



SO ORDERED.

SIGNED this 28th day of December, 2012.

Dale L. Somers

Dale L. Somers
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

In re:)	
)	
)	Case No. 12-22602
DICKINSON THEATRES, INC.,)	
a Kansas corporation,)	Chapter 11
)	
Debtor.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER
CONFIRMING THE DEBTOR'S FIRST AMENDED AND RESTATED
PLAN OF REORGANIZATION**

Dickinson Theatres, Inc., the above captioned debtor and debtor-in-possession (the "Debtor"), having filed its First Amended and Restated Plan of Reorganization Dated as of November 5, 2012 [Docket No. 194] (as modified in the form attached hereto as Exhibit A, the "Plan")¹ with the Bankruptcy Court; the Debtor having filed its First Amended and Restated Disclosure Statement as of November 5, 2012 [Docket No. 195] (including all appendices and exhibits attached thereto, and each as modified or amended, the "Disclosure Statement"); the

¹ Each capitalized term used but not otherwise defined herein shall have the meaning ascribed thereto in the Plan.

Debtor having provided notice of a hearing to approve the Disclosure Statement in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Kansas (the "Local Rules") and orders of the Bankruptcy Court; the Bankruptcy Court having held a hearing on November 5, 2012, to determine the adequacy of the Disclosure Statement; the Bankruptcy Court having entered an order dated November 5, 2012 [Docket No. 197] (the "Approval Order") (1) Approving the Form and Manner of Notice of the Disclosure Statement Hearing, (2) the Disclosure Statement, (3) Cure Procedures for Executory Contracts or Unexpired Leases to be Assumed Pursuant to the Plan, (4) the Record Date, Voting Deadline and Certain Other Procedures, (5) the Form and Manner of Notice of the Confirmation Hearing and Procedures for Filing Objections to the Plan, and (6) Solicitation Procedures for Confirmation; the Disclosure Statement having been transmitted to Holders of Claims in Classes 2, 3, 5a, 5b and 8 (collectively, the "Voting Classes") as directed by the Approval Order; the Debtor having provided notice of the Confirmation Hearing to Claimholders and Interestholders as directed by the Approval Order and in compliance with the Bankruptcy Code, Bankruptcy Rules and the Local Rules; the Debtor having filed its Memorandum of Law in Support of Confirmation of the Debtor's First Amended and Restated Plan of Reorganization Dated as of November 5, 2012 [Docket No. 256] (the "Confirmation Memorandum"); the Bankruptcy Court having held a Confirmation Hearing on November 28, 2012, and issued a Memorandum Opinion and Order on December 4, 2012 [Docket No. 275]; Debtor then filing a Motion to Further Modify and Confirm First Amended and Restated Plan of Reorganization [Docket No. 295]; and the Bankruptcy Court then having held another Confirmation Hearing on December 28, 2012; upon all of the proceedings in the Chapter 11 Case before the Bankruptcy Court; after full

consideration of (a) the Declaration of Ronald J. Horton in Support of Confirmation of the First Amended and Restated Plan of Reorganization Dated as of November 15, 2012 [Docket No. 255] (the "Horton Declaration"), and his testimony at the 11/28 Confirmation Hearing; (b) the Confirmation Memorandum; (c) the Declaration of Sharon L. Stolte Certifying Voting on and Tabulation of Ballots Accepting and Rejecting the First Amended and Restated Plan of Reorganization [Docket No. 253] (the "Stolte Declaration"); and (d) all other evidence proffered or adduced, memoranda and objections filed in connection with, and arguments of counsel made at, the Confirmation Hearings; and after due deliberation and sufficient cause appearing therefor,

THE BANKRUPTCY COURT HEREBY DETERMINES, FINDS, ADJUDGES, DECREES AND ORDERS THAT:

A. Exclusive Jurisdiction; Venue; Core Proceeding (28 U.S.C. §§ 157(b)(2), and 1334(a)). The Bankruptcy Court has jurisdiction over the Chapter 11 Case pursuant to sections 157 and 1334 of title 28 of the United States Code. Venue of the Chapter 11 Case in this district is proper pursuant to sections 1408 and 1409 of title 28 of the United States Code. Confirmation of the Plan is a core proceeding pursuant to section 157(b)(2)(L) of title 28 of the United States Code, and the Bankruptcy Court has exclusive jurisdiction to determine whether the Plan complies with applicable provisions of the Bankruptcy Code and should be confirmed.

B. Commencement and Administration of the Chapter 11 Case. On the Petition Date, Debtor commenced a case under chapter 11 of the Bankruptcy Code in the Bankruptcy Court. Debtor has operated and managed its business as debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case.

C. Judicial Notice. The Bankruptcy Court takes judicial notice of the docket of the Chapter 11 Case maintained by the Clerk of the Court, including, without limitation, all pleadings and other documents filed and orders entered thereon. The Bankruptcy Court also takes judicial notice of all evidence proffered or adduced and all arguments made at the hearings held before the Bankruptcy Court during the pendency of the Chapter 11 Case.

D. Burden of Proof. Debtor has the burden of proving the elements of section 1129 of the Bankruptcy Code by a preponderance of the evidence, and it has met that burden, as further found and determined herein.

E. Notice; Transmittal and Mailing of Materials.

(1) Debtor provided to all known Claimholders and Interestholders due, adequate and sufficient notice of the Disclosure Statement, the Plan and the Confirmation Hearings, along with the deadlines for voting on and filing objections to the Plan, substantially in accordance with the procedures set forth in the Approval Order, and no other or further notice is or shall be required;

(2) Debtor transmitted and served the Disclosure Statement, Plan, Ballots and Approval Order in compliance with the Approval Order and the Bankruptcy Rules, and such transmittal and services were adequate and sufficient and no further notice is or shall be required. All procedures used to distribute the solicitation packages to the Voting Classes were fair and were conducted in accordance with the Approval Order, the Bankruptcy Code and the Bankruptcy Rules and all other applicable rules, laws and regulations;

(3) Debtor provided adequate and sufficient notice of the Confirmation Hearings and other dates described in the Approval Order and the Plan, all in compliance with

the Bankruptcy Rules and the Approval Order, and no other or further notice is or shall be required; and

(4) The filing with the Bankruptcy Court and service of the version of the Plan attached as Appendix A to the Disclosure Statement and the disclosure of any further modifications to the Plan on the record at the Confirmation Hearings constitute due and sufficient notice of the Plan and all modifications thereto.

