

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

In re:

SPORTS MARKETING, INC.
d/b/a TEAM CHOICE,

Case No. 8:09-bk-15305-CED

Chapter 11

Debtor. _____ /

**AMENDED DISCLOSURE STATEMENT
FOR SPORTS MARKETING, INC. d/b/a TEAM CHOICE**

Richard J. McIntyre, Esquire
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November 17, 2009

I. INTRODUCTION

This is the Disclosure Statement (the “Disclosure Statement”) in the Chapter 11 case for Sports Marketing, Inc. d/b/a Team Choice (the “Debtor”) which filed its voluntary Petition for Relief under Chapter 11 of the Bankruptcy Code on **July 16, 2009** (the “Petition Date”). This Disclosure Statement contains information about the Debtor and describes the Chapter 11 Plan of Reorganization (the “Plan”) filed by the Debtor on November 5, 2009. A full copy of the Plan is on file with the United States Bankruptcy Court for the Middle District of Florida, Tampa Division (the “Court”) and included with the ballot packet mailed to creditors and equity security holders pursuant to the Court’s order.

Your rights may be affected. You should read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.

The proposed distributions under the Plan are discussed on pages 7 through 11 of this Disclosure Statement. General unsecured creditors are classified in Classes 6, and 8, and will receive a distribution equal to ten percent (10%) of their allowed claim in annual payments over five (5) years commencing fifteen (15) days after entry of the Confirmation Order confirming Debtor’s Chapter 11 Plan of Reorganization.

A. Purpose of This Document

This Disclosure Statement describes:

- The Debtor and significant events during the bankruptcy case;
- How the Plan proposes to treat claims or equity interests of the type you hold (*i.e.*, what you will receive on your claim or equity interest if the Plan is confirmed);
- Who can vote on or object to the Plan;
- What factors the Bankruptcy Court (the “Court”) will consider when deciding whether to confirm the Plan;
- Why the Debtor believes the Plan is feasible, and how the treatment of your claim or equity interest under the Plan compares to what you would receive on your claim or equity interest in liquidation; and
- The effect of confirmation of the Plan

Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights.

B. Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing

The Court has not yet confirmed the Plan described in this Disclosure Statement. This section describes the procedures pursuant to which the Plan will or will not be confirmed.

1. The **Hearing** at which the Court will determine whether to confirm the Plan and approve the Disclosure Statement will take place on **January 20, 2010, at 9:00 a.m., in Courtroom 10B at the United States Bankruptcy Court, Sam M. Gibbons Courthouse, 801 N. Florida Ave, Tampa, Florida.**

2. **Ballots: If you are entitled to vote to accept or reject the plan, vote on the enclosed ballot and return the ballot in the enclosed envelope to the U.S. Bankruptcy Court, 801 N. Florida Ave., Tampa Florida 33602 and send a copy to McIntyre, Panzarella, Thanasides, Eleff & Hoffman, P.L., 6943 East Fowler Ave, Tampa, Florida 33617. See Section IV A. below for a discussion of voting eligibility requirements. You must file your ballot with the Court, on or before January 12, 2010, or it may not be counted.**

3. Objections to this Disclosure Statement or to the confirmation of the Plan must be filed with the Court and served upon all parties in interest on the Local Rule 1007-2 Mailing Matrix by **January 13, 2010.**

4. If you your require additional business information with regards to the Plan, please contact David Smith in writing via U.S. Mail at Sports Marketing, Inc., 674 Brandon Town Center Mall, Brandon, Florida 33511. Should you require additional legal information with regards to the Plan, please contact David Smith in writing at the foregoing address and also please send a copy to Debtor's counsel, McIntyre, Panzarella, Thanasides at 6943 E. Fowler Avenue, Tampa, Florida 33617.

C. **Disclaimer**

The Court has conditionally approved this Disclosure Statement as containing adequate information to enable parties affected by the Plan to make an informed judgment about its terms. The Court has not yet determined whether the Plan meets the legal requirements for confirmation, and the fact that the Court has conditionally approved this Disclosure Statement does not constitute an endorsement of the Plan by the Court, or a recommendation that it be accepted. The Court's approval of this Disclosure Statement is subject to final approval at the hearing on confirmation of the Plan. Objections to the adequacy of this Disclosure Statement may be filed until January 13, 2010.

II. **BACKGROUND**

A. **Description and History of the Debtor's Business**

The Debtor is a Florida corporation that was officially incorporated in 1992. Since 1992, Mr. David Smith has been the sole director, President and a fifty percent (50%) shareholder. Since incorporation, the Debtor has been in the business of operating retail stores that sell licensed sports apparel. As of the Petition Date, the Debtor operated twelve (12) stores throughout Florida, Tennessee, Minneapolis and Illinois. As of the filing of this Disclosure Statement, the Debtor has closed two (2) stores, one (1) in Sanford, Florida and one (1) in Franklin, Tennessee and additionally sold the assets and assumed and assigned the leases for the stores located at Mall of America in Minneapolis, Minnesota and in Gurnee, Illinois. The Debtor continues to operate stores throughout Florida and one (1) store in Nashville, Tennessee for a total of eight (8) stores.

B. **Insiders of the Debtor**

- **David Smith, President, Sole Director**
(2007 Compensation: \$130,000.00)
(2008 Compensation: \$130,000.00)
(2009 YTD Compensation: \$88,000.00)

- **Diane Smith**
(2007 Compensation: \$15,600.00)
(2008 Compensation: \$15,600.00)
(2009 Compensation YTD: \$12,600.00)

- **Craig Carpenter**
(2007 Compensation: \$44,980.00)
(2008 Compensation: \$60,376.95)
(2009 YTD Compensation: \$49,869.24)

C. Management of the Debtor Before and During the Bankruptcy

During the two (2) years prior to the Petition Date, the officers, directors or other persons in control of the Debtor (collectively, the “Managers”) were:

2007 - 2009

David Smith, President and Sole Director

David Smith has continued as the President and Sole Director of the Debtor and has been responsible for the operation of the Debtor during the Debtor’s chapter 11 case.

After the effective date of the order confirming the Plan, David Smith shall continue as the President and as the Sole Director of the Debtor post confirmation and shall receive a salary of \$1,500.00 per week.

D. Events Leading to Chapter 11 Filing

From 1992 until October 2008, the Debtor enjoyed increased growth and profits. Although always a seasonal business, Mr. Smith helped the Debtor navigate the ebbs and flows of the business.

However, by October 2008, with the near collapse of the financial markets, the extreme decline in housing prices, the increasing unemployment rate and the severe banking sector problems, Mr. Smith realized that the economy was not soon rebounding, and the Debtor, which usually experienced its most profitable season from October through January, was seeing unexpected sales declines. Therefore, the Debtor, tried to negotiate an increase of its line of credit with Fifth Third Bank (the “Bank”). However, because the Debtor’s other lines of credit had been reduced the Bank did not want to extend additional funds to the Debtor because Debtor now appeared to have a high debt ratio.

Additionally, the Debtor worked to renegotiate its leases with its respective landlords, Simon Properties, Inc. and Westfield, without resorting to bankruptcy. The non- residential property lease payments were originally negotiated based on a percentage of sales. The leases contained provisions that escalated the lease rates with increased sales, however, the leases did not have a reciprocal provision that allowed rent to be reduced in the event sale volume decreased. Like most retailers, Debtor experienced exceptionally slow sales in December 2008, however, his rent payments were still based on a percentage of sales the Debtor had not experienced in over a year.

Unable to negotiate new lease terms or acquire additional lines of credit, the Debtor realized by July 2009 that the Debtor had no option other than to file for protection under Chapter 11 of the Bankruptcy Code.

E. Significant Events During the Bankruptcy Case

- On July 16, 2009, David Smith as President and Sole Director of the Debtor signs the Petition for Relief under Chapter 11 of the United States Bankruptcy Code; Mr. Smith is authorized by the Court to draw a salary of \$1,500.00 per week.

- On July 16, 2009, Richard J. McIntyre and the firm of McIntyre, Panzarella, Thanasides, Eleff & Hoffman, P.L. files an Application to be Employed as Debtor's Counsel ("Debtor's Counsel") (Doc. No. 2). On August 25, 2009, the Court enters an Order approving the retention of Debtor's Counsel (Doc. No. 54).

- On July 21, 2009, Debtor sends written notice to Seminole Town Centre, LP of its intention to reject the non-residential property lease at the leased premises located in Sanford, Florida. The Debtor proceeded to close the Sanford, Florida store and distributed the inventory to three other stores located in South Florida. On or about August 26, Debtor filed its Motion to Reject Unexpired Lease *nunc pro tunc* to July 16, 2009 with Seminole Towne Center Limited Partnership (Doc. No. 56). On September 30, the Court entered an order granting Debtor's motion to reject the foregoing lease (Doc. No. 92).

