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Steven L. Yarmy, Esq.
Nevada Bar No. 8733
Citizens for Consumer’s Rights
1500 E Tropicana Ave, Suite 102
Las Vegas, Nevada 89119
(702) 967-0442
(702) 586-3690 FAX
sly@stevenyarmylaw.com
*Attorney for the Debtor
and Debtor-in-Possession*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

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| <p>In re: AUDREY ELLEN HEIN, Debtor,</p> | <p>Case No.: 10-15216-LBR Chapter 11</p> |
|--|---|

ORDER CONFIRMING PLAN OF REORGANIZATION OF AUDREY ELLEN HEIN

Audrey Ellen Hein (the “**Debtor**”), as debtor and debtor in possession, having proposed and filed the Chapter 11 Plan of Reorganization (the “**Plan**”);¹ and the Court having conducted a hearing on October 13, 2009 (the “**Hearing**”) to consider confirmation of the Plan, as modified by certain modifications filed with the Court as set forth in the Debtor’s Memorandum of Law in Support of Confirmation of her Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the “**Memo**”);

¹ All capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Plan.

1 and the Court having considered (i) the arguments of counsel presented at the Hearing, (ii) the
2 pleadings filed in support of confirmation; and the Court being familiar with the Plan and other
3 relevant factors affecting this case pending under Chapter 11 of Title 11 of the United States Code, 11
4 U.S.C. §§ 101, *et seq.* (as amended, the “**Bankruptcy Code**”); and the Court having taken judicial
5 notice of the entire record of the Chapter 11 case, including, without limitation, all pleadings and
6 papers filed by the Debtor in the Chapter 11 case, (i) the order (the “**Disclosure Statement Order**”)
7 entered by the Court on August 16, 2010 (a) approving the Debtor’s Disclosure Statement with
8 Respect to the Plan (the “**Disclosure Statement**”), (b) approving the forms of ballots and solicitation
9 and tabulation procedures, (c) prescribing the form and manner of notice thereof, (d) fixing the last
10 date for filing objections to the Plan, and (e) scheduling the Hearing to (A) approve the Disclosure
11 Statement, and (B) consider confirmation for the Chapter 11 Plan, and (f) appointing Citizens for
12 Consumer’s Rights. (“CCR”) as solicitation and tabulation agent; and the Court having found that due
13 and proper notice has been given with respect to the Hearing and the deadlines and procedures for
14 objections to the Plan and the appearance of all interested parties having been duly noted in the record
15 of the Hearing; and upon the record of the Hearing, and after due deliberation thereon, and sufficient
16 cause appearing therefore;

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18
19 **IT IS HEREBY FOUND AND CONCLUDED,**² that

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21 **JURISDICTION AND VENUE**

22 A. The Court has jurisdiction to conduct the Hearing and to confirm the Plan pursuant to 28
23 U.S.C. § 1334.

24
25
26 ² The Findings of Fact and Conclusions of Law contained herein constitute the findings of fact and
27 conclusions of law required to be entered by this Court pursuant to Rule 52 of the Federal Rules of
28 Civil Procedure, as made applicable herein by Rules 7052 and 9014 of the Federal Rules of
Bankruptcy Procedure (the “**Bankruptcy Rules**”). To the extent any finding of fact constitutes a
conclusion of law, it is adopted as such. To the extent any conclusion of law constitutes a finding of
fact, it is adopted as such.

1 B. Confirmation of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b), and this
2 Court has jurisdiction to enter a final order with respect thereto.