F. Voting. Debtor solicited votes on the Plan after the disclosure of "adequate information" as defined in section 1125 of the Bankruptcy Code. As evidenced by the Ballot Report, votes to accept the Plan have been solicited and tabulated fairly, in good faith and in a manner consistent with the Approval Order, the Bankruptcy Code and the Bankruptcy Rules.

G. Plan Modifications (11 U.S.C. § 1127). Subsequent to solicitation of the Plan, Debtor made certain modifications to the Plan (the "Plan Modifications"). Each of the Plan Modifications is reflected in the version of the Plan attached hereto as Exhibit A. Except as provided for by law, contract or prior order of the Bankruptcy Court, none of the modifications made since the commencement of solicitation of the Plan adversely affects the treatment of any Claim or Interest under the Plan, except as to Class 5b (Hartley Trust Unsecured Claim), who in fact voted to accept such modifications. The only modifications to the Plan that were not the subject of a vote to accept or reject the Plan by the relevant creditor is the deletion of payments to Class 5a Creditors prior to May 31, 2013. The possibility of this modification was noted at the hearing on the Disclosure Statement, was noted in the Disclosure Statement itself as approved by this Court, and was the subject of negotiation with the Unsecured Creditors' Committee as the statutory representative of the Class 5a Creditors, and the members of the Unsecured Creditors' Committee constituted more than 50% in number and more than 67% in amount of all Class 5a

Creditors who voted on the Plan. Accordingly, pursuant to section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019, none of these modifications require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that Claimholders or Interestholders be afforded an opportunity to change previously cast acceptances or rejections of the Plan. The Plan as modified shall constitute the Plan submitted for confirmation to the Bankruptcy Court.

H. Notice of Plan Modifications. The filing with the Bankruptcy Court of the Plan as modified by the Plan Modifications and the disclosure of the Plan Modifications on the record at the Confirmation Hearings constitute due and sufficient notice thereof.

I. Deemed Acceptance of Plan as Modified. In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Claimholders who voted to accept the Plan or who are conclusively presumed to have accepted the Plan are deemed to have accepted the Plan as modified by the Plan Modifications. No Claimholder or Interestholder shall be permitted to change its vote as a consequence of the Plan Modifications.

J. Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)). The Plan complies with the applicable provisions of the Bankruptcy Code. Accordingly, the Plan satisfies section 1129(a)(1) of the Bankruptcy Code.

K. Proper Classification (11 U.S.C. §§ 1122 and 1123(a)(1)). In addition to Administrative Claims and Priority Tax Claims that need not be classified, the Plan classifies nine (9) Classes of Claims and Interests. The Claims and Interests placed in each Class are substantially similar to other Claims or Interests, as the case may be, in each such Class. Valid business, factual and legal reasons exist for separately classifying the various Classes of Claims and Interests under the Plan, the classifications were not done for any improper purpose and such

Classes do not unfairly discriminate between or among Claimholders or Interestholders. Accordingly, the Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

L. Specify Classes of Claims that are Unimpaired (11 U.S.C. § 1123(a)(2)). Sections 4.1, 5.1, 5.4, 5.6 and 5.7 of the Plan specify the Classes of Claims against, and Interests in, Debtor that are Unimpaired. Thus, the Plan satisfies section 1123(a)(2) of the Bankruptcy Code.

M. Specified Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)). Sections 5.2, 5.3, and 5.5 of the Plan designate Class 5 (General Unsecured Claims and the Hartley Trust Unsecured Claim), Class 2 (Secured Claim of Peoples Bank), and Class 3 (Secured Claim of 6801 West 107th LLC) as Impaired, and Article V of the Plan specifies treatment of all of these Classes of Claims and Interests under the Plan. Accordingly, the Plan satisfies section 1123(a)(3) of the Bankruptcy Code.

N. No Discrimination (11 U.S.C. § 1123(a)(4)). The Plan provides for the same treatment by the Debtor for each Claim or Interest in each respective Class, unless the Claimholder or Interestholder has agreed to a less favorable treatment. Accordingly, the Plan satisfies section 1123(a)(4) of the Bankruptcy Code.

O. Implementation of Plan (11 U.S.C. § 1123(a)(5)). The Plan and the various documents and agreements set forth and described in the Plan provide adequate and proper means for the Plan's implementation. Accordingly, the Plan satisfies section 1123(a)(5) of the Bankruptcy Code.

P. Nonvoting Equity Securities (11 U.S.C. 1123(a)(6)). The requirements of section 1123(a)(6) of the Bankruptcy Code are inapplicable.

Q. Designation of Directors and Officers (11 U.S.C. § 1123(a)(7)). Sections 7.1 and 7.2 of the Plan contain provisions with respect to the manner of appointment of the director and

officers of the Reorganized Debtor that are consistent with the interests of Creditors, equity security holders and public policy in accordance with section 1123(a)(7) of the Bankruptcy Code. Accordingly, the Plan satisfies section 1123(a)(7) of the Bankruptcy Code.

R. Additional Plan Provisions (11 U.S.C. § 1123(b)(6)). The Plan's provisions are appropriate and consistent with the applicable provisions of the Bankruptcy Code. Accordingly, the Plan satisfies section 1123(b)(6) of the Bankruptcy Code.