- On August 7, 2009, the Court enters three (3) separate orders granting the use of Cash Collateral, granting Debtor the Authority to Pay Pre-Petition Wages and granting Debtor the Authority to Pay Insiders and Officers (Doc. Nos. 26, 27 and 28).

- On August 14, 2009, Debtor sends written notice to Galleria Associates, LP of its intention to reject its lease at the leased premises located in Franklin, Tennessee. The Debtor proceeds to close the Franklin, Tennessee store and distributes the inventory to the Chattanooga, Tennessee store. Debtor files a Motion to Reject the Unexpired Lease with Galleria Associates, LP *nunc pro tunc* to August 14, 2009 (Doc. No. 57). On September 30, 2009 the Court enters an order granting Debtor's motion to reject the foregoing lease (Doc. No. 90).

- On September 2, 2009 the Debtor files a Motion to Reject the Unexpired Lease with MOAC Mall Holdings, LLC *nunc pro tunc* to August 31, 2009 (Doc. No. 67). On September 30, 2009, the Court enters an order granting the Debtor's motion to reject the foregoing lease (Doc. No. 91).

- On August 13, 2009, Debtor filed a Motion to Value Property of the Estate with regards to furniture, fixtures and equipment located at the Westfield Brandon Mall in Brandon, Florida upon which US Bancorp held a first priority lien. The Debtor and US Bancorp reached an agreement that the assets had a value of \$16,500 and further agreed that US Bancorp would have an unsecured claim for the remaining deficiency. An agreed to order was furnished to the Court on October 15, 2009.

- On August 11, 2009, the Debtor filed an Emergency Motion to Sell Property free and clear of all liens, claims and encumbrances to SIOPA. SIOPA agreed to purchase the inventory at the store located at the Mall of America in Minneapolis, Minnesota and at the Gurnee Mall in Gurnee,

Illinois and to also assume the lease at the Gurnee Mall location for a total of \$187,971.05. On September 11, 2009, the Court entered an Omnibus Order Granting Motion to Modify the Order Granting Debtor's Emergency Motion for an Order Approving Sale of Assets Free and Clear of All Liens, Claims and Encumbrances; and (2) Debtor's *Ore Tenus* Motion to Use Cash Collateral to Make Adequate Protection Payments to Fifth Third Bank and to Pay Administrative Rent (Doc. No. 78). From the sale proceeds, the Bank received \$150,000; Simon Properties, Inc. received \$20,373.56 to cure deficiencies at the Gurnee, Illinois store and an additional \$20,000 for administrative rent owed for stores located in Florida and Illinois; MOAC Mall Holdings received \$35,299.50 to cure deficiencies at the Mall of America; and Westfield received \$8,993.64 for administrative rent owed for the Westfield Brandon Store.

- The Debtor filed a Motion to Compromise Controversy on September 25, 2009 setting forth the Debtor's and Mr. Cablish's agreement that he would return \$20,000 to the Debtor which represented funds he may have incorrectly received from the Debtor (Doc. No. 87). On October 15, 2009 the Bank filed a Limited Objection to the foregoing compromise (Doc. No. 105). This matter is currently set for hearing on November 16, 2009.

- On September 25, 2009, Debtor filed a Complaint for Determination of the Extent, Validity and Priority of Secured Claims held by the Bank and Charles Carpenter Adversary Proceeding 8:09-AP-00683. On October 16, 2009, Debtor filed an Emergency Motion to Approve Compromise of Controversy (Doc. No. 107). The parties announced in open court their intention to dismiss the foregoing motion at a hearing on October 20, 2009 and further announced that the parties would work together to reach an agreement which would be set forth in more detail in the Debtor's Plan of Reorganization.

- The Court has scheduled a hearing for **January 20, 2010 at 9:00 a.m.** to consider approval of this Disclosure Statement and the Debtor's Plan of Reorganization.

F. **Claims Objections**

Except to the extent that a claim is already allowed pursuant to a final non-appealable order, the Debtor reserves the right to object to claims. Therefore, even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an objection to your claim is later upheld. The procedures for resolving disputed claims are set forth in **Article V** of the Plan.

G. **Current and Historical Financial Conditions**

The identity and fair market value of the estate's assets are listed in **Exhibit A**. These values are based upon the Debtor's estimated value. There were no recent financial statements issued by the Debtor before bankruptcy. Debtor has filed July 2009, August 2009 and September 2009 monthly operating reports with the U.S. Trustee.

III. SUMMARY OF THE PLAN OF REORGANIZATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

A. What is the Purpose of the Plan of Reorganization?

As required by the Code, the Plan places claims and equity interests in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims or equity interests is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

B. Unclassified Claims

Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan Proponent has *not* placed the following claims in any class:

1. Administrative expenses are costs or expenses of administering the Debtor's chapter 11 case which are allowed under § 507(a)(2) of the Code. Administrative expenses also include the value of any goods sold to the Debtor in the ordinary course of business and received within 20 days before the date of the bankruptcy petition. The Code requires that all administrative expenses be paid on the effective date of the Plan, unless a particular claimant agrees to a different treatment.

The following chart lists the Debtor's estimated administrative expenses and their proposed treatment under the Plan:

<u>Type</u>	<u>Estimated Amount Owed</u>	<u>Proposed Treatment</u>
Expenses Arising in the Ordinary Course of Business After the Petition Date	\$0.00	Paid in full.
Professional Fees, as approved by the Court.	\$50,000.00	Paid in full on or before the effective date of the Plan, or according to court order if such fees have not been approved by the Court on the effective date of the Plan.
Clerks Office Fees	\$0.00	Paid in full.
Rental payments on non-residential leases 503(b)(7) rejection of damages	\$0.00	Paid in full.
Office of the U.S. Trustee Fees	\$4,875.00	Paid in full on or before the effective date of the Plan.
TOTAL	\$54,875.00	

2. Priority tax claims are unsecured income, employment, and other taxes described by § 507(a)(8) of the Code. Unless the holder of such a § 507(a)(8) priority tax claim agrees

otherwise, it must receive the present value of such claim, in regular installments paid over a period not exceeding 5 years from the order of relief, together with statutory interest. There are no known holders of priority tax claims in this case.

C. Classes of Claims and Equity Interests

The following are the classes set forth in the Plan:

Class 1. All allowed claims entitled to priority (except priority tax claims) under § 507 of the Code

Priority Claims: Certain priority claims that are referred to in §§ 507(a)(1), (4), (5), (6), and (7) of the Code are required to be placed in classes. The Code requires that each holder of such a claim receive cash on the effective date of the Plan, equal to the allowed amount of such claim. However, a class of holders of such claims may vote to accept different treatment. There are no known priority claims in this case that meet the foregoing criteria but in the event there is a claim, such claim is a Class 1 Claim.

Class 2. David Smith- waived in exchange for a release of personal guarantees made for the benefit of Debtor, related to Class 6 and Class 8 claims only.

Class 3. Charles Carpenter-secured portion of claim, if any.

Class 4A. Fifth Third Bank (Term Loan) - secured portion of claim, if any.

Class 4B. Fifth Third Bank (Line of Credit) – secured portion of claim, if any.

Class 5. Lyons Financial, Inc. d/b/a US Bancorp - secured portion of claim (\$16,500.00)

Secured Claims: Allowed Secured Claims are claims secured by property of the Debtor's bankruptcy estate (or that are subject to setoff) to the extent allowed as secured claims under § 506 of the Code. If the value of the collateral or setoffs securing the creditor's claim is less than the amount of the creditor's allowed claim, the deficiency will be classified as a general unsecured claim.

The following chart lists all classes containing Debtor's secured creditors and their proposed treatment under the Plan:

Class #	Description	Insider Y/N	Impairment	Treatment
2	<p>Secured claim of David Smith</p> <p>Collateral description: Blanket Lien on Assets</p> <p>Owed as of Petition Date: \$403,000.00 (estimated)</p> <p>Allowed Secured Amount: \$403,000.00 (estimated)</p>	Yes	Impaired	Mr. Smith has agreed to waive his secured claim in exchange for releases on all personal guarantees Mr. Smith made for the benefit of the Debtor related to Class 6 and Class 8 claims, only.
3	<p>Secured claim of Charles Carpenter</p> <p>Collateral description: Blanket Lien</p> <p>Owed as of Petition Date: \$250,000.00</p> <p>Allowed Secured Amount: To be determined ("TBD")</p> <p>Priority of lien: TBD</p>	No	Impaired	Creditor's claim shall be valued and creditor shall be paid the total value of his allowed secured claim, together with five percent (5%) interest, amortized over three (3) years. Annual payments shall begin fifteen (15) days after the Effective Date of the Plan and shall thereafter be paid on January 1 st . Creditor shall receive a Class 7 claim for any remaining deficiency.
4A	<p>Secured claim of Fifth Third Bank (Term Loan)</p> <p>Collateral description: Blanket Lien</p> <p>Owed: \$305,000.00 (estimated)</p> <p>Allowed Secured Amount: TBD</p> <p>Priority of lien: TBD</p>	No	Impaired	Creditor's claim shall be valued and creditor shall be paid the total value of its allowed secured claim, together with five percent (5%) interest, amortized over five (5) years. Annual payments shall begin fifteen (15) days after the Effective Date of the Plan and shall thereafter be paid on January 1 st . Creditor shall receive a Class 7 claim for any remaining deficiency.