3 C. The Debtor is a proper debtor under section 109 of the Bankruptcy Code and the Debtor, is
4 a proper proponent of the Plan under section 1121(a) of the Bankruptcy Code.
5

6 D. Each of the conditions precedent to the entry of this Order has been satisfied.

7 **JUDICIAL NOTICE**

8 E. This Court takes judicial notice of the docket of the Debtor's Chapter 11 case maintained by
9 the Clerk of the Court and/or its duly-appointed agent, and all pleadings and other documents filed, all
10 orders entered, and evidence and argument made, proffered or adduced at, the hearings held before the
11 Court during the pendency of the Chapter 11 case.
12

13 **STANDARDS FOR CONFIRMATION UNDER**
14 **SECTION 1129 OF THE BANKRUPTCY CODE**

15 F. Section 1129(a)(1). The Plan complies with each applicable provision of the Bankruptcy
16 Code. In particular, the Plan complies with the requirements of sections 1122, 1123, 1125, and 1126
17 of the Bankruptcy code.

18 G. Section 1129(a)(4). No payment for services or costs in connection with the Chapter 11
19 case or the Plan has been made by the Debtor other than payments that have been authorized by order
20 of the Court.
21

22 H. Section 1129(a)(7). Each holder of an impaired Claim that has not accepted the Plan will,
23 on account of such Claim, receive or retain property under the Plan having a value, as of the Effective
24 Date, that is not less than the amount that such holder would receive or retain if the Debtor was
25 liquidated under chapter 7 of the Bankruptcy Code.
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1 I. Section 1129(a)(8). The Plan has been accepted by all impaired classes of Claims.
2 Nevertheless, the Plan is confirmable because it satisfies 1129(b)(1) of the Bankruptcy Code with
3 respect to such non-accepting classes of Claims.

4 J. Section 1129(a)(9). The Plan provides treatment for Administrative and Priority Claims that
5 is consistent with the requirements of section 1129(a)(9) of the Bankruptcy Code.

6 K. Section 1129(a)(10). The Plan has been accepted by all classes of impaired Claims that
7 voted on the Plan, including classes 1, 2 and 3, determined without including any acceptance of the
8 Plan by any insider.

9 L. Section 1129(a)(11). Confirmation of the Plan is not likely to be followed by the liquidation
10 or the need for the further financial reorganization of the Debtor.

11 M. Section 1129(a)(12). The Plan provides for the payment of all fees payable under section
12 1930, title 28, United States Code by the Debtor on the Effective Date (or as soon as practicable
13 thereafter). After the Effective Date and until this Chapter 11 case is closed, converted, or dismissed,
14 the Plan provides for the payment by the Disbursing Agent of all such fees as they become due and
15 payable.

16 N. Section 1129(a)(15). There were no objections to the Plan from creditors holding allowed
17 unsecured claims.

18 O. Section 1129(c). The Plan (including previous versions thereof) is the only plan that has
19 been filed in the Chapter 11 case that has been found to satisfy the requirements of subsections (a) and
20 (b) of section 1129 of the Bankruptcy Code. Accordingly, the requirements of section 1129(c) of the
21 Bankruptcy Code have been satisfied.

22 P. Section 1129(d). No party in interest, including but not limited to any governmental unit,
23 has requested that the Court deny confirmation of the Plan on grounds that the principal purpose of the
24 Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of
25

1 1933, and the principal purpose of the Plan is not such avoidance. Accordingly, the Plan satisfies the
2 requirements of section 1129(d) of the Bankruptcy Code.

3 **EXECUTORY CONTRACTS**

4 Q. Pursuant to sections 365 and 1123(b)(2) of the Bankruptcy Code, upon the occurrence of
5 the Effective Date, the Plan provides for the rejection of each and every executory contract and
6 unexpired lease that is listed in the Plan Schedules as being rejected. The Debtor's decisions regarding
7 the assumption and rejection of executory contracts and unexpired leases are based on and are within
8 the sound business judgment of the Debtor, are necessary to the implementation of the Plan, and are in
9 the best interests of the Debtor, her estate, holders of Claims, and other parties in interest in this
10 Chapter 11 case.

11 R. As required by Section 365(b) of the Bankruptcy Code, all cure obligations associated with
12 any executory contract or unexpired lease that is to be assumed under the Plan shall be paid.

