise of this statement (that the "Debtors operated," which apparently means solicited new investments, after December 1, 2017) is false.

[6] This same issue is also the crux of the Committee Standing Motion and proposed Lien Avoidance Adversary.

to investors for interest and principal, professional fees, and so on), with whatever was left over used to purchase real properties. Because almost no money went directly from the Fund Debtors to the MezzCo and PropCo Debtors and because almost all of the money was commingled (at least once), the Debtors are not able to trace money from the investors (or the Fund Debtors) to the MezzCo and PropCo Debtors. This is not surprising, as it appears that the notes and deeds of trust were created to perpetuate a massive fraud and not to document the actual flow of funds from the Fund Debtors to the MezzCo and PropCo Debtors (e.g., investors were assigned purported notes and deeds of trust against properties that no Debtor ever owned). *See* Disclosure Statement §§ II.C.2, II.D, II.E, II.H.2(a) & IV.B.1.

6. Thus, even if Noteholders are validly perfected in the intercompany notes and deeds of trust (which the Debtors strongly dispute), that dispute would be mooted under the Plan, which provides as one element that any Intercompany Claims that could be asserted by one Debtor against another Debtor will be extinguished with no separate recovery on account of any such Claims and any Intercompany Liens that could be asserted by one Debtor regarding any Estate Assets owned by another Debtor will be deemed released and discharged (subject to certain rights being preserved as against any junior lienholders). *See* Plan § 3.11.2(g). If the Plan is confirmed, then it is simply and forever ***irrelevant*** whether any Noteholder has a perfected, enforceable security interest in the intercompany rights. ***If the purported Noteholder collateral is invalid, void, or otherwise unenforceable, then it becomes purely academic whether the Noteholder has a security interest in such an invalid, void, or unenforceable item.***

7. The alternative theory asserted by some Noteholders is that they have an enforceable security interest ***directly*** against certain real property that is owned by the Debtors. The Debtors believe there is absolutely no legal or factual support for any such "direct security

interest" theory, including for the reasons set forth in detail in the Debtors' motion to dismiss the Dissident Noteholders' amended complaint. Nevertheless, if the Dissident Noteholders or any other Noteholders are asserting a "direct security interest" theory, then ***that*** dispute will need to be resolved at or before the Confirmation Hearing, whether as part of the adversary proceeding or otherwise, because the Plan as proposed does not accommodate such direct property interests.

8. With that context in mind, we now turn to the three issues raised by the Dissident Objection.

9. ***First***, although the Debtors believe that the disclosure provided in the prior draft Disclosure Statement regarding the Dissident Declaratory Relief Adversary was adequate, the Debtors have substantially expanded the discussion to more fully describe the positions of the Debtors and the Dissident Noteholders regarding this matter. An insert including the specific changes that the Debtors have made to Section III.R.2 of the Disclosure Statement is attached hereto as **Exhibit A** (the changes may also be seen on the redlined version of the Disclosure Statement the Debtors are filing). This additional discussion eliminates any asserted inadequacy in the disclosure and leaves no reason for the Court to reject the Disclosure Statement.

10. ***Second***, the Dissident Objection complains about the process for selecting the Liquidation Trust Supervisory Board under the Plan. *See* Dissident Obj. ¶¶ 14-16. This is a substantive objection to an aspect of the Plan, not an objection to the Disclosure Statement. The proposed members of the Liquidation Trust Supervisory Board have not yet been identified (but will be identified before the Confirmation Hearing), so it is entirely possible that the objection will be moot (for example, if the Unsecured Creditors' Committee appoints the two Noteholders currently serving on the Unsecured Creditors' Committee, then the Liquidation Trust Supervisory Board will have a majority of Noteholders). Regardless, the Unsecured Creditors'

Committee is tasked with representing ***all*** unsecured creditors in these bankruptcy cases, which will unquestionably include substantially all Noteholders (and likely all Noteholders after any necessary post-confirmation litigation relating to Class 6 Claims) if the proposed Plan is confirmed. The Debtors are confident that the five members of the Liquidation Trust Supervisory Board – once actually selected and identified – will be appropriately representative of the diverse body of creditors in these cases. In the unlikely event that the persons selected are unqualified, parties in interest can object as part of the confirmation process.

11. ***Third***, the Dissident Objection casually suggests that "the Dissident Noteholders [should] have the opportunity to include a letter in the solicitation package provided for in the Disclosure Statement stating their position on the chapter 11 Plan." *See* Dissident Obj. ¶ 19. No analysis or authority is offered for why such relief would be warranted. In fact, such relief would not be warranted; unlike the three official Committees, the Dissident Noteholders are not fiduciaries who represent parties other than themselves. As creditors pursuing only their own parochial interests, the Dissident Noteholders have no right to hijack the Debtors' solicitation process. Moreover, it would be inappropriate to foist upon the Estates (and ultimately all other creditors) the increased mailing and other costs associated with inclusion of additional material in the Solicitation Packages. If the Dissident Noteholders want to solicit votes in opposition to the Plan, then they should do so using their own resources and should not be permitted to burden the Estates.[7] This unsupported and unjustifiable request should be denied.