4B	<p>Secured claim of Fifth Third Bank (Line of Credit)</p> <p>Collateral description: Blanket Lien</p> <p>Owed as of Petition Date \$925,000.00 (estimated)</p> <p>Allowed Secured Amount: TBD</p> <p>Priority of lien: TBD</p>	No	Impaired	Creditor's claim shall be valued and creditor shall be paid the total value of its allowed secured claim, together with five percent (5%) interest, amortized over twenty (20) years with an initial payment to be made fifteen (15) days after the Effective Date of the Plan, and on January 1 st every year thereafter, with a final balloon payment to be made on January 1, 2015. Creditor shall receive a Class 7 claim for any remaining deficiency.
5	<p>Secured Claim of Lyon Financial Services, Inc. d/b/a US Bancorp</p> <p>Collateral description: Furniture Fixtures and Equipment at Westfield Brandon Mall Store</p> <p>Owed as of Petition Date: \$158,000.00</p> <p>Allowed Secured Amount: \$16,500.00</p> <p>Priority of Lien: First Position</p>	No	Impaired	Creditor shall have an allowed secured claim in the amount of \$16,500 which shall be paid to creditor, together with 5% interest, amortized over sixty (60) months. Monthly payments shall be in the amount of \$311. 28. Creditor shall have a Class 7 claim for the deficiency.

3. **General Unsecured Claims:** General unsecured claims are not secured by property of the estate and are not entitled to priority under § 507(a) of the Code.

The following chart identifies the Plan's proposed treatment of Class 11 which contains general unsecured claims against the Debtor:

Class #	Description	Impairment	Treatment
6	<p>General Unsecured Creditors (Trade Vendors)</p> <p>Approximate Amount of Class 6 Claims: \$910,101.30</p>	Impaired	<p>Holders of allowed unsecured claims shall be paid ten percent (10%) of the total value of their allowed claim, without interest, in five (5) annual installments beginning fifteen (15) days after the Effective Date of the Plan with the final expected payment date of January 1, 2015.</p>

7	General Unsecured Class (Non-Trade Vendors) Approximate Amount of Class 7 Claims: \$1,536,500.24	Impaired	Creditors shall be paid ten percent (10%) of their allowed unsecured claim, pro rata, in five (5) annual installments beginning fifteen (15) days after the Effective Date of the Plan with the final expected payment date of January 1, 2015.
8	General Unsecured Class (Credit Cards) Approximate Amount of Class 8 Claims: \$434,518.33	Impaired	Holder of allowed unsecured claims shall be paid ten percent (10%) of the total value of their allowed claim, without interest, in five (5) annual installments beginning fifteen (15) days after the Effective Date of the Plan with the final expected payment date of January 1, 2015.

4. Equity interest holders are parties who hold an ownership interest (*i.e.*, equity interest) in the Debtor. In a corporation, entities holding preferred or common stock are equity interest holders.

The following chart sets forth the Plan’s proposed treatment of the equity interest holders:

Class #	Description	Impairment	Treatment
9	Equity interest holders	Impaired	Existing equity shall be cancelled and new equity shall be issued to the prior equity holders in amounts equal to the percentage of ownership each equity holder held on the Petition Date in exchange for a capital contribution of \$10,000.00.

D. Means of Implementing the Plan

1. Payments and distributions under the Plan will be funded by the following:

Debtor shall fund the Plan from cash flow. In addition, David Smith has agreed to waive his Class 2 secured claim. Furthermore, Debtor together with Simon Properties, Inc. and Brandon Shopping Center Partners LTD, respectively, have executed modifications to the non-residential leases for the remaining eight (8) stores. The modified leases specifically provide for rent reductions retroactive to August 2009, through January 2011, thus reducing Debtor’s annual rent by approximately \$410,000.00 for at least eighteen (18) months. Debtor will also be filing motions to value Charles Carpenter’s claim and the Bank’s claims such that the foregoing claims may be bifurcated into an allowed secured claim and a resulting general unsecured claim for any remaining deficiency. Furthermore, Debtor filed a motion to value the secured claim of Lyons Financial, Inc. d/b/a US Bancorp (“US Bancorp”) and reached an agreement with the creditor such that US Bancorp’s claim was bifurcated into a \$16,500.00 secured claim and a general unsecured claim for the remaining deficiency. Additionally, the Debtor has recovered \$20,000.00 in transfers to insiders and will pursue the Retained Causes of Action and Retained Claims as described in the Plan of Reorganization. Finally, the equity security holders will be making a \$10,000.00 capital contribution. The foregoing will enable the Debtor to reorganize and generate sufficient working capital to make the Plan Payments.

2. The Post-Confirmation Managers of the Debtor, and their compensation, shall be as follows:

Name	Affiliations	Insider (yes/no)	Position	Compensation
David Smith	Fifty percent (50%) shareholder	Y	President and Sole Director	\$1,500.00/ week

E. Risk Factors

The management of the Debtor is not aware of any factors that present a risk to the success of the reorganization. The success of the on-going business and the Plan provisions for post-petition payments are dependent upon the on-going success of the Debtor’s business and its ability to generate sufficient cash flow on an ongoing basis.

F. Executory Contracts and Unexpired Leases

The Plan, in Section 6.01, lists all executory contracts and unexpired leases that the Debtor will assume under the Plan. Assumption means that the Debtor has elected to continue to perform the obligations under such contracts and unexpired leases, and to cure defaults of the type that must be cured under the Code, if any. Section 6.01 also lists how the Debtor will cure and compensate the other party to such contract or lease for any such defaults.

If you object to the *assumption* of your unexpired lease or executory contract, the proposed cure of any defaults, or the adequacy of assurance of performance, you must file and serve your objection to the Plan within the deadline for objecting to the confirmation of the Plan, unless the Court has set an earlier time.

All executory contracts and unexpired leases that are not set forth under Section 6.01 of the Plan will be rejected under the Plan. Consult your adviser or attorney for more *specific* information about particular contracts or leases.

If you object to the *rejection* of your contract or lease, you must file and serve your objection to the Plan within the deadline for objecting to the confirmation of the Plan.

The Deadline for Filing a Proof of Claim Based on a Claim Arising from the Rejection of a Lease or Contract Is thirty (30) days after the entry of an order granting a Motion to Reject Lease, or 30 days after Confirmation of the Plan, whichever is earlier. Any claim based on the rejection of a contract or lease will be barred if the proof of claim is not timely filed, unless the Court orders otherwise.

G. Tax Consequences of Plan

Creditors and equity interest holders concerned with how the Plan may affect their tax liability should consult with their own accountants, attorneys, and /or advisors.

No analysis of the Federal tax consequences of confirmation of the Plan has been made and you should consult with your own tax expert to determine what, if any, tax consequences may result from confirmation of the Debtor's Plan of Reorganization.

IV. CONFIRMATION REQUIREMENTS AND PROCEDURES

To be confirmable, the Plan must meet the requirements listed in §§ 1129(a) or (b) of the Code. These include the requirements that the Plan must be proposed in good faith; at least one impaired class of claims must accept the Plan, without counting votes of insiders; the Plan must distribute to each creditor and equity interest holder at least as much as the creditor or equity interest holder would receive in a chapter 7 liquidation case, unless the creditor or equity interest holder votes to accept the Plan; and the Plan must be feasible. These requirements are not the only requirements listed in § 1129, and they are not the only requirements for confirmation.

A. Who May Vote or Object

Any party in interest may object to the confirmation of the Plan if the party believes that the requirements for confirmation are not met.

Many parties in interest, however, are not entitled to vote to accept or reject the Plan. A creditor or equity interest holder has a right to vote for or against the Plan only if that creditor or equity interest holder has a claim or equity interest that is both (1) allowed or allowed for voting purposes; *and* (2) impaired.

In this case, the Plan Proponent believes that Classes 4 through 8 are impaired and that holders of claims in each of these classes are therefore entitled to vote to accept or reject the Plan. The Plan Proponent believes that Class 1 claims, if any, are unimpaired and that holders of claims in this Class therefore do not have the right to vote to accept or reject the Plan.