13 **SETTLEMENTS AND INJUNCTIONS**

14 S. Pursuant to sections 1123(b) of the Bankruptcy Code and Bankruptcy Rule 9019(a), and in
15 consideration of the classification, distributions, and other benefits provided under the Plan, the
16 provisions of the Plan constitute a good faith compromise and settlement of all the Claims and
17 controversies resolved pursuant to the Plan.

18 **ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

19 **A. General**

20 1. The Plan is hereby confirmed and the record of the Hearing is hereby closed.

21 2. The Effective Date of the Plan shall occur on the date when the Court signs this Order
22 confirming the Plan.

23 3. In accordance with section 1141(a) of the Bankruptcy Code and upon the occurrence of the
24 Effective Date, the Plan shall be binding upon and inure to the benefit of (i) the
25

1 Debtor and her respective successors and assigns, (ii) the holders of Claims and their respective
2 successors and assigns (whether or not they voted to accept the Plan, whether or not they are impaired
3 under the Plan, and whether or not any such holder has filed, or is deemed to have filed a proof of
4 Claim, (iii) any other Person giving, acquiring, or receiving property under the Plan, (iv) any party to
5 an executory contract or unexpired lease of a Debtor and (v) each of the foregoing's respective heirs,
6 successors', assigns, trustees, executors, administrators, affiliates, officers, directors, agents,
7 representatives, attorneys, beneficiaries, or guardians, if any.
8

9 4. On the Effective Date, except as otherwise provided in the Plan, title to all property of the
10 Estates shall vest in and be transferred in accordance with the terms of the Plan.

11 Notwithstanding any terms to the contrary, title to (1) 5183 North Miller Lane, Las Vegas, Nevada
12 89149 ("Property 1"), in which *US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CREDIT*
13 *SUISSE FIRST BOSTON ARMT 2005-11* has a security interest; and (2) 349 West Ridgeview Street,
14 Brianhead, Utah 84719 ("Property 2"), in which *US BANK NATIONAL ASSOCIATION, AS TRUSTEE*
15 *FOR SABR 2006-NC2* has a security interest, will be placed in a holding company in accordance with
16 the Plan.
17

18 **B. Treatment of Secured Claims**

19 5. The secured portions of the Lenders' claims are reduced to the stipulated value of the
20 Properties, pursuant to 11 U.S.C. § 506(a).
21

22 6. That the unsecured portions of the Lenders' claims are reduced and shall be treated as
23 "general unsecured claims", pursuant to 11 U.S.C. § 506(a).

24 7. That the secured and unsecured claims against the property located at 5183 North Miller
25 Lane, Las Vegas, Nevada 89149 ("Property 1") are bifurcated in accordance with the Joint Stipulation
26 and Stipulated value of the property in the amount of \$280,149.20; and the creditors' wholly
27 unsecured claims shall be treated as "general unsecured claims," pursuant to 11 U.S.C. § 506(a), and
28

1 the total amounts of the claims against 5183 North Miller Lane, Las Vegas, Nevada 89149 (“Property
2 1”) are:

3 a. First Lien - *US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR*
4 *CREDIT SUISSE FIRST BOSTON ARMT 2005-11*

5 i. Secured Claim - \$280,149.20

6 ii. Unsecured Claim - \$535,344.52

7 b. Second Lien – Wells Fargo Bank, N.A. - Loan Number - 172249558

8 i. Unsecured Claim - \$111,099.21.