[7] The Debtors reserve all rights regarding any solicitation activities that are undertaken by the Dissident Noteholders or their counsel, including, without limitation, as a result of their dissemination of any information or materials that have not been expressly approved by the Court.

CONCLUSION

WHEREFORE, for all the reasons set forth in the Disclosure Statement Motion and above, the Debtors again respectfully request that the Court enter the Disclosure Statement Order in the revised form that will be submitted before the Disclosure Statement hearing.

Dated: August 16, 2018
Wilmington, Delaware

/s/ Edmon L. Morton

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Exhibit A

1. Dissident Noteholder Declaratory Relief Adversary

On March 27, 2018, a group of so-called "Dissident" Noteholders (the "Dissident Plaintiffs") filed an adversary proceeding in the Bankruptcy Court, Adv. Proc. No. 18-50371-KJC (the "Dissident Declaratory Relief Adversary"), seeking a declaratory judgment that they hold valid, perfected, first-priority liens against the real property located at 141 South Carolwood Drive, Holmby Hills, California (the "Owlwood Property"), or against the proceeds of any sale of the Owlwood Property via a security interest in a note secured by the Owlwood Property, or, alternatively, that the Dissident Plaintiffs hold a constructive trust over or equitable lien against the Owlwood Property or the proceeds of any sale of the Owlwood Property or the note secured by the Owlwood Property. On June 18, 2018, the Debtors filed a motion to dismiss the Dissident Declaratory Relief Adversary. On July 17, 2018, the Dissident Plaintiffs, in response to the Debtors' motion to dismiss, requested and were granted permission to file a First Amended Complaint (the "Complaint"). On August 14, 2018, the Debtors again moved to dismiss the Complaint.

The Debtors believe that the positions taken by the Dissident Plaintiffs are meritless and will all be resolved in favor of the Debtors either via the pending motion to dismiss or via confirmation of the Plan or, if necessary, on summary judgment or after an evidentiary hearing.

More specifically, as detailed more fully in the Debtors' motion to dismiss, the counts asserted in the Dissident Plaintiffs' Complaint fail for the following reasons:

- Count I of the Complaint seeks a declaration that the Dissident Plaintiffs have a security interest in the Owlwood Property, *i.e.*, in real property. As a matter of black letter California law, "recordation of the mortgage . . . is one of the necessary and indispensable requisites to" a security interest. *Hopper v. Keys*, 92 P. 1017, 1020 (Cal. 1907). There is no mortgage—or deed of trust—recorded in favor of any of the Dissident Plaintiffs. Fund 3A, a Debtor, does have a recorded deed of trust against the Owlwood Property (executed by the Owlwood Property's owner, Sturmer Pippin Investments, LLC, also a Debtor), but at no time did Fund 3A purport to transfer ownership of that deed of trust or any note purportedly secured by the deed of trust to any Dissident Plaintiff. The sole transfer, which was defective for reasons set forth in the next paragraph, was for security. Any transfer of ownership of a note would have to comply with Article 3 of the Delaware UCC, which in pertinent part (*see* DEL. CODE ANN. tit. 6, § 3-102) requires that to be effective, such a transfer would have to involve both the endorsement and delivery of the note to a Dissident Plaintiff. That is not even alleged to have occurred and it did not. Therefore, even if the Dissident Plaintiffs had a colorable claim to having a security interest in the Owlwood Property (and they do not), it would be an unperfected security interest. As a deemed bona fide purchaser of the Owlwood Property by reason of Bankruptcy Code section 544(a)(3), Debtor Sturmer Pippin Investments, LLC, holds the Owlwood Property free and clear of any unperfected security interest of the Dissident Plaintiffs.[1]

[1] Under section 544(a), "a trustee obtains a ***status*** as well as an avoiding power as a hypothetical judicial lien creditor, unsatisfied execution creditor, or bona fide purchaser as of the commencement of a bankruptcy case." *In re*

(FOOTNOTE CONTINUED)