S. Bankruptcy Rule 3016(a). The Plan reflects the date it was filed with the Bankruptcy Court and identifies the entities submitting it as Plan proponents. Accordingly, the Plan satisfies Bankruptcy Rule 3016(a).

T. Compliance with Bankruptcy Code (11 U.S.C. 1129(a)(2)). Debtor, as the proponent of the Plan, has complied with the applicable provisions of the Bankruptcy Code. Accordingly, the Plan satisfies section 1129(a)(2) of the Bankruptcy Code.

U. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). Debtor has proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. Debtor's good faith is evident from the facts and records of the Chapter 11 Case, the Disclosure Statement and the hearing thereon, the Horton Declaration, and the record of the Confirmation Hearings and other proceedings held in the Chapter 11 Case. The Plan was proposed with the legitimate and honest purpose of maximizing the value of the Estate and to effectuate a successful reorganization of Debtor.

V. Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)). Any payment made or to be made by Debtor for services or for costs and expenses in or in connection with the Chapter 11 Case, or in connection with the Plan and incident to the Chapter 11 Case, has

been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable. Accordingly, the Plan satisfies section 1129(a)(4) of the Bankruptcy Code.

W. Directors, Officers and Insiders (11 U.S.C. § 1129(a)(5)). Debtor has complied with section 1129(a)(5) of the Bankruptcy Code. The identity and affiliations of the persons proposed to serve as members of the Boards of Directors of Reorganized Debtor were disclosed in the Plan, and the appointment to, or continuance in, such positions of such persons is consistent with the interests of Claimholders and Interestholders, and with public policy.

X. No Rate Changes (11 U.S.C. § 1129(a)(6)). Section 1129(a)(6) of the Bankruptcy Code requires that any regulatory commission having jurisdiction over the rates charged by a reorganized debtor in the operation of its business approve any rate change provided for in a plan of reorganization. Debtor is not subject to, and the Plan does not provide for any changes in, any regulated rates. Accordingly, the Plan satisfies section 1129(a)(6) of the Bankruptcy Code.

Y. Best Interests of Creditors (11 U.S.C. § 1129(a)(7)). The Plan satisfies section 1129(a)(7) of the Bankruptcy Code. The Horton Declaration, the liquidation analysis set forth in Appendix 2 of the Disclosure Statement and other evidence proffered or adduced at the Confirmation Hearings: (1) are persuasive and credible; (2) have not been controverted by other evidence; and (3) establish that each holder of an Impaired Claim or Interest either has accepted the Plan or will receive or retain under the Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain if the Debtor was liquidated under chapter 7 of the Bankruptcy Code on such date.

Z. Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)). Classes 1, 4, 6 and 7 are each Classes of Unimpaired Claims or Interests that are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code.

AA. Treatment of Administrative, Priority Tax, Miscellaneous Priority and Miscellaneous Secured Claims (11 U.S.C. § 1129(a)(9)). The treatment of Administrative Claims pursuant to Section 2.1 of the Plan satisfies the requirements of section 1129(a)(9)(A) of the Bankruptcy Code. The treatment of Other Priority Claims pursuant to Section 2.2 of the Plan satisfies the requirements of section 1129(a)(9)(B) of the Bankruptcy Code. The treatment of Priority Tax Claims pursuant to Section 2.3 of the Plan satisfies the requirements of section 1129(a)(9)(C) and (D) of the Bankruptcy Code. Accordingly, the Plan satisfies the requirements of section 1129(a)(9) of the Bankruptcy Code.

BB. Acceptance by Impaired Classes (11 U.S.C. § 1129(a)(10)). Classes 2, 5a, and 5b are each Impaired Classes and have voted to accept the Plan, without including any acceptance of the Plan by any insider. As such, there is at least one Class of Claims against the Debtor that is Impaired under the Plan and has accepted the Plan, determined without including any acceptance of the Plan by any insider. Accordingly, the Plan satisfies the requirements of section 1129(a)(10) of the Bankruptcy Code.

CC. Feasibility (11 U.S.C. § 1129(a)(11)). The Horton Declaration and other evidence proffered or adduced at the Confirmation Hearings regarding feasibility: (1) is persuasive and credible; (2) has not been controverted by other evidence; and (3) establishes that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of Reorganized Debtor. Accordingly, the Plan satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code.

DD. Payment of Fees (11 U.S.C. 1129(a)(12)). As provided in Section 2.1 of the Plan, all fees payable pursuant to section 1930(a) of title 28 of the United States Code, as determined by the Bankruptcy Court, have been paid or shall be paid for each quarter on or prior to the

Effective Date, and Reorganized Debtor shall continue to pay such fees as they become due from and after the Effective Date through the closing of the Chapter 11 Case. Accordingly, the Plan satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code.

EE. Continuation of Retiree Benefits (11 U.S.C. § 1129(a)(13)). Section 1129(a)(13) of the Bankruptcy Code does not apply in the Chapter 11 Case because Debtor is not obligated to pay any retiree benefits subject thereto.

FF. Payment of Domestic Support Obligations (11 U.S.C. § 1129(a)(14)). Section 1129(a)(14) of the Bankruptcy Code does not apply in the Chapter 11 Case because Debtor is not required to pay any domestic support obligations subject thereto.

GG. Objection to the Plan of an Individual (11 U.S.C. § 1129(a)(15)). Section 1129(a)(15) of the Bankruptcy Code does not apply in the Chapter 11 Case because Debtor is not an individual.

HH. Transfers of Property (11 U.S.C. 1129(a)(16)). Section 1129(a)(16) of the Bankruptcy Code does not apply in the Chapter 11 Case because Debtor is a moneyed, business or commercial corporation.