9 c. That the Note is modified by Joint Stipulation with a new principle balance of
10 \$280,149.20 with a fixed interest rate of four and three-quarters percent (4.75%)
11 and a re-amortization of the Debtor’s First Lien Mortgage Loan to thirty (30)
12 years with monthly principal and interest payments to be made to Creditor in
13 the amount of one-thousand four-hundred sixty-one dollars thirty-nine cents
14 (\$1,461.39) beginning on November 1, 2010

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17 8. That the secured and unsecured claims against the property located at 349 W Ridgeview
18 Street, Brianhead, UT 84719; Debtor’s Rental Property (“Property 2”) are bifurcated in accordance
19 with the appraised value of the Property in the amount of \$255,000.00; and the creditors’ wholly
20 unsecured claims shall be treated as “general unsecured claims,” pursuant to 11 U.S.C. § 506(a), and
21 the total amounts of the claims against 349 W Ridgeview Street, Brianhead, UT 84719; Debtor’s
22 Rental Property (“Property 2”) are:

23 a. First Lien – *US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR*
24 *SABR 2006-NC2*

25 i. Secured Claim - \$255,000.00

26 ii. Unsecured Claim - \$273,798.81
27
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- 1 b. Second Lien - *New Century Home Equity Trust 2006-S1*
2 ii. Unsecured Claim - \$132,000.00³.
3 c. That the Note is modified by Joint Stipulation with a new principle
4 balance of \$255,000.00 with an interest rate of five and one-quarter
5 percent (5.25%) and a re-amortization of the Debtor's First Lien
6 Mortgage Loan to thirty (30) years with monthly principal and interest
7 payments to be made to Creditor in the amount of one-thousand
8 four-hundred eight dollars twelve cents (\$1,408.12) beginning on
9 November 1, 2010.

11 9. That the secured claims of OnPoint Community Credit Union are hereby modified pursuant
12 to the Plan with new principle balance of \$20,532.62 and be re-amortized over a period of 60 months
13 and reflect a fixed interest rate of 6.24% with a monthly payment in the amount of \$399.25.
14

15 10. That unsecured portions of the Lenders' claims be reclassified as general unsecured claims
16 to be paid pro rata with other general unsecured creditors through the Debtor's Chapter 11 plan.

17 11. That Lenders' secured rights and/or lien-holder rights in the Properties are hereby modified
18 as set forth above, and the terms of the Note are hereby modified on Properties 1 and 2.

19 **C. Plan Implementation**

20 12. The Debtor is authorized to undertake or cause to be undertaken any and all acts and
21 actions contemplated by the Plan or required to consummate and implement the provisions of the Plan,
22 prior to, on, and after the Effective Date, including without limitation, entering, executing, delivering,
23 filing or recording any agreements, instruments, or documents necessary to implement the Plan. All
24 such actions shall be deemed to have occurred and shall be in effect without any requirement or
25 further action by the Debtor.
26

27 _____
28 ³ No Distribution shall be made for this debt as the Debtor disputed the Debt and no Proof of Claim was filed.

1 13. Each federal, state, commonwealth, local, foreign or other governmental agency is hereby
2 directed and authorized to accept any and all documents, mortgages, and instruments necessary or
3 appropriate to effectuate, implement, or consummate the transactions contemplated by the Plan and
4 this Order.

5
6 **D. Plan Distributions**

7 14. On and after the Effective Date, distributions on account of allowed Claims, shall be
8 effectuated pursuant the Plan. Allowed Claims are those claims that have filed a proof of claim as of
9 the confirmation date.

10 15. In accordance with the Plan, all applications for payment of fees and reimbursement of
11 expenses by professionals retained in these Chapter 11 Cases as well as parties seeking compensation
12 pursuant to section 503 of the Bankruptcy Code must be filed with the Court by the date that is no
13 later than forty-five (45) days after the Confirmation Date of the Plan (or, if such date is not a
14 Business Day, by the next Business Day thereafter). Any Person or entity that fails to file such an
15 application or request on or before such date shall be forever barred from asserting such
16 Administrative Claim against the Debtor or her property, and the holder thereof shall be enjoined from
17 commencing or continuing any action, employment of process or act to collect, offset or recover such
18 Administrative Claim. Applications for approval of professionals' fees not previously awarded during
19 the pendency of the Chapter 11 case may be included in such professional's final applications as set
20 forth herein and in the Plan. Objections, if any, to Fee Claims shall be filed and served not later than
21 five (5) business days prior to the date set by the Court for the hearing to consider such requests.

