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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11	In re)	
)	Case No. 10-30413 TC
12	621 STOCKTON DE, LLC)	(Chapter 11)
	a Delaware limited liability company,)	
13)	Jointly Administered With
	BAY CITI PROPERTIES II DE, LLC,)	Case No. 10-32662
14	a Delaware limited liability company,)	Case No. 10-32663 and
)	Case No. 10-32664
15	CIVIC PROPERTIES DE, LLC)	
	a Delaware limited liability company,)	DISCLOSURE STATEMENT
16)	FOR DEBTORS' JOINT PLAN
	LRL CITIGROUP PROPERTIES II)	OF REORGANIZATION
17	DE, LLC a Delaware limited liability)	
	company,)	
18)	
	Debtors)	
19)	

20 **THIS DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE UNITED STATES**
21 **BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA AS CONTAINING**
22 **ADEQUATE INFORMATION AS REQUIRED BY THE BANKRUPTCY CODE FOR SOLICITATION OF**
23 **ACCEPTANCES OF THE CHAPTER 11 JOINT PLAN OF REORGANIZATION DATED OCTOBER 13,**
24 **2010, AND FILED BY THE DEBTORS IN THIS PROCEEDING. HOWEVER, APPROVAL OF THE**
25 **DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN ENDORSEMENT OF THE PLAN BY THE**
26 **COURT. THE COURT HAS MADE NO INDEPENDENT INVESTIGATION OR DETERMINATION OF**
ANY FACTUAL STATEMENTS OR DOLLAR VALUES SET FORTH IN THE PLAN OR THE
DISCLOSURE STATEMENT.

1 **I. EXECUTIVE SUMMARY**

2 This Disclosure Statement has been prepared by the Debtors in these jointly administered
3 Chapter 11 cases to give their Creditors sufficient information to intelligently vote on the
4 accompanying Joint Plan of Reorganization.¹ Creditors should consult their own advisors
5 before making a decision on how to vote.

6 **WHY THE MORTGAGE HOLDERS SHOULD VOTE FOR THE PLAN**

7 The Debtors' Mortgage Holders should vote for the Plan because it provides them with a
8 better return than foreclosure and resale.

9 **WHY UNSECURED CREDITORS SHOULD VOTE FOR THE PLAN**

10 All unsecured creditors should vote for the Plan, because if the Plan is not confirmed the
11 likely scenario is that they will get nothing.

12 **HOW TO VOTE ON THE PLAN**

13 An acceptance or rejection of the Plan may be voted by completing the ballot which
14 accompanies the Plan and mailing, faxing, or emailing it to MacConaghy & Barnier, PLC,
15 attorneys for the Debtors, 645 First Street West, Sonoma, California 95476, (707) 935-7501,
16 macclaw@macbarlaw.com.

17 **II. SIGNIFICANT FINANCIAL INFORMATION CONCERNING THE DEBTORS**

18 **A. THE DEBTORS' REAL ESTATE PORTFOLIO**

19 The four Debtors are part of a group of affiliated real estate holding entities known as
20 The Lembi Group, which has been an active investor and manager of hundreds multi-family and
21 other commercial properties in the City of San Francisco and elsewhere for more than 50 years.
22 The four Debtors in these Chapter 11 cases, or their predecessors, started assembling some of the
23 properties in this Case in the early 70s. Internally, this particular group of properties is referred
24 to as "Bridge 6". The four "Bridge 6" Debtors own 346 residential units and 2 commercial in
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¹ Capitalized terms are defined in the Plan.

1 San Francisco spread among 8 different buildings identified below. These are all multi-family
2 commercial properties located in San Francisco. They consist of the following:

3 Property Address	4 S.F. Neighborhood	5 Ownership Entity	6 Number of Residential Units	7 Number of Commercial Units
8 915 Pierce	Alamo Square	Bay Citi II	18	0
9 106 Sanchez	Upper Market	Civic	18	0
10 621 Stockton	Nob Hill	621 Stockton	24	0
11 100 Broderick	Haight	Civic	35	0
12 540 Leavenwrth	Downtown	LRL Citigroup II	44	0
13 925 Geary	Downtown	LRL Citigroup II	48	0
14 601 O'Farrell	Downtown	Bay Citi II	79	2
15 400 Duboce	Upper Market	Civic	80	0

16 Given the fact that the investment real estate market is going through an unprecedented
17 period of instability, it is difficult to precisely value the Debtors' assets. The Debtors best
18 estimate is that in current market conditions the fair market value of this portfolio is in excess of
19 \$55,000,000.