II. No Unfair Discrimination; Fair and Equitable (11 U.S.C. § 1129(b)). Based upon the evidence proffered or adduced at the Confirmation Hearings, the Disclosure Statement and all other evidence before the Bankruptcy Court, the Plan does not discriminate unfairly and is fair and equitable with respect to Classes 2, 3, 5a, 5b and 8, as required by sections 1129(b)(1) and (2) of the Bankruptcy Code. Thus, the Plan may be confirmed even if there was a failure to satisfy section 1129(a)(8) of the Bankruptcy Code. Upon confirmation and the occurrence of the Effective Date, the Plan shall be binding upon the members of all Classes, including those of Classes 2, 3, 5a, 5b and 8.

JJ. The Plan Does Not Unfairly Discriminate Against Any Class. The Plan does not unfairly discriminate against any Class.

KK. The Plan is Fair and Equitable. The Plan is fair and equitable with respect to each Class in that (a) the Plan provides that each holder of a Claim of such class receive or retain on account of such Claim property of a value, as of the effective date of the Plan, equal to the Allowed Amount of such Claim, and (b) no Claimholder or Interestholder that is junior to the Claims in these Classes will receive or retain any property on account of such Claim or Interest. Therefore, the Plan satisfies section 1129(b)(2)(B) of the Bankruptcy Code.

LL. Only One Plan (11 U.S.C. 1129(c)). The Plan is the only plan of reorganization filed in the Chapter 11 Case. Accordingly, section 1129(c) of the Bankruptcy Code is inapplicable.

MM. Principal Purpose of the Plan (11 U.S.C. 1129(d)). The principal purpose of the Plan, as evidenced by its terms, is not the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933. Accordingly, section 1129(d) of the Bankruptcy Code is satisfied.

NN. Satisfaction of Confirmation Requirements. Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in the Bankruptcy Code and Bankruptcy Rules.

OO. Implementation. All documents and agreements necessary to implement the Plan, including, without limitation, those contained in the Plan, and all other relevant and necessary documents described in the Plan, have been negotiated in good faith, at arm's length, are in the best interests of Debtor and Reorganized Debtor, and shall, upon execution, be valid, binding and enforceable documents and agreements not in conflict with any federal or state law.

PP. Notice of Assumption and Rejection of Executory Contracts and Unexpired Leases. The filing of the Plan (including the Schedule of Rejected Contracts and any subsequent modification thereof) and the mailings and website publication of the Confirmation Hearing Notice and notice of the entry of this Confirmation Order constitute adequate notice of the assumption and rejection of executory contracts and unexpired leases pursuant to Article VIII of the Plan (both for contracts and leases that are listed in the Plan and for contracts and leases assumed by default). Therefore, no other or further notice is required.

QQ. Assumption or Rejection of Executory Contracts and Unexpired Leases. Debtor has exercised reasonable business judgment in determining whether to assume, assume and assign, or reject each executory contracts and unexpired leases as set forth in Article VIII of the Plan. Each assumption, or rejection of an executory contract or unexpired lease as provided in Article VIII of the Plan shall be legal, valid and binding upon Reorganized Debtor and any non-Debtor party to such executory contract or unexpired lease to the same extent as if such assumption or rejection had been effectuated pursuant to an appropriate separate authorizing order of the Bankruptcy Court entered before the Confirmation Date under section 365 of the Bankruptcy Code.

RR. Adequate Assurance. Debtor has cured or provided adequate assurance that Reorganized Debtor will cure defaults (if any) under or relating to each of the assumed executory contracts and unexpired leases that are being assumed by Debtor pursuant to the Plan.

SS. Transfers by Debtor; Vesting of Assets. All transfers of property of the Estate shall be free and clear of all liens, charges, Claims, encumbrances and other interests, except as expressly provided in the Plan or this Confirmation Order. Pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all Property of Debtor (excluding property that has been abandoned

pursuant to the Plan or an order of the Bankruptcy Court or that has been transferred under the terms of the Plan) shall vest in Reorganized Debtor under the Plan, as the case may be, free and clear of all liens, charges, Claims, encumbrances and other interests, except as expressly provided in the Plan, or this Confirmation Order. Such vesting does not constitute a voidable transfer under the Bankruptcy Code or applicable nonbankruptcy law.

TT. Conditions to Confirmation. The conditions to Confirmation set forth in Section 12.1 of the Plan: (1) have been satisfied or waived; or (2) will be satisfied by entry of this Confirmation Order.

UU. Conditions to Consummation. The conditions to the Effective Date are set forth in Section 12.2 of the Plan. Such conditions may be waived by Debtor and Reorganized Debtor with prior written consent of Peoples Bank, Hawthorn Bank, the holder of the Hartley Trust Unsecured Claim, and the Creditors' Committee, provided such consent shall not be unreasonably withheld.

VV. Retention of Jurisdiction. The Bankruptcy Court properly may retain jurisdiction over the matters set forth in Article XIII of the Plan.

WW. Releases and Discharges. The discharge, release, indemnification and exculpation provisions set forth in Article XI of the Plan constitute good faith compromises and settlements of the matters covered thereby. Such compromises and settlements are made in exchange for consideration, are in the best interests of the Debtor, the Estate, and Claimholders and Interestholders, are fair, equitable, reasonable, and are integral elements of the restructuring and resolution of the Chapter 11 Case in accordance with the Plan.

XX. Preservation of Causes of Action. It is in the best interests of Debtor, Reorganized Debtor, the Estate, and Claimholders and Interestholders that all Causes of Action (including

Avoidance Actions) that are not expressly released under the Plan be retained and preserved by Reorganized Debtor pursuant to Section 7.7 of the Plan to maximize the value of the Estate.

DECREES

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Confirmation. The Plan is approved and confirmed under section 1129 of the Bankruptcy Code.

2. Objections. For the reasons stated on the record at the Confirmation Hearings, all objections to the Plan or to Confirmation of the Plan that have not been withdrawn or deemed to be withdrawn at the Confirmation Hearings, waived or settled, and all reservations of rights pertaining to Confirmation of the Plan, are overruled on the merits.