22
23 **E. Executory Contracts and Leases**

24 16. As of the Confirmation Date all executory contracts and unexpired leases of the
25 Debtor shall be assumed, pursuant to sections 365 and 1123 of the Bankruptcy Code.
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1 17. Upon the Confirmation Date of the Plan, the Debtor shall provide notice of the rejection
2 pursuant to the Plan of an executory contract or unexpired lease to any non-debtor parties. In the event
3 the Plan otherwise is not consummated, the Debtor may modify or amend (including, without
4 limitation, making additions and/or deletions) all rights of a Debtor to assume or reject its unexpired
5 leases and executory contracts shall be reinstated to the date immediately prior to the date of this
6 Order.
7

8 **F. Taxes and Transfers**

9 18. The transfer of any security under the Plan or this Order has been duly authorized, and
10 when issued as provided in the Plan, will be validly issued, fully paid, and non-assessable.
11

12 19. Creditors seeking to protect the validity, enforceability, perfection and priority of the liens
13 and security interests granted and/or continued under the Plan may file financing statements, deeds of
14 trust, mortgages or other documents and take any and all actions as they deem appropriate, in their
15 respective discretion, to confirm the perfection of such security interests and liens.

16 20. All filing and recording officers are hereby directed to accept for filing or recording all
17 instruments of transfer to be filed and recorded notwithstanding any contrary provision of applicable
18 non-bankruptcy law. This Court retains jurisdiction to enforce the foregoing direction, by contempt
19 proceedings or otherwise.
20

21 **G. Miscellaneous**

22 21. From and after the Confirmation Date, this Court shall retain and have exclusive
23 jurisdiction of all matters arising out of this Chapter 11 case pursuant to, and for purposes of,
24 subsection 105(a) and section 1142 of the Bankruptcy Code, including without limitation, jurisdiction
25 over the matters set forth in the Plan, which is incorporated herein by reference, as if set forth *in*
26 *extenso*.
27
28

1 22. Except as otherwise provided in the Plan and this Order, notice of all subsequent pleadings
2 in this Chapter 11 case shall be limited to counsel for the Debtor, the United States Trustee, and any
3 party known to be directly affected by the relief sought.

4 23. Notwithstanding anything in the Plan or this Order to the contrary, the amount of any
5 Priority Tax Claim for U. S. federal income taxes, if any, and the rights of the holder of such Claim, if
6 any, to payment in respect thereof shall: (a) survive the Effective Date and consummation of the Plan
7 and be determined in the manner and by the administrative or judicial tribunal in which the amount of
8 such Claim and the rights of the holder of such Claim would have been resolved or adjudicated if the
9 Chapter 11 case had not been commenced; and (b) not be discharged, impaired or adversely affected
10 by the Plan. In accordance with section 1124 of the Bankruptcy Code, the Plan shall leave unaltered
11 the legal, equitable and contractual rights of a holder of such Claim.
12

13 24. Failure specifically to include or reference particular sections or provisions of the
14 Plan or any related agreement in this Order shall not diminish or impair the effectiveness of such
15 sections or provisions, it being the intent of the Court that the Plan be confirmed and such related
16 agreements be approved in their entirety.
17

18 25. All entities holding Claims against in the Debtor that are treated under the Plan are hereby
19 directed to execute, deliver, file, or record any document, and to take any action necessary to
20 implement, consummate, and otherwise effect the Plan in accordance with its terms, and all such
21 entities shall be bound by the terms and provisions of all documents executed and delivered by them
22 in connection with the Plan.
23

24 26. In accordance with section 1142 of the Bankruptcy Code, the Debtor, and any other entity
25 designated pursuant to the Plan are hereby authorized, empowered and directed to issue, execute,
26 deliver, file and record any document, and to take any action necessary or appropriate to implement,
27 consummate and otherwise effectuate the Plan in accordance with its terms, and all such entities shall
28

1 be bound by the terms and provisions of all documents issued, executed and delivered by them as
2 necessary or appropriate to implement or effectuate the transactions contemplated by the Plan and as
3 set forth in the Plan.