20 **B. THE DEBTORS' DEBT STRUCTURE**

21 In May, 2004, the four Debtors separately refinanced their 8 buildings with UBS Real
22 Estate Investments in a complex, securitized lending transaction. Four loans totaling
23 \$40,890,000 were made to the Debtors, each secured by first deeds of trust on their respective
24 properties. At the same time a financing facility known as the RAIT Mezzanine Note, the
25 amount of \$7,500,000 was lent to the principals of the Debtors. Both loans were guarantied by a
26 number of different principals of The Lembi Group.

The first deeds of trust are now being serviced by LNR Real Estate, Inc. and are held by
LBUBS 2004-C4 Stockton Street Limited Partnership, LBUBS 2004-C4 Geary Street Limited
Partnership, LBUBS 2004-C4 O'Farrell Street Limited Partnership, and LBUBS 2004-C4

1 Duboce Street Limited Partnership. These entities are collectively referred to in the Plan and
2 Disclosure Statement as the “Senior Mortgage Holders.”

3 In 2007 the Debtors further encumbered their properties with cross-collateralized loans
4 now totaling approximately \$4,200,000 in favor of affiliates of Oxford Investments and
5 Mortgages (the “Junior Mortgage Holders”), a secondary market lender. The Senior Mortgage
6 Holders contend that the very act of this encumbrance constituted a default under the senior loan
7 documents. During this same period of time, the Debtors anticipated using their liquid
8 resources to improve their portfolio and to monetize the expected profit. Unfortunately, as is
9 now known, both the property sales and rental markets peaked in June of 2007. As the
10 economy declined throughout 2008, the income from the properties was insufficient to service
11 the secured debt, and the Debtors went into default on both the senior and junior mortgages. In
12 September of 2009, the parties agreed to a work out whereby both the senior and junior
13 mortgages would be deemed cross-collateralized on all 8 properties and the Debtors would be
14 obligated to make certain periodic payments to avoid foreclosure. However, market conditions
15 remained so poor that the Debtors were unable to comply with the work out terms. To halt
16 foreclosure, on July 15, 2010, the Debtors filed these Chapter 11 Cases.

17 C. POST PETITION DEVELOPMENTS

18 Following the filing of the Chapter 11 Cases, the Debtors filed all required Schedules,
19 Statements of Affairs, and other initial papers. No official committee of unsecured creditors was
20 appointed in any of the Cases. The Debtors obtained an “Order for Joint Administration” for the
21 four to streamline administration and avoid unnecessary duplication. They have filed this
22 Chapter 11 Joint Plan of Reorganization within the time deadline set by the Court.

23 Most significantly, the Debtors have actively marketed their portfolio to obtain sufficient
24 funds to pay their Creditors in full. After intense negotiations with a number of parties, the
25 Debtors have tentatively accepted a purchase offer from Veritas Investments, Inc., which the
26 Debtors have concluded has adequate financial backing to close the transaction. This purchase

1 offer is referred to in the Plan as the October 6 Purchase Agreement, and is attached as Exhibit 1
2 to the Plan. It provides for purchase of all of the Debtors' real properties for the sum of
3 \$51,000,000, subject to overbid by potential competitors, and the separate satisfaction of the
4 RAIT Mezzanine Note. This is the centerpiece of the Debtor's Plan and will be discussed in
5 greater detail below.

6 **III. SUMMARY OF THE PLAN**

7 The Debtors' Plan is simple. The Debtors seek to pay all of their creditors, other than
8 inter-company claims, in full through the pending sale of their real property portfolio for
9 \$51,000,000 pursuant to their rights under Bankruptcy Code Section 1123(a)(5)(D). To ensure
10 the best possible price, this sale will be subject to Court-supervised overbid procedures. The sale
11 will be for all cash, and most creditors will be paid simultaneously with the close of escrow, or
12 shortly after this occurs.

13 The treatment of claims and interests described below applies only to Allowed Claims.
14 Determination of the amounts due to Creditors will be after reconciliation of the amount claimed
15 by the Creditor in question with the Debtors' business records. In the event of a dispute, the
16 Debtors will file objections to the allowance of the claim in question.

17 The treatment of each particular type of Creditor is described below.

18 **A. CLASSIFIED CLAIMS AND INTERESTS**

19 The Plan divides Claims and Interests into 8 classes. A description of each class and the
20 its treatment under the Plan follows.

21 **Class 1: Secured Claims of The City and County of San Francisco**

22 The City and County of San Francisco holds Secured Claims for current real estate taxes
23 secured by the Debtors' real properties. The Plan provides that these real property taxes will be
24 paid in full from the Sales Transaction of the Debtors' real properties. This Class is unimpaired
25 and not entitled to vote on the Plan.