ALLOWED CLAIMS OR EQUITY INTEREST

1. Only a creditor or equity interest holder with an allowed claim or an allowed equity interest has the right to vote on the Plan. Generally, a claim or equity interest is allowed if either; (1) the Debtor has scheduled the claim on the Debtors' schedules, unless the claim has been scheduled as disputed, contingent, or unliquidated; OR (2) the creditor has filed a proof of claim or equity interest, unless an objection has been filed to such proof of claim or equity interest. When a claim or equity interest is not allowed, the creditor or equity interest holder holding the claim or equity interest cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim or equity interest for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

The deadline for filing a proof of claim in this case is October 1, 2009, or thirty (30) days after notice, whichever is later.

The deadline for filing objections to claims is thirty (30) days after the effective date of the Plan, or such other date as determined by the Court as appropriate.

2. **Impaired Class**: As noted above, the holder of an allowed claim or equity interest has the right to vote only if it is in a class that is *impaired* under the Plan. As provided in § 1124 of the Code, a class is considered impaired if the Plan alters the legal, equitable, or contractual rights of the members of that class.

3. **Bifurcated claims or claims in multiple classes**: A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim, or who otherwise has been bifurcated such that the claim holds claims in multiple classes, is entitled to accept or reject the Plan in each capacity, and should cast one ballot for each claim.

4. **Classes not Entitled to Vote**: The holders of the following five types of claims and equity interests are *not* entitled to vote:

- holders of claims and equity interests that have been disallowed by an order of the Court;
- holders of other claims or equity interests that are not “allowed claims” or “allowed equity interests” (as discussed above), unless they have been “allowed” for voting purposes;
- holders of claims or equity interests in unimpaired classes;
- holders of claims entitled to priority pursuant to §§ 507(a)(2), (a)(3), and (a)(8) of the Code;
- holders of claims or equity interests in classes that do not receive or retain any value under the Plan; and
- administrative expenses.

Even if you are not entitled to vote on the Plan, you have a right to object to the confirmation of the Plan and to the adequacy of the Disclosure Statement.

B. Votes Necessary to Confirm the Plan

If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired class of creditors has accepted the Plan, without counting the votes of any insiders within that class; and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed by a “**cramdown**” of non-accepting classes, as discussed below in Section B(2).

1. A class of claims accepts the Plan if both of the following occur: (1) the holders of more than one-half (1/2) of the allowed claims in the class, who vote, cast their votes to accept the Plan; and (2) the holders of at least two-thirds (2/3) in dollar amount of the allowed claims in the class, who vote, cast their votes to accept the Plan.

A class of equity interests accepts the Plan if the holders of at least two-thirds (2/3) in amount of the allowed equity interests in the class, who vote, cast their votes to accept the Plan.

2. Even if one or more impaired classes reject the Plan, the Court may nonetheless confirm the Plan if the non-accepting classes are treated in the manner prescribed by § 1129(b) of the Code. A Plan that binds non-accepting classes is commonly referred to as a “cramdown” plan. The Code allows the Plan to bind non-accepting classes of claims or equity interests if it meets all the requirements for consensual confirmation, except the voting requirements of § 1129(a)(8) of the Code,

does not “discriminate unfairly,” and is “fair and equitable” toward each impaired class that has not voted to accept the Plan.

You should consult your own attorney if a “cramdown” at confirmation will affect your claim or equity interest, as the variations on this general rule are numerous and complex.

C. **Liquidation Analysis**

To confirm the Plan, the Court must find that all creditors and equity interest holders who do not accept the Plan will receive at least as much under the Plan as such claim and equity interest holders would receive in a chapter 7 liquidation. A liquidation analysis is attached to this Disclosure Statement as **Exhibit B**.

D. **Feasibility**

The Court must find that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor, unless such liquidation or reorganization is proposed in the Plan.

1. The Debtor believes that it will have enough cash on hand on the effective date of the Plan to pay all the claims and expenses that are entitled to be paid on that date. Tables showing the amount of cash on hand on the effective date of the Plan and the sources of that cash are attached to this Disclosure Statement as **Exhibit C**.

2. The Debtor must also show that it will have enough cash over the life of the Plan to make the required Plan payments. The Plan Proponent has provided projected financial information. Those projections are attached hereto as **Exhibit D**.

The Debtor’s financial projections show that the Debtor will have sufficient annual cash flow, after paying operating expenses to cure all payments identified within the Plan. The final Plan payment is expected to be paid on January 1, 2015.

You should consult with your Accountant or other Financial Advisor if you have any questions pertaining to these projections.

V. **EFFECT OF CONFIRMATION OF PLAN**

A. **Discharge of Debtor**

Except as otherwise expressly provided in the Plan or in the confirmation order, the confirmation order shall operate as a discharge, pursuant to Section 1141(d) of the Bankruptcy Code, to the fullest extent permitted by applicable law, as of the effective date of the Plan, of any and all debts of, and claims of any nature whatsoever against the Debtor that arose at any time prior to the confirmation date, including any and all claims for principal and interest, whether accrued before, on or after the Petition Date.

B. **Release of David Smith, non-debtor** Pursuant to the holdings in In re: Winn Dixie Stores, Inc., 356 B.R. 239 (Bankr. MD Fla. 2006) and In re: Transit Group, 286 B.R. 811 (Bankr. MD Fla. 2002), a non-debtor may receive a discharge when some or all of certain factors are met. In the instant case, David Smith, a non-debtor, has agreed to subordinate his Class 2 Claim in the amount of \$403,000.00 to all holders of allowed secured claims, and further agrees to forego any payment on his \$403,000.00 secured claim, in exchange for a release of all personal guarantees he made for the benefit of the Debtor with respect to the claims identified in Class 6 and Class 8. As such, the Debtor has contributed substantial assets to be made available to unsecured creditors by subordinating and waiving the full value of his secured claim.

C. **Modification of the Plan**

The Debtor may modify the Plan at any time before confirmation of the Plan. However, the Court may require a new Disclosure Statement and/or re-voting on the Plan.

The Debtor may also seek to modify the Plan at any time after confirmation only if (1) the Plan has not been substantially consummated; *and* (2) the Court authorizes the proposed modifications after notice and a hearing.

D. **Final Decree**

Once the estate has been fully administered, as provided in Rule 3022 of the Federal Rules of Bankruptcy Procedure, the reorganized Debtor, or such other party as the Court shall designate in the Plan confirmation order, shall file a motion with the Court to obtain a final decree to close the case. Alternatively, the Court may enter such a final decree on its own motion.

VI. OTHER PLAN PROVISIONS

A. GENERAL PROVISIONS

1. **Revestment of Reorganized Debtor.** On the effective date of the Plan, except as otherwise expressly provided in the Plan, the reorganized Debtor shall be revested with all of their assets free and clear of any and all liens, debts, obligations, claims, cure claims, liabilities, equity interests, and all other interests of every kind and nature (except for any permitted encumbrances), and the confirmation order shall so provide.

2. **Section 1146 Exemption.** Pursuant to Section 1146(c) of the Bankruptcy Code, the making or delivery of any instrument of transfer pursuant to, in implementation of, or as contemplated by the Plan or any Plan document, or the re-vesting, transfer, or sale of any real or personal property of, by, or in the Debtor or the reorganized Debtor pursuant to, in implementation of, or as contemplated by the Plan or any Plan document shall not be taxed under any state or local law imposing a stamp tax, transfer tax, or similar tax or fee.

3. **General Causes of Action.** On the effective date, the reorganized Debtor shall retain all causes of action, except to the extent a creditor or other third party has been specifically released from any cause of action that the estate may have by the terms of the Plan or by Bankruptcy Court order. Neither a vote to accept the Plan by any creditor nor the entry of the confirmation order will

result in the waiver or release of any of the estate's causes of action against such creditor. Confirmation of the Plan and entry of the confirmation order are not intended to and shall not be deemed to have any *res judicata* or other effect which would preclude or inhibit prosecution of such causes of action following confirmation of the Plan, whether specified in this Plan or otherwise.

4. **Settlement of Causes of Action.** The reorganized Debtor may settle any cause of action with the approval of the Bankruptcy Court.

5. **Adversary Proceeding(s).** In the event that an adversary proceeding is filed against the Debtor, such shall be deemed dismissed with prejudice on the effective date of the Plan, with each party to bear its own costs and attorney's fees in conjunction with such proceeding. All issues and controversies shall be deemed fully settled and resolved upon confirmation, with each of such parties having fully released each other from any and all claims and defenses whatsoever in conjunction with their claims, other than as specifically set forth in this Plan, or the order confirming the Plan.