3. Provisions of Plan and Order Nonseverable and Mutually Dependent. The provisions of the Plan and this Confirmation Order, including the findings of fact and conclusions of law set forth herein, are nonseverable and mutually dependent.

4. Solicitation and Notice. Notice of the Confirmation Hearings complied with the terms of the Approval Order, was appropriate and satisfactory based on the circumstances of the Chapter 11 Case, and complied with the provisions of the Bankruptcy Code and the Bankruptcy Rules. The solicitation of votes on the Plan complied with the solicitation procedures in the Approval Order, was appropriate and satisfactory based upon the circumstances of the Chapter 11 Case, and complied with the provisions of the Bankruptcy Code and the Bankruptcy Rules. Notice of the Plan and all related documents was appropriate and satisfactory based upon the circumstances of the Chapter 11 Case and complied with the provisions of the Plan, the Bankruptcy Code and the Bankruptcy Rules.

5. Plan Classifications Controlling. The classification of Claims and Interests for purposes of distributions made under the Plan shall be governed solely by the terms of the Plan. The classifications set forth on the Ballots tendered to or returned by Creditors in connection with voting on the Plan: (a) were set forth on the Ballots solely for purposes of voting to accept or reject the Plan; (b) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims under the Plan for distribution purposes, except if the Creditor elected Class 6 (Administrative Convenience Claims) treatment; and (c) shall not be binding on Debtor or Reorganized Debtor.

6. Effects of Confirmation; Immediate Effectiveness; Successors and Assigns. The stay provided by Bankruptcy Rule 3020(e) shall not apply to this Confirmation Order. Immediately upon occurrence of the Effective Date, this Confirmation Order and the terms of the Plan shall be deemed binding upon: (a) the Debtor; (b) the Reorganized Debtor; (c) all Claimholders and Interestholders, whether or not Impaired under the Plan and whether or not, if Impaired, such Claimholders or Interestholders accepted the Plan; (d) each Person acquiring property under the Plan; (e) any other party in interest in the Chapter 11 Case; (f) any Person making an appearance in the Chapter 11 Case; and (g) each of the foregoing's respective heirs, successors, assigns, agents, attorneys, affiliates and beneficiaries.

7. Continued Corporate Existence. Except as otherwise provided in the Plan or this Confirmation Order, Debtor shall, as Reorganized Debtor, continue to exist after the Effective Date as the same legal entity that commenced the Chapter 11 Case, with all of the powers of a corporation under the laws of its state of incorporation and without prejudice to any right to alter or terminate such existence (whether by merger or otherwise) under applicable state law.

8. Corporate Action. The entry of this Confirmation Order authorizes Debtor and Reorganized Debtor to take or to cause to be taken all corporate actions necessary or appropriate to consummate and implement the provisions of the Plan prior to, on and after the Effective Date, and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court. All such actions shall be deemed to have occurred and shall be in effect pursuant to applicable non-bankruptcy law and the Bankruptcy Code, without any requirement of further action by the stockholders or directors of Debtor or Reorganized Debtor. On the Effective Date, the appropriate officers and directors of Debtor and Reorganized Debtor are authorized and directed to execute and deliver the agreements, documents and instruments contemplated by the Plan in the name and on behalf of Debtor and Reorganized Debtor to effect the actions detailed herein.

9. Distributions Under the Plan. All distributions under the Plan shall be made in accordance with Article IX of the Plan.

10. Certain Class 5a Provisions. Debtor's payment obligations to Class 5a Claimholders, as detailed in section 5.5.1 of the Plan, have the status of and are deemed to be an unsecured note of Debtor to Class 5a Claimholders. Debtor's subsidiaries hereby absolutely and unconditionally guaranty Debtor's payment obligations to Class 5a Claimholders on an unsecured basis. This Order shall be sufficient and conclusive evidence of such guaranty without any further act or documentation and without regard to any federal, state, or local requirements or laws requiring notice, filing, or any other act to validate such guaranty.

11. Disputed Claims. The provisions of Article IX of the Plan, including, without limitation, the provisions governing procedures for resolving Disputed Claims, are fair and reasonable and are approved.

12. Approval of Assumption or Rejection of Executory Contracts. Entry of this Confirmation Order shall, subject only to the occurrence of the Effective Date, constitute the approval: (a) pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the assumption of executory contracts and unexpired leases assumed pursuant to Article VIII of the Plan; and (b) pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the rejection of executory contracts and unexpired leases listed on the Schedule of Rejected Contracts pursuant to Article VIII of the Plan.

13. Inclusiveness. Unless otherwise specified in the Plan or a notice sent to a given party, each executory contract and unexpired lease listed in the Plan, or assumed or rejected under or in accordance with the Plan, shall include any and all modifications, amendments, supplements, restatements and other agreements made directly or indirectly by any agreement, instrument or other document that in any manner affects such executory contract or unexpired lease, without regard to whether such agreement, instrument or other document is listed thereon or identified therein, provided that such agreement has not expired pursuant to its terms.

14. Assumption of Executory Contracts and Unexpired Leases. The executory contract and unexpired lease provisions of Section 8.1 of the Plan are approved. All executory contracts and unexpired leases that exist between the Debtor and any Person or Entity shall be deemed assumed by the Debtor as of the Effective Date, except any executory contract or unexpired lease that: (a) has expired or terminated pursuant to its own terms; (b) has previously been assumed, assumed and assigned, or rejected pursuant to an order of the Bankruptcy Court on or prior to the Confirmation Date, (c) is the subject of a pending motion to assume, assume and assign, or reject as of the Confirmation Date, or (d) is listed on the Schedule of Rejected Contracts in the Plan (collectively, the "Assumed Contracts and Leases"). Each of the Assumed

Contracts and Leases shall be assumed only to the extent that any such contract or lease constitutes an executory contract or unexpired lease. Assumption or rejection of an executory contract or unexpired lease under Article VIII of the Plan does not constitute an admission of Debtor or Reorganized Debtor that such contract or lease is an executory contract or unexpired lease or that Debtor or Reorganized Debtor has any liability thereunder. All executory contracts and unexpired leases assumed hereby or in the Chapter 11 Case shall be assumed under their present terms at the time of assumption or upon such terms as are agreed to in writing between Debtor and the counterparty to the executory contract or unexpired lease, and all of Debtor's and Reorganized Debtor's rights, claims and defenses under such leases and contracts are reserved and preserved.