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1 Class 2: Secured Claims of the Senior Mortgage Holders

2 The Senior Mortgage Holders hold Secured Claims in the original principal amount of
3 \$40,890,000, secured by what are now cross collateralized first deeds of trust on the Debtors’
4 real properties . The Senior Mortgage Holders contend that the outstanding balance of these
5 claims is in excess of \$47,000,000. However, that figure includes over \$520,000,000 in a
6 prepayment penalties, default interest, and other penalties which the Debtors contend are
7 eliminated by a cure of the other monetary defaults under the rule of *In re Entz-White Lumber &*
8 *Supply, Inc.* 850 F.2d 1338 (9th Cir. 1988). The Debtors contend that once these penal charges
9 are eliminated, the total outstanding balance due the Senior Mortgage Holders is slightly less
10 than \$42,000,000. The Debtors believe that the Senior Mortgage Holders vigorously dispute the
11 Debtors theories, and the Debtors anticipate litigation on this issue.

12 The Plan provides that the Allowed Claim of the Senior Mortgage Holders will be paid in
13 full from the Sale Transaction. If the dispute over default penalties and other accounting issues
14 is not resolved prior to the closing of the Sale Transaction, the sale will be conducted on a “free
15 and clear” basis. The undisputed portion of the debt will be paid through escrow. The balance
16 will be held in a sequestered account pending resolution of the dispute by the Court. Class 2
17 is impaired and entitled to vote on the Plan.

18 Class 3: Secured Claims of the Junior Mortgage Holders

19 The Junior Mortgage Holders hold Secured Claims in the approximate amount of
20 \$4,200,000, secured by what are now cross collateralized second deeds of trust on the Debtors’
21 real properties .

22 The Plan provides that the Allowed Claim of the Junior Mortgage Holders will be paid in
23 full from the Sale Transaction. If there is a dispute over the exact balance of the loan, which is
24 not resolved prior to the closing of the Sale Transaction, the sale will be conducted on a “free
25 and clear” basis. The undisputed portion of the debt will be paid through escrow. The balance
26 will be held in a sequestered account pending resolution of the dispute by the Court.

1 Class 3 is impaired and entitled to vote on the Plan.

2 Class 4: Priority Claims for Wages and Employee Benefits.

3 Bankruptcy Code Section 507(a)(4) provides that unsecured claims for wages, salaries or
4 commissions, including vacation, severance and sick leave pay earned within 180 days before
5 the date of the filing of the Petition, in an amount not to exceed \$11,725 for each individual, are
6 entitled to priority. Bankruptcy Code Section 507(a)(5) provides a priority for unpaid
7 contributions to employee benefit plans arising from services rendered within 180 days before
8 the date of the filing of the Petition,, also with certain monetary limitations thereon. The Debtors
9 do not believe that they owe any priority wage and benefit claims, but have made a provision for
10 the payment of such claims if an Allowable proof of claim is timely filed by a priority wage or
11 employee benefit claimant. This class is unimpaired and not entitled to vote on the Plan.

12 Class 5: Priority Consumer Deposit Claims.

13 Bankruptcy Code Section 507(a)(7) provides that unsecured claims for consumer
14 deposits owed by a debtor, in an amount not to exceed \$2,600, for each individual, are entitled to
15 priority. Priority consumer deposit claims include tenant security deposits. The Debtors believe
16 that over time, they will owe priority consumer deposit claims of approximately \$346,000 to
17 tenants in 346 units if and when those tenants vacate their apartments and comply with all of
18 their tenant obligations under the applicable leases. The Plan provides that these claims will be
19 assumed by the Successful Bidder in the Sale Transaction and be satisfied in full under
20 California law in the ordinary course of business as if no bankruptcy case had been filed. This
21 class is unimpaired and not entitled to vote on the Plan.

22 Class 6: Inter-company Claims

23 “Affiliates” (e.g., sister corporations) and “Insiders” (e.g., direct and indirect owners,
24 managers, and their relatives) of the Debtors hold claims against the four Debtors totaling over
25 \$7,150,000,000. As a condition of confirmation, this group of Creditors -- Class 6 -- is
26 subordinating all of their claims against the Debtors to enhance the recovery which will be paid

1 to third party creditors. This Class is impaired and entitled to vote on the Plan.

2 Class 7: Claims of General Unsecured Creditors

3 General Unsecured Creditors will be paid a Pro Rata dividend from the Available Cash
4 remaining after payment of the Priority Claims. The Debtors estimate that there are
5 approximately \$450,000 in Class 7 Claims. The Debtors are required to pay these claims in full
6 within one year of the Effective Date of the Plan, or the Cases will be converted to Chapter 7
7 liquidation. The Debtors estimate that these Class 7 Claims will therefore receive a 100%
8 dividend. This Class is impaired and entitled to vote on the Plan.