6. **Dismissal of Lawsuits.** All lawsuits filed against the Debtor shall be deemed dismissed with prejudice on the effective date, with each party to bear its own costs and attorney's fees in conjunction with such lawsuits. All issues and controversies shall be deemed fully settled and resolved upon confirmation, with each of such parties having fully released each other from any and all claims and defenses whatsoever, other than as specifically set forth in this Plan, or the order confirming the Plan.

VII. PROVISIONS GOVERNING DISTRIBUTIONS

A. **Distributions.** Each holder of an allowed claim shall be paid as provided by this Plan; provided however, that if, on the Distribution Date, any disputed claims remain, then the reorganized Debtor shall withhold payment in respect of any disputed claim until a final order has been entered by the Bankruptcy Court resolving such disputed claim.

B. **Unclaimed Distributions.**

1. If the holder of an allowed claim fails to negotiate a check issued to such holder within ninety (90) days of the date such check was issued, then the reorganized Debtor shall provide written notice to such holder stating that unless such holder negotiates such check within thirty (30) days of the date of such notice, the amount of cash attributable to such check shall be deemed to be unclaimed, such holder's claim shall no longer be deemed to be allowed, and such holder shall be deemed to have no further claim in respect of such check and shall not participate in any further distributions under the Plan.

2. If a distribution pursuant to the Plan to any holder of an allowed claim is returned to the reorganized Debtor due to an incorrect or incomplete address for the holder of such allowed claim, and no claim is made to the reorganized Debtor as to such distribution within one hundred twenty (120) days of the return of such distribution, then the amount of cash attributable to such distribution shall be deemed to be unclaimed and such holder shall be deemed to have no further claim in respect of such distribution and shall not participate in any further distributions under the Plan.

3. Any unclaimed distribution as described above shall be donated to a Charitable Organization

C. **Transfer of Claim.** In the event that the holder of any claim shall transfer such claim on and after the effective date, it shall immediately advise the reorganized Debtor in writing of such transfer. The reorganized Debtor shall be entitled to assume that no transfer of any claim has been made by any holder unless and until the reorganized Debtor shall have received written notice to the contrary. Each transferee of any claim shall take such claim subject to the provisions of the Plan and to any request made, waiver or consent given, or other action taken hereunder and, except as otherwise expressly provided in such notice, the reorganized Debtor shall be entitled to assume conclusively that the transferee named in such notice shall thereafter be vested with all rights and powers of the transferor under the Plan.

D. **Determination of Claims.**

(a) Following the effective date of the Plan and except as may otherwise be provided herein, the reorganized Debtor shall have standing to and may object to any administrative claim, priority claim, priority tax claim, secured claim, and unsecured claims. Unless otherwise ordered by the Bankruptcy Court, and except as to any late-filed claims and claims resulting from the rejection of executory contracts or unexpired leases, all objections to claims shall be filed with the **Bankruptcy Court on or before thirty (30) days following the effective date** (unless such period is extended by the Bankruptcy Court upon motion of the reorganized Debtor), and the confirmation order shall contain appropriate language to that effect.

(b) Disputed claims shall be fixed or liquidated in the Bankruptcy Court as core proceedings within the meaning of 28 U.S.C. §157(b)(2)(B) unless the Bankruptcy Court orders otherwise. If the fixing or liquidation of a contingent or unliquidated claim would cause undue delay in the administration of the reorganization case, such claim shall be estimated by the Bankruptcy Court for purposes of allowance and distribution. Upon receipt of a timely-filed Proof of Claim, the Debtor or other party in interest may file a request for estimation along with its objection to the claim set forth therein. The determination of claims in estimation hearings shall be binding for purposes of establishing the maximum amount of the claim for purposes of allowance and distribution. Procedures for specific estimation hearings, including provisions for discovery, shall be set by the Bankruptcy Court giving due consideration to applicable Bankruptcy Rules and the need for prompt determination of the disputed claim.

E. **De Minimis Distributions on Account of Allowed Claims.** To avoid the disproportionate expense and inconvenience associated with making distributions in amounts of less than one dollar (\$1.00) each with respect to allowed claims, the reorganized Debtor shall not be required to make, and shall be excused from making, distributions in amounts of less than \$1.00 each to holders of allowed claims.

VIII. CONDITIONS PRECEDENT

A. **Condition Precedent to Confirmation of the Plan.** The Bankruptcy Court shall not enter the confirmation order, confirmation of the Plan shall not be effective, and the Debtor shall not be obligated to consummate the Plan, unless the Bankruptcy Court shall have made such findings and determinations regarding the Plan as shall enable the entry of the confirmation order in a manner consistent with the provisions of the Plan and in form and substance satisfactory to the Debtor.

B. **Condition Precedent to Effective Date.** The Plan shall not be consummated and the effective date shall not occur until the Bankruptcy Court has entered the confirmation order, in form

and substance satisfactory to the Debtor, on the docket of this case, and no stay of the confirmation order shall be in effect.

C. **Waiver of Conditions Precedent.** The Debtor may elect to waive any condition precedent set forth above that has not been satisfied on or before the date of the confirmation hearing.

IX. INJUNCTION, EXCULPATION AND RELEASE PROVISIONS

A. **General Injunction.** Pursuant to Sections 105, 1123, 1129, and 1141 of the Bankruptcy Code, in order to preserve and implement the various transactions contemplated by and provided for in the Plan, as of the confirmation date, except as otherwise provided in the Plan or in the confirmation order, all persons or entities that have held, currently hold or may hold a claim or other debt or liability, that is discharged pursuant to the terms of the Plan are and shall be permanently enjoined and forever barred to the fullest extent permitted by law from taking any of the following actions on account of any such discharged claims, debts or liabilities, other than actions brought to enforce any rights or obligations under the Plan or the Plan documents: (a) commencing or continuing in any manner any action or other proceeding against the Debtor, the reorganized Debtor, or its respective properties; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtor, the reorganized Debtor, or their assets; (c) creating, perfecting or enforcing any lien or encumbrance against the Debtor, the reorganized Debtor, or their assets; (d) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability or obligation due to the Debtor or the reorganized Debtor; or (e) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan or the confirmation order. The Debtor and the reorganized Debtor shall have the right to independently seek enforcement of this general injunction provision. This general injunction provision is an integral part of the Plan and is essential to its implementation.

B. **Exculpation from Liability.** The Debtor, the reorganized Debtor, its respective directors, officers, employees, agents, representatives, accountants, attorneys, and professionals (acting in such capacity), and their respective heirs, executors, administrators, successors, and assigns, will neither have nor incur any liability whatsoever to any person or other entity for any act taken or omitted to be taken in good faith in connection with or related to the formulation, preparation, dissemination, implementation, confirmation, or consummation of the Plan, the Disclosure Statement, any Plan document, or any contract, instrument, release, or other agreement or document created or entered into, or any other act taken or omitted to be taken, in connection with the Plan or the reorganization case. The rights granted herein are cumulative with (and not restrictive of) any and all rights, remedies, and benefits that the Debtor, the reorganized Debtor, and its respective agents have or obtain pursuant to any provision of the Bankruptcy Code. This exculpation from liability provision is an integral part of the Plan and is essential to its implementation.

C. **Release.** To the extent permitted under the Bankruptcy Code, on the Effective Date of the Plan, the post confirmation Debtor shall be unconditionally and hereby is deemed to be unconditionally released from any and all claims, obligations, suits, judgments, damages, rights, remedies, causes of action, charges, costs, debts, indebtedness, or liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, event or other occurrence taking place between the Petition Date and the Effective Date, which is in any way relating to the Debtor, this reorganization case, any assets of the Debtor, the business or operations of the Debtor, the Plan, or any of the transactions

contemplated thereby. The confirmation order shall enjoin the prosecution by any person or entity, whether directly, derivatively or otherwise, of any such claim, obligation, suit, judgment, damage, right, remedy, cause of action, charge, cost, debt, indebtedness, or liability which arose or accrued during such period or was or could have been asserted against any of the released parties, except as otherwise provided in the Plan, the Plan documents or the confirmation order. Each of the released parties shall have the right to independently seek enforcement of this release provision. This release provision is an integral part of the Plan and is essential to its implementation.

D. **Release of David Smith, non-debtor.** Pursuant to the holdings in In re: Winn Dixie Stores, Inc., 356 B.R. 239 (Bankr. MD Fla. 2006) and In re: Transit Group, 286 B.R. 811 (Bankr. MD Fla. 2002), a non-debtor may receive a discharge when some or all of certain factors are met. In the instant case, David Smith, a non-debtor, has agreed to subordinate his Class 2 Claim in the amount of \$403,000.00 to all holders of allowed secured claims, and further agrees to forego any payment on his \$403,000.00 secured claim, in exchange for a release of all personal guarantees he made for the benefit of the Debtor with respect to the claims identified in Class 6 and Class 8. As such, the Debtor has contributed substantial assets to be made available to unsecured creditors by subordinating and waiving the full value of his secured claim.