15. Adequate Assurance for Counterparties to Executory Contracts Assumed under the Plan. Subject only to the occurrence of the Effective Date, all counterparties to all Assumed Contracts and Leases are deemed to have been provided with adequate assurance of future performance pursuant to section 365(f) of the Bankruptcy Code.

16. Cure of Defaults. In accordance with the Plan and the Projections attached to the Disclosure Statement, Reorganized Debtor shall pay to the nondebtor parties to Assumed Contracts and Leases the amounts necessary to cure such contracts and leases.

17. Notice of Cure of Defaults. The nondebtor parties to each of the contracts and leases assumed or assumed and assigned under the Plan were afforded good and sufficient notice of such assumption or assumption and assignment and were provided with an opportunity to object and to be heard with respect to any Cure, including the ability of Reorganized Debtor to provide adequate assurance of future performance and any other ground. Notwithstanding the foregoing, or anything else in the Plan, with respect to any executory contract or unexpired lease

which becomes the subject of an objection (on the basis of incorrect cure amount, lack of adequate assurance or any other ground), Reorganized Debtor shall retain the right, until five (5) Business Days after any order resolving such objection becomes a Final Order, to reject such executory contract or unexpired lease.

18. Rejection Claims and Bar Date. Claims arising out of the rejection of any executory contract or unexpired lease pursuant to Section 8.2 of the Plan must be filed with the Bankruptcy Court, **no later than thirty (30) calendar days** after the entry of an order rejecting such executory contract or unexpired lease, including, as applicable, this Confirmation Order (the "Rejection Claims Bar Date"). Any Claim not filed within such time period shall be forever barred and shall not be enforceable against Debtor, Reorganized Debtor or the Estate or properties. Reorganized Debtor shall have the exclusive right to object to any Claim arising out of the rejection of an executory contract or unexpired lease pursuant to Section 9.7 of the Plan.

19. Operation as of the Effective Date. As of the Effective Date, unless otherwise provided in the Plan or this Confirmation Order, Reorganized Debtor may operate its business and may use, acquire and dispose of property and settle and compromise Claims and Interests without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code.

20. Injunction. Except as otherwise expressly provided for in the Plan or this Confirmation Order and to the fullest extent authorized or provided by the Bankruptcy Code, including sections 524 and 1141 thereof, the entry of this Confirmation Order shall, provided that the Effective Date occurs, permanently enjoin all Persons that have held, currently hold or may hold a Claim or other debt or liability that is discharged or an Interest or other right of an equity

security holder that is Impaired or terminated pursuant to the terms of the Plan from taking any of the following actions against Debtor, Reorganized Debtor or its Property on account of any such discharged Claims, debts or liabilities or such terminated Interests or rights: (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind; (b) enforcing, levying, attaching, collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order; (c) creating, perfecting or enforcing in any manner, directly or indirectly, any lien or encumbrance of any kind; (d) asserting any setoff, offset, right of subrogation or recoupment of any kind, directly or indirectly, against any debt, liability or obligation due to Debtor or Reorganized Debtor; and (e) proceeding in any manner in any place whatsoever, including employing any process, that does not conform to or comply with or is inconsistent with the provisions of the Plan.

21. Released Claims. As of the Effective Date, this Confirmation Order shall constitute an injunction permanently enjoining any Person that has held, currently holds or may hold a Claim, demand, debt, right, Cause of Action or liability that is released pursuant to Section 11.4 and 11.5 of the Plan from enforcing or attempting to enforce any such Claim, demand, debt, right, Cause of Action or liability against (a) Debtor, (b) Reorganized Debtor, or (c) any Released Party, or any of their respective property, based on, arising from or relating to, in whole or in part, any act, omission, or other occurrence taking place on or prior to the Effective Date with respect to or in any way relating to the Chapter 11 Case, all of which claims, demands, debts, rights, Causes of Action or liabilities shall be deemed released on and as of the Effective Date; provided, however, that this injunction shall not apply to (a) any claims Creditors may assert under the Plan to enforce their rights thereunder to the extent permitted by the

Bankruptcy Code or (b) any claims Creditors or other third parties may have against each other, which claims are not related to Debtor and Reorganized Debtor, it being understood, however, that any defenses, offsets or counterclaims of any kind or nature whatsoever which the Debtor may have or assert in respect of any of the claims of the type described in (a) or (b) of this paragraph are fully preserved.

22. Discharge of Claims and Termination of Interests. To the fullest extent permitted by applicable law (including, without limitation, section 105 of the Bankruptcy Code), and except as otherwise provided in the Plan or in this Confirmation Order, all consideration distributed under the Plan shall be in exchange for, and in complete satisfaction, settlement, discharge and release of, all Claims of any nature whatsoever against the Debtor or any of its assets or property, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims. Upon the Effective Date, and except as expressly contemplated in the Plan, Debtor shall be deemed discharged and released under section 1141(d)(1)(A) of the Bankruptcy Code from any and all Claims, including, but not limited to, demands and liabilities that arose before the Effective Date, debts (as such term is defined in section 101(12) of the Bankruptcy Code), liens, security interests, and encumbrances of and against all property of the Estate, Debtor, or Reorganized Debtor that arose prior to the Effective Date, including, without limitation, all debts of the kind specified in sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not (i) such Claim has been Allowed pursuant to section 502 of the Bankruptcy Code, or (ii) the Holder of such Claim has voted to accept the Plan.