9 Class 8: The Holders of LLC Membership Units in the Debtors

10 The holders of limited liability company membership interests in the Debtors shall retain
11 their respective interests. No distribution of money or property may be made to these LLC
12 Interest holders unless and until all Creditors are paid in full. Since this is mandated by non-
13 bankruptcy law, this Class is considered unimpaired, and is not entitled to vote on the Plan.

14 **B. UNCLASSIFIED CLAIMS**

15 Section 1123(a)(1) of the Bankruptcy Code provides that certain claims, including claims
16 for post-petition administrative expenses (including professional fees) and certain claims by
17 governmental units for taxes, are not classified under the Plan. Entities holding unclassified
18 claims are not entitled to vote on the Plan.

19 Any unpaid professional fees incurred up through Confirmation will be paid if and when
20 allowed by the Court pursuant to Bankruptcy Code Section 330. All other post-petition
21 administrative expenses, including quarterly fees due or to become due to the United States
22 Trustee will be paid as of the Effective Date of the Plan. The Debtors estimate that, other than
23 professional fees, unpaid administrative expenses for all four cases will be less than \$5,000.

24 All tax claims entitled to priority under Bankruptcy Code Section 507(a)(8) will receive
25 deferred cash payments over a period not to exceed five (5) years after the Petition Date, as
26 provided by Bankruptcy Code Section 1129(a)(9)(C). Tax claims will bear interest at the rate

1 specified in Section 6621 of the Internal Revenue Code. Unclassified Tax Claims do not include
2 local real estate taxes, which are separately classified as Class 1, as described below, due to the
3 secured status of those Claims. The Debtors believe that they owe unclassified Tax Claims of
4 less than \$5,000.00.

5 **C. OTHER PROVISIONS OF THE PLAN**

6 The Plan contains other provisions concerning its implementation. The following is a
7 summary. Consult the Plan itself for details.

8 1. Substantive Consolidation

9 Following Confirmation, the four Estates shall be deemed substantively consolidated.
10 These means that the assets and liabilities of the Estates will be merged to allow the use of assets
11 from one entity to pay the debts of another, if this is necessary to fully pay all creditors.

12 2. The Sale Transaction

13 To implement the Plan, the Debtors will consummate the Sale Transaction. This will be
14 a cash sale, subject to overbidding, pursuant to the terms of the October 6 Purchase Agreement,
15 attached as Exhibit 1 to the Plan. The terms of the bidding require any potential bidder to submit
16 a nonrefundable deposit of \$1,500,000, with the minimum initial overbid to be \$52,500,000, all
17 cash. Bidding will proceed in \$100,000 increments thereafter. In the event that the pending
18 purchaser, Veritas Investments, Inc. is outbid, it will receive a “break up fee” of \$500,000.

19 As part of the Sale Transaction, the Successful Bidder will also be required to separately
20 purchase or satisfy the RAIT Mezzanine Note, which the Debtors estimate will add another
21 \$4,000,000 to the total purchase consideration. This payment will exclusively benefit Insiders
22 and Affiliates of the Debtor, who are obligated on the RAIT Mezzanine Note. If the balance of
23 the consideration paid in the Sales Transaction were insufficient to pay all other Claims, the
24 purchase of the RAIT Mezzanine Note would violate the “absolute priority rule.” However,
25 since the \$51,000,000 base price is sufficient to pay all Creditors in full, the Debtors contend that
26 the RAIT Mezzanine Note transaction is entirely appropriate.

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3. Post Confirmation Management

Following Confirmation, the Debtors, then deemed to be “Reorganized Debtors”, will continue to be governed by their existing Operating Agreements with their existing management and will retain responsibility for payment of all Claims, and the wind up of their affairs. Except as provided in the Plan or Order of the Court, the Reorganized Debtors will operate free of Bankruptcy Court supervision.

4. Post-Confirmation Compensation and Reimbursement of Professionals.

All professionals employed by the Reorganized Debtors shall be entitled to payment of their post-Confirmation Date fees and reimbursement of expenses in the ordinary course of business without the necessity of Court approval. Pre-confirmation compensation remains subject to the noticed motion requirements of Bankruptcy Code Section 330.

5. Executory Contracts

Bankruptcy Code Section 365 gives special consideration to “executory contracts”, which are contracts requiring ongoing performance of both the debtor and the other party to the contract. In this Case “executory contracts” include all residential leases in which any of the Debtors is the landlord and also includes certain service contracts for the buildings. The Plan provides that these contracts are assumed. The Debtors do not believe that they are parties to any other “executory contracts”. As a precautionary matter, the Plan provides that any such executory contract which exists is deemed rejected as of the Effective Date. However the Plan further provides that this designation may be changed and that any executory contract may be assumed or rejected up through the time of Confirmation. If there is a rejected executory contract is timely rejected by the Debtor, the holder of the contract right may have a “Rejection Claim” as defined in the Plan and subject to the deadlines and treatment specified therein.