E. **Mutual Release.** In consideration of the payments and other things of value agreed to under the Plan, each creditor with an allowed claim hereby releases each other creditor from all claims, known or unknown, against each other in relation to the obligations, if any, among the creditors with allowed claims with respect to debts claimed in this proceeding to be owed to them by the Debtor.

F. **Term of Certain Injunctions and Automatic Stay.** All injunctions or automatic stays provided for in the reorganization case pursuant to Sections 105, 362, or other applicable provisions of the Bankruptcy Code, or otherwise, and in existence on the confirmation date, shall remain in full force and effect until the effective date. Any preliminary or permanent injunction entered by the Bankruptcy Court shall continue in full force and effect following the confirmation date and the final decree date, unless otherwise ordered by the Bankruptcy Court.

G. **Untimely Claims Provisions**

1. **No Liability for Tax Claims.** Unless a taxing governmental authority has asserted a claim against the Debtor before the bar date or administrative expense claims bar date established with respect to such claim, no claim of such governmental authority shall be allowed against the Debtor or the reorganized Debtor for taxes, penalties, interest, additions to tax, or other charges arising out of the failure, if any, of the Debtor, any of his affiliates, or any other person or entity to have paid tax or to have filed any tax return (including any income tax return or franchise tax return) in or for any prior year or arising out of an audit of any return for a period before the Petition Date.

2. **No Liability for Untimely Administrative Expense Claims.** Holders of administrative expense claims (including holders of any claims for post-petition federal, state or local taxes) that do not file an application or other Bankruptcy Court-approved pleading by the administrative expense claims bar date shall be forever barred from asserting such administrative expense claims against the Debtor, the reorganized Debtor, or any of its respective properties.

X. **RETENTION OF JURISDICTION**

A. **General Retention.** Notwithstanding the entry of the confirmation order and the occurrence of the effective date, until the reorganization case is closed, the Bankruptcy Court shall retain the most full and extensive jurisdiction of the reorganization case that is permitted by applicable law, including that necessary to ensure that the purposes and intent of the Plan are carried out.

B. **Specific Purposes.** In addition to the general retention of jurisdiction set forth in this Plan, after confirmation of the Plan and until the reorganization case is closed, the Bankruptcy Court shall retain jurisdiction of the reorganization case for the following specific purposes:

(1) to allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any claim or equity interest, including the resolution of any application for an administrative expense, and to determine any and all objections to the allowance or priority of claims or equity interests;

(2) to determine any and all cases, controversies, suits or disputes arising under or relating to the Plan or the confirmation order (including regarding the effect of any release, discharge, or injunction provisions provided for herein or affected hereby and regarding whether conditions to the consummation and/or effective date of the Plan have been satisfied) and to enforce the obligations under the Plan;

(3) to determine any and all applications for allowance of compensation of professionals and reimbursement of expenses under Section 330, 331 or 503(b) of the Bankruptcy Code arising out of or relating to the reorganization case; provided, however, that this retention of jurisdiction shall not require prior Bankruptcy Court approval of the payment of fees and reimbursement of expenses of professionals after confirmation of the Plan unless an objection to such fees and expenses has been made by the Debtor or the reorganized Debtor;

(4) to determine any and all motions pending as of the date of the Confirmation Hearing (including pursuant to the Plan) for the rejection, assumption or assignment of executory contracts or unexpired leases to which the Debtor is a party or with respect to which the Debtor may be liable (including assumed contracts), and to determine the allowance of any claims resulting from the rejection thereof or any amount necessary to cure defaults in any assumed and/or assigned executory contracts or unexpired leases (including assumed contracts), including cure claims;

(5) to determine any and all motions, applications, adversary proceedings, contested or litigated matters, causes of action, and any other matters involving the Debtor or the reorganized Debtor commenced in connection with, or arising during, the reorganization case and pending on the Effective Date, including approval of proposed settlements thereof;

(6) to enforce, interpret, and administer the terms and provisions of the Plan and the Plan documents;

(7) to modify any provisions of the Plan to the fullest extent permitted by the Bankruptcy Code and the Bankruptcy Rules;

(8) to consider and act on the compromise and settlement of any claim against or equity interest in the Debtor or the estate;

(9) to assure the performance by the reorganized Debtor of its obligations to make distributions under the Plan;

(10) to correct any defect, cure any omission, reconcile any inconsistency, and make any other necessary change or modification in or to the Disclosure Statement, the Plan, the Plan documents, the Confirmation Order, or any exhibits or schedules to the foregoing, as may be necessary or appropriate to carry out the purposes and intent of the Plan, including the adjustment of the date(s) of performance under the Plan in the event the effective date does not occur as provided herein so that the intended effect of the Plan may be substantially realized thereby;

(11) to resolve any disputes concerning any release of a nondebtor hereunder or the injunction against acts, employment of process, or actions against such nondebtor arising hereunder;

(12) to enforce all orders, judgments, injunctions, and rulings entered in connection with this reorganization case;

(13) to enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan, the Disclosure Statement (if required), or the confirmation order, including the Plan documents;

(14) to review and approve any sale or transfer of assets or property by the Debtor or the reorganized Debtor, including prior to or after the date of the Plan, and determine all questions and disputes regarding such sales or transfers;

(15) to determine all questions and disputes regarding title to the assets of the Debtor, the estate, or the reorganized Debtor;

(16) to determine any motions or contested matters relating to the causes of action, whether brought before or after the effective date;

(17) to determine any motions or contested matters involving taxes, tax refunds, tax attributes, tax benefits and similar or related matters with respect to the Debtor arising on or prior to the effective date or arising on account of transactions contemplated by the Plan;

(18) to resolve any determinations which may be requested by the Debtor or the reorganized Debtor of any unpaid or potential tax liability or any matters relating thereto under Sections 505 and 1146(d) of the Bankruptcy Code, including tax liability or such related matters for any taxable year or portion thereof ending on or before the effective date;

(19) to issue injunctions, enter, and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any person or entity with consummation, implementation or enforcement of the Plan or the confirmation order;

(20) to enter and implement such orders as are necessary or appropriate if the confirmation order is for any reason modified, stayed, reversed, revoked, or vacated;

(21) to determine any other matters that may arise in connection with or relating to the Plan, the Disclosure Statement (if required), the confirmation order, or the Plan documents;

(22) to enter such orders as are necessary to implement and enforce the injunctions described herein;

(23) to determine such other matters and for such other purposes as may be provided for in the confirmation order or as may from time to time be authorized under the provisions of the Bankruptcy Code or any other applicable law; and

(24) to enter an order concluding and terminating the reorganization case.

C. **Closing of the Reorganization Case.** In addition to the retention of jurisdiction set forth above, the Bankruptcy Court shall retain jurisdiction of the reorganization case to enter an order reopening the reorganization case after it has been closed.

XI. MISCELLANEOUS PROVISIONS

A. **No Admissions.** The Plan provides for the resolution, settlement and compromise of claims against and equity interests in the Debtor. Nothing herein shall be construed to be an admission of any fact or otherwise binding upon the Debtor in any manner prior to the Effective Date.

B. **Revocation or Withdrawal of the Plan.** The Debtor reserves the right to revoke or withdraw the Plan prior to the confirmation date. If the Debtor revokes or withdraws the Plan, or if confirmation of the Plan does not occur, then the Plan shall be deemed null and void in all respects and nothing contained in the Plan shall be deemed to (a) constitute a waiver or release of any claims by or against, or equity interests in, the Debtor or any other person, or (b) prejudice in any manner the rights of the Debtor or any other person in any further proceedings involving the Debtor.

C. **Settlement of Claims.** The reorganized Debtor (a) may commence or continue in any appropriate court or tribunal any suit or other proceeding for the enforcement of any claim or cause of action which the Debtor in possession had or had power to assert immediately prior to the confirmation date, and (b) may settle or adjust such claim or cause of action.

D. **Standard for Approval by the Bankruptcy Court.** In the event any of the matters described herein are brought for approval before the Bankruptcy Court, then any such approval shall mean the entry of an order by the Bankruptcy Court approving the matter using the standards for approval of similar matters by a Chapter 11 Debtor in possession.

E. **Further Assurances.** The Debtor or the reorganized Debtor (as the case may be) agrees and is authorized to execute and deliver any and all papers, documents, contracts, agreements, and instruments that may be necessary to carry out and implement the terms and conditions of the Plan.

F. **Headings.** The headings and table of contents used in the Plan are for convenience and reference only and shall not constitute a part of the Plan for any other purpose or in any manner affect the construction of the provisions of the Plan.