23. Discharge of Debtor. As of the Effective Date, all entities, including, without limitation, all Claimholders and Interests holders, shall be barred and enjoined from asserting

against Debtor or Reorganized Debtor, its successors or its property, any other or further Claims, debts, rights, Causes of Action, liabilities or Interests relating to Debtor based upon any act, omission, transaction or other activity of any nature that occurred prior to the Effective Date, except for those obligations expressly created by, or reserved in, the Plan. In accordance with the foregoing, except as provided in the Plan or this Confirmation Order, this Confirmation Order is a judicial determination of discharge of all such Claims and other debts and liabilities against Debtor, pursuant to sections 524 and 1141 of the Bankruptcy Code, and such discharge and termination shall void any judgment obtained against Debtor or Reorganized Debtor at any time, to the extent that such judgment relates to a discharged Claim or terminated Interest.

24. Term of Injunction or Stays. Unless otherwise provided herein or in the Plan, all injunctions or stays provided for in the Chapter 11 Case under sections 105(a) or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

25. Exculpation. Neither Debtor nor Reorganized Debtor shall have or incur any liability to any Person, including, without limitation, any Claimholders or Interestholders or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys or affiliates or any of their successors or assigns, for: (a) any act taken or omission made in connection with, relating to, or arising out of, the Chapter 11 Case; (b) filing, negotiating, prosecuting, administering, formulating, implementing, confirming or consummating the Plan; or (c) the Property to be distributed under the Plan, including all activities leading to the promulgation and confirmation of the Plan, the Disclosure Statement (including any information provided or statement made in the Disclosure Statement or omitted therefrom), or any contract, instrument, release or other agreement or document created in

connection with or related to the Plan or the administration of the Debtor or the Chapter 11 Case, provided, however, that the foregoing exculpation shall not apply to any act of fraud, gross negligence or willful misconduct.

26. Release by Debtor. As provided for in Sections 11.4 and 11.5 of the Plan, effective as of the Effective Date, and except as otherwise provided in the Plan or this Confirmation Order, for good and valuable consideration, the adequacy of which is hereby confirmed, Debtor and Reorganized Debtor, in its individual capacity and as debtor-in-possession, will be deemed to have forever released, waived and discharged the parties in Sections 11.4 and 11.5 of the Plan from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of Debtor or Reorganized Debtor to enforce the Plan and the contracts, instruments, releases, and other agreements or documents delivered thereunder), whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are based in whole or part on any act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for money borrowed by Debtor, taking place on or prior to the Effective Date in any way relating to Debtor, Reorganized Debtor, the Chapter 11 Case, or the Plan, and the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan (other than claims based on fraud, gross negligence or willful misconduct) arising on or prior to the Effective Date, that Debtor or Reorganized Debtor have, had or may have, provided, however, that no released party shall be released or discharged from any Claims, obligations, suits, judgments, debts or Causes of Action arising out of or in connection with indebtedness for

money borrowed by any such person from Debtor, provided, further, that such release provisions will not impact, modify or limit the ability of Debtor or Reorganized Debtor to take any defensive measure, including, without limitation, as to impleading any party into such matter, necessary to respond to any litigation, adversary proceeding or other proceeding that may be brought by any other party in interest to the Chapter 11 Case or in relation thereto, as necessary to fully and properly protect its interests.

27. The Hartley Release and Related Injunctive Relief. Pursuant to Section 11.5 of the Plan, on the Effective Date, the Hartley Released Parties shall be forever released of all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, Avoidance Actions, and Causes of Action relating in any way to the Hartley Trust Unsecured Claim, the Debtor, the Reorganized Debtor, or the Plan. From and after the Effective Date, the Debtor, Reorganized Debtor, Ronald J. Horton (both in his individual capacity and as Trustee of the Ronald J. Horton Revocable Trust under Agreement dated May 26, 2005), the Committee, and all Persons who hold Claims or Interests are permanently enjoined from (A) commencing, continuing, or prosecuting any judicial, administrative, or other action or proceeding, whether directly, indirectly, derivatively, or otherwise, to recover any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities that are the subject of the Hartley Release; (B) seeking to subordinate the Hartley Trust Unsecured Claims, except to the extent a portion of that Claim is expressly subordinated in the Plan; or (C) taking any action, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan against the Hartley Released Parties.

28. Indemnification. As provided for in Section 11.9 of the Plan, to the extent not inconsistent with the Plan or this Confirmation Order and to the fullest extent permitted by

applicable law, including, but not limited to, the extent provided in their constituent documents, contracts (including, but not limited to, employment agreements or indemnification agreements), statutory law or common law, Reorganized Debtor will indemnify, hold harmless and reimburse the Indemnitee from and against any and all losses, claims, Causes of Action, damages, fees, expenses, liabilities and actions (a) for any act taken or omission made in good faith in connection with or in any way related to negotiating, formulating, implementing, confirming or consummating the Plan, the Disclosure Statement, or any contract, instrument, release or other agreement or document created in connection with the Plan or the administration of the Chapter 11 Case or (b) for any act or omission in connection with or arising out of the administration of the Plan or the property to be distributed under the Plan or the operations or activities of Reorganized Debtor, and any Claims of any such Indemnitee against Debtor or Reorganized Debtor on account of such indemnification obligations shall be unaltered and Unimpaired within the meaning of section 1124(1) of the Bankruptcy Code, except that neither Debtor nor Reorganized Debtor shall have any obligation to indemnify any Indemnitee for any acts or omissions that constitute fraud, gross negligence or willful misconduct, as each of such is finally determined by a court of competent jurisdiction. Such indemnification obligations shall survive unaffected by entry of this Confirmation Order, irrespective of whether such indemnification is owed for an act or event occurring before or after the Petition Date.