6. Distributions and Claims.

Subject to the deadlines in the Plan, distributions will be made to a given Unsecured Creditor when its Claims are Allowed Claims, as defined in the Plan. Proofs of Claim, when

1 required, must be filed with the Bankruptcy Court no later than the applicable Claims Bar Date
2 (which for most prepetition Claims is November 22, 2010, and for Claims by Governmental
3 Units is January 21, 2011). However, Bankruptcy Rule 3001(b) provides that it is not necessary
4 for a Creditor to file a proof of Claim if its Claim has been listed on the Debtor Schedules filed
5 with the Bankruptcy Court pursuant to Section 521(a)(1) of the Bankruptcy Code and Rule
6 1007(a)(3) of the Bankruptcy Rules, and is not listed as disputed, contingent, unliquidated or
7 unknown as to amount. Except as provided by the Plan or as otherwise permitted by the
8 Bankruptcy Court, the Bankruptcy Rules or applicable law, upon expiration of the applicable bar
9 date, proofs of Claim may not be filed or amended unless the amendment is solely to decrease
10 the amount or priority. Distributions to Creditors under the Plan will be made to the Persons
11 shown on the Debtors' or the Bankruptcy Court's records on the Effective Date.

12 **Any party who acquires a claim against the Reorganized Debtors after the**
13 **Effective Date must arrange with the holder on that date to receive**
14 **distributions to which the transferee may be entitled. The Reorganized**
15 **Debtors will not be required to track changes in ownership of claims after**
16 **the Effective Date.**

17 Objections to any Claim may be filed by any party in interest and shall be filed no later
18 than the Claims Objection Date, which is defined in the Plan as 90 days after the Effective Date.

19 **THE REORGANIZED DEBTORS RESERVE THE RIGHT TO OBJECT TO ANY AND**
20 **ALL SCHEDULED OR FILED CLAIMS, EVEN IF THE CREDITOR IN QUESTION**
21 **VOTES FOR THE DEBTORS' PLAN.**

22 7. Waiver of Litigation Rights

23 To avoid unnecessary litigation expenses and delay, under the Plan the Debtors are
24 waiving all litigation claims against all Creditors, including without limitation any claims and
25 causes of action under the Bankruptcy "avoidance statutes" set forth in Bankruptcy Code
26 Sections 502, 506, 510, 542, 542, 543, 544, 545, 547, 548, 549, and 550, and 553. This includes
"preference" litigation rights which may exist against Insiders and Affiliates.

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8. Retention of Jurisdiction.

The Plan provides that the Bankruptcy Court shall retain broad jurisdiction under the Bankruptcy Code to adjudicate any disputes arising out of the Plan and the administration of the Cases.

9. Persons Bound/Discharge of Debts.

Confirmation of the Plan binds the Debtors, the Reorganized Debtors, any entity acquiring property under or otherwise accepting the benefits of the Plan, and every Creditor and Equity Security Holder, whether or not such Creditor or Equity Security Holder has filed a proof of Claim or Interest in the Bankruptcy Cases, whether or not the Claim or Interest of such Creditor or Equity Security Holder is impaired under the Plan, and whether or not such Creditor or Equity Security Holder has accepted or rejected the Plan. The Confirmation Order shall further discharge the Debtors from all Claims which arose prior to the date of Confirmation, as is more particularly described in Section 1141(d)(1) of the Bankruptcy Code.

**IV. STATEMENT OF ASSETS AND LIABILITIES
AND FEASIBILITY OF THE PLAN**

A. In General

This section will describe the assets and liabilities of each Debtor and discuss the feasibility of the Plan.

B. Assets

The primary assets of the four Debtors are the real properties described in Section II above. As is also noted in Section II, fixing a precise valuation of these assets -- now or projected over any period of time -- remains difficult due to unstable real estate and investment and credit markets. Depending on the skill of the marketing process, the current value of this portfolio could range from \$50,000,000 to \$60,000,000..