G. **Notices.** All notices, requests, or other documents in connection with or required to be served by the Plan shall be in writing and shall be sent by first class United States mail, postage prepaid, or by overnight delivery by a recognized courier service, to:

If to the Debtor or the Reorganized Debtor:

Sports Marketing, Inc.
c/o David Smith
674 Brandon Town Center Mall
Brandon, FL 33511

with a mandatory copy to:

McIntyre, Panzarella, Thanasides,
Eleff & Hoffman, P. L.
c/o Richard J. McIntyre, Esq.
6943 E. Fowler Avenue
Tampa, Florida, 33617

H. **Contemporaneous Service.** Copies of all notices under the Plan to any party shall be given to the Debtor and the reorganized Debtor and its counsel, contemporaneously with the giving of notice to such party.

I. **Changes of Address.** Any entity may change the person or address to whom or to which notices are to be given hereunder by filing a written instrument to that effect with the Bankruptcy Court and serving same on the parties set forth above.

J. **Governing Law.** Except to the extent that federal law (including the Bankruptcy Code or the Bankruptcy Rules) is applicable, or to the extent that the Plan or the provision of any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan provides otherwise, the rights and obligations arising under the Plan shall be governed by, construed, and enforced in accordance with the laws of the State of Florida, without giving effect to the principles of conflicts of law thereof.

K. **Limitation of Allowance.** No attorneys' fees, punitive damages, penalties, special damages, lost profits, treble damages, exemplary damages, or interest shall be paid with respect to any claim or equity interest except as specified herein or as allowed by a Final Order of the Bankruptcy Court.

L. **Estimated Claims.** To the extent any Claim is estimated for any purpose other than for voting, then in no event shall such Claim be allowed in an amount greater than the estimated amount.

M. **Consent to Jurisdiction.** Upon any default under the Plan, the Debtor and the reorganized Debtor consent to the jurisdiction of the Bankruptcy Court, or any successor thereto, and agree that it shall be the preferred forum for all proceedings relating to any such default. By accepting any distribution or payment under or in connection with the Plan, by filing any Proof of Claim, by filing any cure claim, by voting on the Plan, or by entering an appearance in the reorganization case, all creditors and other parties in interest, including foreign creditors and foreign parties in interest, have consented, and shall be deemed to have expressly consented, to the jurisdiction of the Bankruptcy

Court for all purposes with respect to any and all matters relating to, arising under or in connection with the Plan or the reorganization case, including the matters and purposes set forth in this Plan. The Bankruptcy Court shall maintain jurisdiction to the fullest extent allowed under applicable law over all matters set forth in this Plan.

N. **Setoffs.** Subject to the limitations provided in Section 553 of the Bankruptcy Code, the Debtor may, but shall not be required to, set off against any claim and the payments or other distributions to be made pursuant to the Plan in respect of such claim, claims of any nature whatsoever the Debtor may have against the holder of such claim, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor of any such claim that the Debtor may have against such holder.

O. **Successors and Assigns.** The rights, benefits, duties, and obligations of any person named or referred to in the Plan shall be binding upon and shall inure to the benefit of any heir, executor, administrator, successor, or assign of such person.

P. **No Post petition Interest.** Except as expressly stated in the Plan or otherwise allowed by a Final Order of the Bankruptcy Court, no holder of an allowed claim shall be entitled to the accrual of post petition interest or the payment of postpetition interest, penalties, or late charges on account of such claim for any purpose.

Q. **Modification of Payment Terms.** The reorganized Debtor reserves the right to modify the treatment of any allowed claim, as provided in Section 1123(a)(4) of the Bankruptcy Code, at any time after the effective date, upon the consent of the holder of such allowed claim.

R. **Entire Agreement.** The Plan and Plan documents set forth the entire agreement and undertakings relating to the subject matter thereof and supersede all prior discussions and documents. No person shall be bound by any terms, conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof, other than as expressly provided for herein or as may hereafter be agreed to by the parties in writing.

S. **Severability of Plan Provisions.** If, prior to confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtor, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration, or interpretation. The confirmation order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

T. **Confirmation Order and Plan Control.** To the extent the confirmation order or the Plan is inconsistent with the Disclosure Statement or any agreement entered into between the Debtor and any third party, unless otherwise expressly provided in the Plan, the Plan controls the Disclosure Statement and any such agreements, and the confirmation order (any and other orders of the Court) shall be construed together and consistent with the terms of the Plan.

U. **Computation of Time.** In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

Sports Marketing, Inc., a Florida corporation
d/b/a Team Choice

By: 
David Smith, President

Exhibit A Identity and Liquidation Value of Material Assets of Debtor

Cash on hand	\$101,454
Inventory	\$204,200
Furniture, Fixtures and Equipment	\$34,900
Trademarks, Copyrights and Licenses	Unknown

Exhibit B – Plan Proponent Liquidation Analysis of Assets

ASSETS	
Cash on Hand (11/5/09)	\$101,454
Inventory (11/5/09)	\$204,200
Furniture, Fixtures and Equipment (11/5/09)	\$34,900
Trademarks, Copyrights, Licenses	UNKNOWN
TOTAL LIQUIDATION VALUE OF ASSETS	\$340,554
LESS	
Secured creditors claims	\$340,554
US Trustee Fees	\$4,875
Chapter 11 Administrative Claims	\$50,000
Priority Claims, excluding administrative claims	\$0
Balance Available to Pay Unsecured Claims	\$0
Total Amount of Unsecured Claims	\$2,881,119.87
Percentage of Allowed Unsecured Claim that Would be Paid in a Chapter 7 Liquidation:	0%
Percentage of Allowed Unsecured Claim that Will be Paid under Plan of Reorganization:	10%

Exhibit C – Cash on hand on the effective date of the Plan

Cash on hand on effective date of the Plan: \$ **361,454**

Less

Administrative expenses payable on effective date of the Plan	- \$ 54,875.00
Amount of statutory costs and charges	- \$ 0.00
Amount of cure payments for leases and executory contracts	- 0.00
Other Plan Payments due on effective date of the Plan	- 0.00
Balance after paying these amounts.....	<u>\$306,579</u>

The sources of the cash Debtor will have on hand by the effective date of the Plan are estimated as follows:

101,454	Cash in Debtor's bank account now
+ 300,000	Additional cash Debtor will accumulate from net earnings between now and effective date of the Plan
+ 20,000.00	Recovery from insiders
+ 10,000.00	Capital Contributions
- (150,000)	Less Secured Principal Payments
+ 80,000	Inventory Reductions
<u>\$ 361,454</u>	Total