4
5 27. Any document related to the Plan that refers to a plan of reorganization of the Debtor other
6 than the Plan confirmed by this Order shall be, and it hereby is, deemed to be modified such that the
7 reference to a plan of reorganization of the Debtor in such document shall mean the Plan confirmed by
8 this Order, as appropriate.

9
10 28. In the event of an inconsistency between the Plan, on the one hand, and any other
11 agreement, instrument, or document intended to implement the provisions of the Plan, on the other,
12 the provisions of the Plan shall govern (unless otherwise expressly provided for in such agreement,
13 instrument, or document). In the event of any inconsistency between the Plan or any agreement,
14 instrument, or document intended to implement the Plan, on the one hand, and this Order, on the other,
15 the provisions of this Order shall govern.

16
17 29. The provisions of this Order are integrated with each other and are non-severable and
18 mutually dependent.

19
20 30. This Confirmation Order is a final order and the period in which an appeal must be filed
21 shall commence immediately upon the entry hereof.

22
23 31. If any or all of the provisions of this Order are hereafter reversed, modified or vacated by
24 subsequent order of this Court, or any other Court, such reversal, modification or vacatur shall not
25 affect the validity of the acts or obligations incurred or undertaken under or in connection with the
26 Plan prior to the Debtor receipt of written notice of such order. Notwithstanding any such reversal,
27 modification or vacatur of this Order, any such act or obligation incurred or undertaken pursuant to,
28 and in reliance on, this Order prior to the effective date of such reversal, modification or vacatur shall

1 be governed in all respects by the provisions of this Order and the Plan and all related documents or
2 any amendments or modifications thereto.

3 32. The Plan shall be substantially consummated on the Confirmation Date because the
4 transactions described in the Plan shall have occurred or shall have been provided for.

5 33. In the event that the Debtor completes and pays all of the Plan payments as agreed, the
6 Debtor may apply to this Court for an Order of Discharge.

7 34. The Debtor may at any time after the Confirmation Order pay off any remaining Plan
8 payments in full and apply for a Discharge.

9
10 **IT IS SO ORDERED**

11 SUBMITTED BY:

12 /s/ Steven L. Yarmy
13 Steven L. Yarmy, Esq.
14 Nevada Bar No. 8733
15 Citizens for Consumer's Rights
16 1500 E Tropicana Ave, Suite 102
17 Las Vegas, Nevada 89119
18 (702) 967-0442
19 (702) 586-3690 FAX
20 sly@stevenyarmylaw.com
21 *Attorney for the Debtor*
22 *and Debtor-in-Possession*
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1 **ALTERNATIVE METHOD re: RULE 9021:**

2 In accordance with Local Rule 9021, counsel submitting this document certifies that the order
3 accurately reflects the court’s ruling and that (check one):

4 _____ The court waived the requirements of approval under LR 9021.

5 _____ No Party appeared at the hearing or filed an objection to the motion.

6
7 XXX I have delivered a copy of this proposed order to all counsel who appeared at the
8 hearing, and any unrepresented parties who appeared at the hearing, and each has
9 approved or disapproved the order, or failed to respond, as indicated below [list each
10 party and whether the party has approved or disapproved, or failed to respond to the
11 document]:

12 _____ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order
13 with the motion pursuant to LR 9014(g), and that no party has objected to the form or
14 content of the order.

15 /s/ Steven L. Yarmy
16 Steven L. Yarmy, Esq.
17 Nevada Bar No. 8733
18 Citizens for Consumer’s Rights
19 1500 E Tropicana Ave, Suite 102
20 Las Vegas, Nevada 89119
21 (702) 967-0442
22 (702) 586-3690 FAX
23 sly@stevenyarmylaw.com
24 *Attorney for the Debtor*
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