C. Liabilities

The Debtor' best estimate of the amount of valid claims against the four Chapter 11

1 Estates is as follows:

2 Secured Debt

3 Mortgage Holders \$46,000,000.00

4 **Subtotal Secured Debt \$46,000,000.00**

5 Unsecured Debt

6 Administrative expenses \$5,000.00

7 Priority claims (tenant deposits) \$364,000.00

8 Priority unsecured taxes \$5,000.00

9 Insider and affiliate claims \$7,181,592.59

10 Other unsecured claims \$452,778.29

11 **Subtotal Unsecured Debt \$8,008,370.88**

12 **TOTAL DEBT \$54,008,370.88**

13 D. Feasibility of the Plan

14 This is essentially a liquidation plan. Successful consummation of the Plan is premised
15 upon the closing of the Sale Transaction. The Debtors believe that they have a reasonable
16 probability of success in this regard. Even with the current economic downturn, multi-family
17 residential properties of this nature within the City of San Francisco remain a highly sought after
18 investment, and a single portfolio of this size and diversity is exceedingly rare. The Debtors
19 have received a number of inquiries for the portfolio from qualified investment groups, including
20 the “stalking horse bidder” Veritas Investments, Inc. . The Debtors believe that in the context of
21 competitive bidding, the final bid for the subject real properties will very likely exceed the initial
22 sales price.

23 Aside from financial matters, the Debtors believe that they can comply with all technical
24 requirements of the Bankruptcy Code necessary to confirm and substantially consummate the
25 Plan.
26

1 **V. ALTERNATIVES TO THE PLAN**

2 A. **Chapter 7 Liquidation**

3 In a Chapter 7 liquidation proceeding, the Debtors’ interest in any assets of the Estate
4 would vest in a Chapter 7 trustee, who would either release them to the respective secured
5 creditors or attempt to sell those assets to third parties and distribute any proceeds pro rata to all
6 creditors of the estate under the priorities established by Bankruptcy Code Section 507. A
7 Chapter 7 Trustee also has the statutory power to assert “avoidance claims” and other litigation
8 claims held by the Estate against third parties pursuant to Bankruptcy Code Sections 506, 510,
9 541, 544, 545, 547, 548, and 549, which can generate funds to pay unsecured creditors.

10 The Debtors believe that the Plan is significantly more beneficial to creditors than
11 Chapter 7 for a number of reasons.

12 First, under the Plan, the Debtors’ “Affiliates” and “Insiders” are waiving any Claims
13 they hold against any of the Debtors, which will increase the share payable to third party
14 unsecured creditors. In a Chapter 7 Case, these creditors would share on a Pro Rata basis with
15 other unsecured creditors. These claims exceed \$7,150,000.

16 Second, the Debtors are utilizing their powers under Bankruptcy Code Section 1123(a)(5)
17 to “cure” the existing defaults on their Secured Debt. The Debtors contend that this enables
18 them to avoid seven figure penalties for “default rate” interest. A Chapter 7 Trustee lacks these
19 powers, even if she could arrange such a sale.

20 Third, the Debtors are utilizing their powers under Bankruptcy Code Section 1146 to
21 avoid the payment of documentary transfer taxes on the sale of their portfolio. The Debtors
22 believe that this savings could exceed \$800,000. A Chapter 7 Trustee lacks these powers.

23 Fourth, the Debtors believe that the Mortgage Holders are better off under the Plan,
24 since the liquidity of their position will significantly increase without the costs and devaluation
25 of a foreclosure proceeding.

26 A summary hypothetical Chapter 7 liquidation analysis of the four combined Estates is

1 as follows:

2 Assets

3 Real Property and Fixtures \$55,000,000.00²

4

5 Liabilities

6 Secured Debt, inc. default interest (\$50,000,000.00)

7 Interest accrual pending sale (500,000.00)

8 Broker's Commission & closing (1,000,000.00)

9 Chap. 7 Trustee's commission (1,700,000.00)

10 Chap. 7 Professional fees (250,000.00)

11 Tenant Deposits (346,000.00)

12 Priority Taxes (5,000.00)

13 **Amount Available for**
14 **General Unsecured Creditors \$1,199,000.00**

15 **Amount of General Unsecured Claims \$7,634,370.88**

16 **Percentage Dividend in Chapter 7 15.7%**

17 As noted above, under the Plan, "non-insider" unsecured creditors will receive a 100%
18 dividend, due to the agreement of Insiders and Affiliates to subordinate their claims and the
19 elimination of onerous default penalties and taxes, so the return under the Plan is clearly
20 superior.

21 B. No Other Plans

22 The Bankruptcy Code permits parties in interest other than the Debtors to propose a plan
23 of reorganization under certain circumstances. The Plan submitted by the Debtors is the only
24 plan of reorganization that has been proposed at this time.

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² Mid-range estimate.