Exhibit D Projections of Cash Flow and Earnings for Post-Confirmation Period

Sports Marketing Inc
Pro Forma Month by Month
January through December 2010

	Jan 10	Feb 10	Mar 10	Apr 10	May 10	Jun 10	Jul 10	Aug 10	Sep 10	Oct 10	Nov 10	Dec 10	TOTAL
Ordinary Income/Expense													
Income	390,912.00	313,196.00	282,771.00	227,859.00	209,884.00	226,771.00	242,250.00	277,804.00	336,491.00	359,547.00	489,529.00	1,400,212.00	4,757,026.00
Sales	390,912.00	313,196.00	282,771.00	227,859.00	209,884.00	226,771.00	242,250.00	277,804.00	336,491.00	359,547.00	489,529.00	1,400,212.00	4,757,026.00
Cost of Goods Sold													
Purchases	187,638.00	147,202.00	132,902.00	107,094.00	98,645.00	106,592.00	113,858.00	130,474.00	158,151.00	168,987.00	230,079.00	658,099.00	2,239,711.00
Total COGS	187,638.00	147,202.00	132,902.00	107,094.00	98,645.00	106,592.00	113,858.00	130,474.00	158,151.00	168,987.00	230,079.00	658,099.00	2,239,711.00
Gross Profit	203,274.00	165,994.00	149,869.00	120,765.00	111,239.00	120,179.00	128,392.00	147,330.00	178,340.00	190,560.00	259,450.00	742,113.00	2,517,315.00
Expense													
Accounting and Legal	3,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	25,000.00
Advertising	350.00	250.00	250.00	250.00	250.00	250.00	250.00	250.00	250.00	250.00	250.00	250.00	3,100.00
Bank Charges	600.00	180.00	180.00	180.00	180.00	180.00	180.00	180.00	180.00	180.00	180.00	180.00	2,800.00
Collection Expense	275.00	275.00	275.00	275.00	275.00	275.00	275.00	275.00	275.00	275.00	275.00	275.00	3,590.00
Credit Card Fees	5,699.00	4,541.00	4,101.00	3,304.00	3,043.00	2,906.00	3,512.00	4,925.00	4,879.00	5,213.00	5,213.00	20,303.00	68,594.00
Dues and Fees	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	550.00
Freight	573.00	494.00	387.00	349.00	353.00	324.00	381.00	405.00	417.00	432.00	601.00	940.00	5,656.00
General Supplies	325.00	325.00	325.00	325.00	325.00	325.00	325.00	325.00	325.00	325.00	325.00	325.00	3,900.00
Insurance Expense	3,108.00	2,886.00	2,886.00	2,886.00	2,886.00	2,886.00	2,886.00	2,886.00	2,886.00	2,886.00	2,886.00	2,886.00	35,814.00
Interest Expense	4,145.00	4,739.00	4,739.00	4,636.00	4,636.00	4,636.00	4,583.00	4,583.00	4,583.00	4,532.00	4,532.00	17,032.00	67,376.00
License and Taxes													
Office Expense	215.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	2,580.00
Postage	177.00	49.00	49.00	91.00	79.00	26.00	69.00	34.00	25.00	93.00	33.00	33.00	758.00
Rent - Equipment	316.00	425.00	425.00	425.00	425.00	425.00	425.00	425.00	425.00	425.00	425.00	425.00	4,991.00
Rent - Real Estate	68,164.00	68,164.00	68,164.00	68,164.00	68,164.00	68,164.00	68,164.00	68,164.00	68,164.00	68,164.00	68,164.00	68,164.00	817,988.00
Repairs and Maintenance	1,326.00	1,326.00	1,326.00	1,326.00	1,326.00	1,326.00	1,326.00	1,326.00	1,326.00	1,326.00	1,326.00	1,326.00	15,912.00
Salaries	74,207.00	67,071.00	67,071.00	100,517.00	67,071.00	67,071.00	67,071.00	67,071.00	67,071.00	100,517.00	81,213.00	102,962.00	928,493.00
Telephone	1,166.00	1,316.00	1,316.00	1,316.00	1,316.00	1,316.00	1,316.00	1,316.00	1,316.00	1,316.00	1,316.00	1,316.00	15,642.00
Travel	228.00	228.00	228.00	228.00	228.00	228.00	228.00	228.00	228.00	228.00	228.00	228.00	2,756.00
Uniforms													2,305.00
US Trustee Fees													4,775.00
Utilities	5,717.00	5,102.00	5,641.00	5,588.00	5,704.00	6,185.00	6,598.00	6,481.00	6,357.00	6,147.00	6,601.00	5,868.00	71,989.00
Total Expense	169,561.00	184,351.00	159,568.00	192,125.00	188,585.00	159,652.00	150,464.00	162,769.00	163,824.00	196,472.00	182,299.00	227,568.00	2,097,209.00
Net Ordinary Income	33,713.00	1,643.00	-9,699.00	-71,360.00	-47,327.00	-39,463.00	-32,072.00	-15,639.00	14,516.00	-5,912.00	77,151.00	514,555.00	420,106.00
Other Income/Expense													
Other Income	210.00	210.00	210.00	190.00	190.00	190.00	200.00	210.00	210.00	210.00	210.00	210.00	2,450.00
Sales Tax Commission	210.00	210.00	210.00	190.00	190.00	190.00	200.00	210.00	210.00	210.00	210.00	210.00	2,450.00
Total Other Income	210.00	210.00	210.00	190.00	190.00	190.00	200.00	210.00	210.00	210.00	210.00	210.00	2,450.00
Net Income	33,923.00	1,853.00	-9,489.00	-71,170.00	-47,137.00	-39,273.00	-31,872.00	-15,429.00	14,726.00	-5,702.00	77,361.00	514,765.00	422,556.00

Sports Marketing Inc
Pro Forma Annual
January through December 2011

	<u>Jan - Dec 11</u>
Ordinary Income/Expense	
Income	
Sales	4,899,736.00
Total Income	<u>4,899,736.00</u>
Cost of Goods Sold	
Purchases	2,306,902.00
Total COGS	<u>2,306,902.00</u>
Gross Profit	2,592,834.00
Expense	
Accounting and Legal	24,000.00
Advertising	3,100.00
Bank Charges	2,880.00
Collection Expense	3,590.00
Credit Card Fees	70,651.00
Dues and Fees	600.00
Freight	5,825.00
General Supplies	4,017.00
Insurance Expense	36,888.00
Interest Expense	59,408.00
Licenses and Taxes	18,899.00
Office Expense	2,657.00
Postage	780.00
Rent - Equipment	4,991.00
Rent - Real Estate	858,866.00
Repairs and Maintenance	16,389.00
Salaries	956,347.00
Telephone	15,642.00
Travel	2,736.00
Uniforms	2,305.00
Utilities	74,148.00
Total Expense	<u>2,164,719.00</u>
Net Ordinary Income	428,115.00
Other Income/Expense	
Other Income	
Sales Tax Commission	2,450.00
Total Other Income	<u>2,450.00</u>
Net Other Income	2,450.00
Net Income	<u><u>430,565.00</u></u>

Sports Marketing Inc
Pro Forma Annual
January through December 2012

	<u>Jan - Dec 12</u>
Ordinary Income/Expense	
Income	
Sales	5,046,728.00
Total Income	<u>5,046,728.00</u>
Cost of Goods Sold	
Purchases	2,376,109.00
Total COGS	<u>2,376,109.00</u>
Gross Profit	2,670,619.00
Expense	
Accounting and Legal	24,000.00
Advertising	3,100.00
Bank Charges	2,880.00
Collection Expense	3,590.00
Credit Card Fees	72,770.00
Dues and Fees	600.00
Freight	5,999.00
General Supplies	4,137.00
Insurance Expense	37,994.00
Interest Expense	50,660.00
Licenses and Taxes	18,899.00
Office Expense	2,736.00
Postage	803.00
Rent - Equipment	4,991.00
Rent - Real Estate	901,809.00
Repairs and Maintenance	16,880.00
Salaries	985,037.00
Telephone	15,642.00
Travel	2,736.00
Uniforms	2,305.00
Utilities	76,372.00
Total Expense	<u>2,233,940.00</u>
Net Ordinary Income	436,679.00
Other Income/Expense	
Other Income	
Sales Tax Commission	2,450.00
Total Other Income	<u>2,450.00</u>
Net Other Income	2,450.00
Net Income	<u><u>439,129.00</u></u>

Sports Marketing Inc
Pro Forma Annual
January through December 2013

	<u>Jan - Dec 13</u>
Ordinary Income/Expense	
Income	
Sales	5,198,129.00
Total Income	5,198,129.00
Cost of Goods Sold	
Purchases	2,447,392.00
Total COGS	2,447,392.00
Gross Profit	2,750,737.00
Expense	
Accounting and Legal	24,000.00
Advertising	3,100.00
Bank Charges	2,880.00
Collection Expense	3,590.00
Credit Card Fees	74,953.00
Dues and Fees	600.00
Freight	6,178.00
General Supplies	4,261.00
Insurance Expense	39,133.00
Interest Expense	31,500.00
Licenses and Taxes	18,899.00
Office Expense	2,818.00
Postage	827.00
Rent - Equipment	4,991.00
Rent - Real Estate	946,899.00
Repairs and Maintenance	17,386.00
Salaries	1,014,588.00
Telephone	15,642.00
Travel	2,736.00
Uniforms	2,305.00
Utilities	78,663.00
Total Expense	2,295,949.00
Net Ordinary Income	454,788.00
Other Income/Expense	
Other Income	
Sales Tax Commission	2,450.00
Total Other Income	2,450.00
Net Other Income	2,450.00
Net Income	<u><u>457,238.00</u></u>

Sports Marketing Inc
Pro Forma Annual
January through December 2014

	<u>Jan - Dec 14</u>
Ordinary Income/Expense	
Income	
Sales	5,354,072.00
Total Income	5,354,072.00
Cost of Goods Sold	
Purchases	2,520,813.00
Total COGS	2,520,813.00
Gross Profit	2,833,259.00
Expense	
Accounting and Legal	24,000.00
Advertising	3,100.00
Bank Charges	2,880.00
Collection Expense	3,590.00
Credit Card Fees	77,201.00
Dues and Fees	600.00
Freight	6,363.00
General Supplies	4,388.00
Insurance Expense	40,306.00
Interest Expense	24,000.00
Licenses and Taxes	18,899.00
Office Expense	2,902.00
Postage	851.00
Rent - Equipment	4,991.00
Rent - Real Estate	994,243.00
Repairs and Maintenance	17,907.00
Salaries	1,045,025.00
Telephone	15,642.00
Travel	2,736.00
Uniforms	2,305.00
Utilities	81,022.00
Total Expense	2,372,951.00
Net Ordinary Income	460,308.00
Other Income/Expense	
Other Income	
Sales Tax Commission	2,450.00
Total Other Income	2,450.00
Net Other Income	2,450.00
Net Income	<u><u>462,758.00</u></u>