- Count II of the Complaint is a variant of Count I, asserting not an interest in the Owlwood Property but rather in the proceeds of any sale of the Owlwood Property, with the Dissident Plaintiffs having a security interest in Fund 3A's note secured by a deed of trust on the Owlwood Property. A basic conceptual and threshold problem is that this Count relies on the incorrect notion that the note and deed of trust held by Fund 3A on the Owlwood Property are valid. They are not valid, and the Plan, if approved, will definitively so declare, as discussed below. But even if the note and deeds of trust held by Fund 3A were valid, the Dissident Plaintiffs would, at most, have an unperfected—and hence invalid in bankruptcy—security interest in those instruments because the Dissident Plaintiffs did not perfect their security interests as required under Delaware law by either possession or filing a financing statement. DEL. CODE ANN. tit. 6, § 9-312(a) & 9-313(a). Delaware law applies because Fund 3A is a Delaware LLC. DEL. CODE ANN. tit. 6, §§ 9-301(1), 9-307(e) & 9-102(a)(71); *see also* CAL. COMM. CODE §§ 9301(1), 9307(e) & 9102(a)(71) (same). Additionally, agreements between the Dissident Plaintiffs and Fund 3A clearly specify that Delaware law applies. The Dissident Plaintiffs argue that a very idiosyncratic provision of California law, Cal. Business & Professions Code § 10233.2, provides an exception to the perfection requirements of the Delaware UCC, but that section is inapplicable for multiple reasons. First, that section only provides an exception to California law not Delaware law, and only Delaware governs. That section of the California statute is also inapplicable on its own terms because the special conditions required under Business & Professions Code section 10233.2 are not present. As the Dissident Plaintiffs have, at most, an unperfected security interest in the Fund 3A note and deed of trust, their interest is junior to the deemed perfected lien creditor rights held by Fund 3A pursuant to Bankruptcy Code section 544(a)(1) & (2). *See also* note 1, *supra*.

- Count III of the Complaint abandons formality entirely and seeks to assert a constructive trust or equitable lien in the Owlwood Property or in its proceeds or in Fund 3A's secured note. This Count is deficient under both state law and bankruptcy law. It fails under state law because under both California and Delaware law (and American law generally), the party asserting such a claim "bears the burden of tracing the alleged trust property specifically and directly back to the act that created the trust." *True Traditions, LC v. Wu*, 552 B.R. 826, 840 (N.D. Cal. 2015); *see also, e.g.*, *Pell v. E.I. DuPont de Nemours & Co. Inc.*, 539 F.3d 292, 309 (3d Cir. 2008) (same tracing requirement for both constructive trust and equitable lien under ERISA in case filed in Delaware); *Rollins v. Neilson (In re Cedar Funding, Inc.)*, 408 B.R. 299, 313 (Bankr. N.D. Cal. 2009) (same tracing requirement—equitable lien, California law); *B.A.S.S. Grp., LLC v. Coastal Supply Co.*, 2009 WL 1743730, at *7 (Del. Ch. June 19, 2009) (same tracing requirement—constructive trust, Delaware law); *Pike v. Commodore Motel Corp.*, 1986

Alexander, No. 11-74515-SCS, 2014 WL 3511499, at *9 (Bankr. E.D. Va. July 16, 2014) (emphasis in original; citation and internal quotation marks omitted), *aff'd*, 524 B.R. 82 (E.D. Va. 2014); *In re Don Williams Constr. Co.*, 143 B.R. 865, 868-69 (Bankr. E.D. Tenn. 1992). To the extent that anyone asserts that perfection must be challenged by way of an adversary proceeding, the case law is clear that non-perfection may be raised in a contested matter. *See, e.g., S. Bank & Tr. Co. v. Alexander (In re Alexander)*, 524 B.R. 82, 93 (E.D. Va. 2014); *In re Loewen Grp. Int'l, Inc.*, 292 B.R. 522, 528 (Bankr. D. Del. 2003); *In re Ballard*, 100 B.R. 526, 527 (Bankr. D. Nev. 1989).