1 **VI. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

2 A. In General

3 The following is a summary of certain United States federal income tax consequences of
4 the Plan that may be material to Creditors and holders of Equity Securities (each a “Holder”).
5 This discussion is included for general information purposes only and is not intended to be, and
6 is not, legal or tax advice to any particular Holder. This summary is based on the current
7 provisions of the Internal Revenue Code of 1986, as amended (the “Code”), the Income Tax
8 Regulations (the “Regulations”) and other legal authorities, all of which are subject to change,
9 possibly with retroactive effect. No rulings from the Internal Revenue Service (the “IRS”) or
10 opinions of counsel have been or will be requested concerning the matters discussed below. The
11 tax consequences set forth in the following discussion are not binding on the IRS or the courts,
12 and no assurance can be given that contrary positions will not be successfully asserted by the
13 IRS or adopted by a court.

14 This summary does not address the taxation of the Debtor or the Holders under state,
15 local law or foreign law.

16
17 **TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR**
18 **230, HOLDERS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF**
19 **FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT**
20 **INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED**
21 **UPON BY HOLDERS FOR THE PURPOSE OF AVOIDING PENALTIES THAT**
22 **MAY BE IMPOSED ON HOLDERS UNDER THE INTERNAL REVENUE CODE;**
23 **(B) SUCH DISCUSSION IS INCLUDED HEREIN BY DEBTOR IN CONNECTION**
24 **WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF**
25 **CIRCULAR 230) BY DEBTOR OF THE TRANSACTIONS OR MATTERS**
26 **ADDRESSED HEREIN; AND (C) HOLDERS SHOULD SEEK ADVICE BASED**
ON ITS PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX
ADVISOR.

EACH HOLDER SHOULD CONSULT THE HOLDER’S OWN TAX ADVISOR
TO DETERMINE THE HOLDER’S PARTICULAR U.S. FEDERAL INCOME
TAX CONSEQUENCES AND OTHER TAX CONSEQUENCES TO THE HOLDER
OF THE PLAN, INCLUDING ANY STATE, LOCAL AND FOREIGN TAX LAWS
AND THE EFFECT OF ANY CHANGES IN SUCH LAWS.

1 B. Consequences to Debtors.

2 As limited liability companies which have not elected to be taxed as a corporations, the
3 Debtors are each disregarded as an entity separate from its owners for U.S. federal income tax
4 purposes. Accordingly, any income, gain or loss realized by any Debtor will be considered, for
5 U.S. federal income tax purposes, to be realized by the Holder of the membership units in the
6 Debtor.

7 C. Consequences to Creditors.

8 Creditors should consult its own tax advisors concerning any income tax consequences
9 of its respective treatment under the Plan.

10 D. Consequences to Unit Holder.

11 A Holder of the units of a limited liability company that has not filed an election to be
12 taxed as a corporation for federal income tax purposes is considered to realize the income, gain
13 or loss realized by the limited liability company in accordance with the Holder’s method of
14 accounting for federal income tax purposes.

15 Such income, gain or loss may be realized and reportable by the Holder regardless of
16 whether any distribution is received by the Holder. Thus, the Holder (or its owners) may be
17 required to recognize income for U.S. federal income tax purposes as a result of a sale of assets
18 of the Debtor even if no cash or other property is distributed by the Debtor to the Unit Holder.
19 The income, gain or loss may be taxable to the Holder.

20 However, the Debtors do not believe that the Confirmation of the Plan will result in a
21 taxable event to the holder of any of their respective LLC interests.

22 E. Wage Withholding.

23 If any Allowed Claim under the Plan constitutes “wages” for U.S. federal income tax
24 purposes, the U.S. federal income tax rules applicable to wage withholding will apply to the
25 payment of the Allowed Claim.

26 F. Backup Withholding.

1 U.S. federal income tax laws require that, to avoid backup withholding with respect to
2 “reportable payments” (in an amount equal to 28%), Creditor or Holder must (a) provide
3 Debtor with its correct taxpayer identification number (“TIN”) on IRS Form W-9 and certify as
4 to its eligibility for exemption from backup withholding, or (b) establish a basis for exemption
5 from backup withholding on an appropriate IRS Form W-8 (including a Form W-8BEN, W-
6 8ECI, W-8EXP and W-8IMY) or IRS Form W-9, as applicable. Exempt Creditors and Holders
7 (including, among others, all corporations and certain foreign individuals) are not subject to
8 backup withholding and reporting requirements. If withholding is made and results in an
9 overpayment of taxes, a refund may be obtained.

10 11 **VII. VOTING, ACCEPTANCE AND CONFIRMATION**

12 A. In General.

13 The Hon. Thomas Carlson, Judge, United States Bankruptcy Court, has set a date for the
14 hearing on the Confirmation of the Plan. The hearing is to held at the United States Bankruptcy
15 Court, 235 Pine St., 23rd Flr., San Francisco, CA 94104. The Plan can be implemented only if
16 accepted by the requisite percentage of creditors and confirmed by the Bankruptcy Judge.
17 Creditors entitled to vote should vote on the Plan by filling out and mailing the accompanying
18 ballot to counsel. There is no assurance that, if accepted, the Plan will be confirmed by the
19 Bankruptcy Judge.

20 B. Voting.

21 Only impaired classes under the Plan will be entitled to vote on the Plan. The definition
22 of an “impaired” class of Creditors is set forth in Section 1124 of the Bankruptcy Code. Classes
23 2, 3, 6, and 7 are impaired by the Plan and entitled to vote. No other Classes are impaired under
24 the Plan. Pursuant to Section 1126(f) of the Bankruptcy Code, a class that is not impaired under
25 the Plan, and each holder of a Claim or Interest of such class, are conclusively presumed to have
26 accepted the Plan, and solicitation of acceptances with respect to such class from the holders of

1 Claims or Interests of such class is not required. The Bankruptcy Code defines “acceptance” of
2 a plan by a class of Creditors as acceptance by the holders of two-thirds (2/3) in dollar amount
3 and more than one-half (1/2) in number of the claims of that class which actually cast ballots for
4 acceptance or rejection of the Plan.

5 In addition to the requirement that a Creditor be in an “impaired class”, in order for a
6 creditor's vote to be counted, either for or against the Plan, the creditor must have either (1) filed
7 a proof of claim on or before the “Claims Bar Date”, which was previously set by the Court at
8 November 22, 2010, or (2) have been listed by the Debtor in the Schedule of Liabilities as
9 having a claim which was noncontingent and undisputed.

10 **IF YOU HAVE ALREADY FILED A CLAIM YOU NEED NOT REFILE FOR THE PURPOSE OF**
11 **VOTING ON THE PLAN.**

12 If a Creditor wishes to vote for or against the Plan, the Creditor should complete an
13 acceptance or rejection of the Plan on the form ballot enclosed herewith which must be returned
14 pursuant to the instructions set forth thereon.

15
16 C. Confirmation

17 If no impaired Creditor classes accept the Plan, it cannot be confirmed. If at least one
18 impaired class of Creditors accepts the Plan, the Court will hold a Confirmation Hearing. At the
19 Confirmation hearing, the Bankruptcy Judge has the duty to determine whether the Plan meets
20 the requirements of Section 1129 of the Bankruptcy Code. The principal requirements of
21 Section 1129 include the following: (1) that the proponents of the Plan have complied with the
22 applicable provisions of the Bankruptcy Code on all matters connected with the case; (2) that the
23 Plan has been proposed in good faith, and not by any means forbidden by law; (3) that the
24 requisite amount of creditors have accepted the Plan or that the creditors are receiving an amount
25 not less than they would receive if liquidation under Chapter 7 took place; (4) that at least one
26 class of Creditors has accepted the Plan; and (5) that confirmation of the Plan is not likely to be

1 followed by liquidation, or the need for further financial reorganization of the debtor; and (6)
2 that the Debtor and the Plan in all other respects comply with applicable law. Only if such
3 determinations are made will the Judge confirm the Plan.

4 In addition, if there are impaired Creditor classes which have rejected the Plan, the
5 Bankruptcy Judge may order Confirmation over its rejection, but only if the Judge first
6 determines that the rights of non-consenting classes of creditors are protected under Bankruptcy
7 Code Section 1129(b) and other applicable law.

8 D. Modification of the Plan.

9 The Debtors may propose amendments to or modifications of the Plan under Section
10 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019 at any time prior to the conclusion
11 of the hearing on Confirmation of the Plan. After the Confirmation Date, the Reorganized
12 Debtors may modify the Plan in accordance with Section 1127(b) of the Bankruptcy Code and
13 Bankruptcy Rule 3019.

14 **V. CONCLUSION**

15 The Debtors believes that their Joint Plan of Reorganization realistically affords to
16 Creditors their best opportunity for receiving a prompt, meaningful dividend during this
17 unprecedented economic downturn. The Debtors respectfully request Creditors vote to accept
18 the Plan.

19
20 Dated: October 13, 2010

621 STOCKTON DE, LLC
BAY CITI PROPERTIES II DE, LLC
CIVIC PROPERTIES DE, LLC
LRL CITIGROUP PROPERTIES II DE, LLC

21
22
23 /s/ Edward C. Singer, Jr.
24 By Edward C. Singer, Jr.
25 Their Responsible Person
26

1 Dated: October 13, 2010

MacCONAGHY & BARNIER, PLC

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/s/ John H. MacConaghy
By John H. MacConaghy
Attorneys for Debtors