WL 13007, at *5 (Del. Ch. Nov. 14, 1986) (same); *Fowler v. Fowler*, 39 Cal. Rptr. 101, 105 (Ct. App. 1964) (same tracing requirement—California law, constructive trust); *Holder v. Williams*, 334 P.2d 291, 292 (Cal. Ct. App. 1959) (same tracing requirement—equitable lien, California law); *Walsh v. Majors*, 49 P.2d 598, 606 (Cal. 1935) (same tracing requirement—constructive trust and equitable lien, California law); RESTATEMENT OF THE LAW 3D, RESTITUTION AND UNJUST ENRICHMENT, § 55 cmt. g (3rd 2011) (same tracing requirement constructive trust); *id.* § 58 cmt. e (same tracing requirement for both constructive trust and equitable lien). Notably, although granted leave to amend—following review of the June 18 motion to dismiss which clearly set forth the tracing requirement—the Dissident Plaintiffs have never alleged that tracing is possible. There is good reason for this: tracing is not possible. But even if the Dissident Plaintiffs could sustain either a constructive trust or an equitable lien under state law, the remedy would fail as a matter of bankruptcy law because "under the unique rules of bankruptcy, a debtor's estate is deemed to include fraudulently obtained property, so long as the property was not impressed with a constructive trust prior to the commencement of the bankruptcy proceeding." *Singh v. Att'y Gen. of the United States*, 677 F.3d 503, 516 n.16 (3d Cir. 2012). The reason for this holding is significant: "The inclusion of fraudulently obtained property in the debtor's estate is not for the debtor's benefit. . . . It is designed, instead, to ensure equal treatment of creditors, each of whom has suffered disappointed expectations at the hands of the debtor." *Id.* Additionally, as a bona fide purchaser of the Owlwood Property or a perfected lien creditor of the note and deed of trust held by Fund 3A, *see* note 1 *supra*, Sturmer Pippin Investments, LLC (as to the real property) and Fund 3A (as to the note and deed of trust) would take the real or personal property (including any sale proceeds arising therefrom) free and clear of any unrecorded constructive trust or equitable lien interest. *In re Tleel*, 876 F.2d 769, 771-72 (9th Cir. 1989) (California real property); *Mullins v. Burtch (In re Paul J. Paradise & Assocs.)*, 249 B.R. 360, 372 (D. Del. 2000) (Delaware real property); *Wallace v. Bonner (In re Bonner)*, 2014 WL 890477, at *6 (B.A.P. 9th Cir. Mar. 6, 2014) (California personal property); *In re Charlton*, 389 B.R. 97, 104 (Bankr. N.D. Cal. 2008) (same); *see also* DEL. CODE ANN. tit. 6, § 9-317(a)(2) (unperfected security interest is subordinate to the rights of a judicial lien creditor).

- Count IV asserts claims under California's Elder Abuse Law. The claim is meritless, but even if valid, it would not result in an interest in real or personal property of any Debtor, merely in an unsecured subordinated claim. First, the Elder Abuse claim was asserted in an untimely and procedurally improper manner as "the only appropriate way to assert a claim against a debtor's estate is through the timely filing of a properly executed proof of claim and not through an adversary proceeding." *In re Ephedra Prods. Liab. Litig.*, 329 B.R. 1 (S.D.N.Y. 2005); *accord Dade County Sch. Dist. v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 53 B.R. 346, 352-53 (Bankr. S.D.N.Y. 1985); 10 COLLIER ON BANKRUPTCY ¶ 7001.02 (Richard Levin & Henry J. Sommer, eds., 16th ed. 2018) ("an adversary proceeding may not be used as a substitute for a proof of claim"). Second, were it asserted as a proof of claim, it would be time-barred as being asserted after the Bankruptcy Court-imposed bar date. Neither may an Elder Abuse claim be asserted as an amendment to an existing proof of claim because a "claimant may not, however, through the guise of an amendment, circumvent the bar date by asserting a new claim." *In re Asia Glob. Crossing, Ltd.*, 324 B.R. 503, 507 (Bankr. S.D.N.Y. 2005) (collecting authorities).

> Finally, to the extent such a claim would otherwise be allowed, it would be subject to automatic subordination under Bankruptcy Code section 510(b) as it would be for "damages arising from the purchase or sale of . . . a security." In sum, the Elder Abuse claims are not tenable and should not be allowed, and thus have no implications on plan confirmation.

Based on the foregoing points, the Debtors believe that the Bankruptcy Court should dismiss the Complaint in its entirety, regardless whether the counts therein assert a direct security interest in real property or an indirect interest in real property via Intercompany Claims (notes) and Intercompany Liens (deeds of trust) between the Fund Debtors, on the one hand, and PropCos and MezzCos, on the other hand.

In addition to the defects in the Complaint, any theory of the Dissident Plaintiffs that relies on obtaining or asserting a security interest on the Intercompany Claims and Intercompany Liens between the Fund Debtors, on the one hand, and PropCos and MezzCos, on the other hand, will be rendered moot by the extinguishment of those Intercompany Claims and Intercompany Liens as part of the Plan. Assuming the Plan is confirmed by the Bankruptcy Court, it is simply irrelevant whether any Noteholder has a perfected, enforceable security interest on the intercompany rights (because a security interest on a non-existent item is the same as a non-existent security interest on the same non-existent item).

If the Bankruptcy Court determines that the Dissident Plaintiffs have legitimate, enforceable property rights directly in specific real property, the Plan may need to be modified, revised or withdrawn. The Debtors anticipate that this issue will be resolved at or before the Confirmation Hearing and that the Bankruptcy Court will determine that the Dissident Plaintiffs have no such property rights. Please see Section VI.G. below for a discussion of alternatives to confirmation and consummation of the Plan.