29. Releases by Claimholders and Interestholders. Effective as of the Effective Date, and except as otherwise provided in the Plan or this Confirmation Order, in consideration for the obligations of Debtor or Reorganized Debtor under the Plan and the payments, contracts, instruments, releases, agreements or documents to be delivered in connection with the Plan, each Claimholder or Interestholder and any Affiliate of any such Claimholder or Interestholder (as

well as any trustee or agent on behalf of each such Claimholder or Interestholder) that either affirmatively voted in favor of the Plan or is deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, shall be deemed to have forever waived, released and discharged Debtor, Reorganized Debtor, and each of their respective present or former directors, affiliates, officers, employees, attorneys, accountants, underwriters, investment bankers, professionals, financial advisors and agents (acting in such capacity), from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities, whether for tort, contract, violations of federal or state securities laws or otherwise, or whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are based in whole or part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to Debtor or the Plan that such entity has, had or may have against such released parties (excluding claims based on fraud, gross negligence or willful misconduct); provided, however, that the foregoing provision will not impact, modify or limit the ability of any such party to take any defensive measure, including, without limitation, as to impleading any party into such matter, necessary to respond to any litigation, adversary proceeding or other proceeding that may be brought by any other party in interest to the bankruptcy proceeding or in relation thereto, as necessary to fully and properly protect its interests.

30. Preservation of Insurance. Except as necessary to be consistent with the Plan, the Plan and the discharge provided therein shall not diminish or impair: (a) the enforceability of insurance policies that may cover Claims against Debtor or any other Person or Entity; or (b) the continuation of workers' compensation programs in effect, including self-insurance programs.

No provider of insurance to Debtor may use (i) any order of the Bankruptcy Court establishing a bar date for filing or otherwise presenting a Claim or a proof of claim or (ii) the failure of any party to file or assert a Claim or a proof of claim in the Chapter 11 Case as a defense to providing insurance coverage to or on account of any such Claim.

31. Preservation of Causes of Action. Except to the extent that any Claim is Allowed during the Chapter 11 Case or expressly by the Plan, nothing, including but not limited to the failure of Debtor or Reorganized Debtor to object to a Claim or Interest for any reason during the pendency of the Chapter 11 Case, shall affect, prejudice, diminish or impair the rights and legal and equitable defenses of Debtor or Reorganized Debtor with respect to any Claim or Interest, including but not limited to all rights of Debtor or Reorganized Debtor to contest or defend themselves against such Claims or Interests in any lawful manner or forum when and if such Claim or Interest is sought to be enforced by the holder thereof.

32. Rights of Action. Except as otherwise provided in the Plan, all Causes of Action, including Avoidance Actions, shall automatically be retained and preserved and will revert in the Reorganized Debtor. Pursuant to section 1123(b)(3) of the Bankruptcy Code, Reorganized Debtor (as representatives of the Estate) will retain and have the exclusive right to enforce and prosecute such Causes of Action against any entity that arose before the Effective Date, other than those expressly released or compromised as part of or pursuant to the Plan.

33. Retention of Jurisdiction. Pursuant to sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of this Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction as provided in Article XIII of the Plan over all matters arising out of, arising in or related to, the Chapter 11 Case and the Plan.

34. Enforceability of Plan Documents. Pursuant to sections 1123(a) and 1142(a) of the Bankruptcy Code and the provisions of this Confirmation Order, the Plan, and, subject to their execution, all Plan-related documents, shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

35. Section 1146 Exemption. To the fullest extent permitted under section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any security under the Plan, if any, or the execution, delivery or recording of an instrument of transfer under the Plan, or the revesting, transfer or sale of any real or other Property of or to Debtor or Reorganized Debtor, shall not be taxed under any state or local law imposing a stamp tax, transfer tax or similar tax or fee. Each recorder of deeds or similar official for any county, city or governmental unit in which any instrument hereunder is to be recorded is ordered and directed to accept such instrument without requiring the payment of any documentary stamp tax, deed stamps, stamp tax, transfer tax, mortgage recording tax, intangible tax or similar tax.

36. Authorization to Modify Plan. Without need for further order or authorization of the Bankruptcy Court, Debtor or Reorganized Debtor is authorized and empowered to make any and all modifications to any and all documents or otherwise contemplated by the Plan that are consistent with the Plan and the Bankruptcy Code.

37. Effectiveness of All Actions. All actions authorized to be taken pursuant to the Plan shall be effective on, prior to, or after the Effective Date pursuant to this Confirmation Order, without further application to or order of the Bankruptcy Court, or further action by the respective officers, directors or stockholders of Reorganized Debtor, and with the effect that such actions had been taken by unanimous action of such officers, directors or stockholders.

38. Approval of Consents. This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules and regulations of all states and any other governmental authority with respect to the implementation or consummation of the Plan and any documents, instruments, or agreements, and any amendments or modifications thereto, and any other acts and transactions referred to in or contemplated by the Plan, the Disclosure Statement, and any related documents, instruments or agreements, and any amendments or modifications thereto.

39. Administrative Claims Bar Date. All requests for payment of an Administrative Claim (other than those of Professionals and those arising out of section 503(b)(9) of the Bankruptcy Code) must be filed with the Bankruptcy Court, and served on counsel for the Debtor **no later than thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date"). Any request for payment of an Administrative Claim pursuant to this paragraph that is not timely filed and served shall be disallowed automatically without need for any objection by the Debtor or the Reorganized Debtor. The Debtor or the Reorganized Debtor may settle an Administrative Claim without further Bankruptcy Court approval. Notwithstanding the foregoing, no request for payment of an Administrative Claim need be filed with respect to an Administrative Claim which is paid or payable in the ordinary course of business.

40. Payment of Professionals. Upon occurrence of the Effective Date, any requirement that Professionals comply with sections 327 through 331 of the Bankruptcy Code in seeking retention or compensation for services rendered after the Effective Date shall terminate, and the Debtor and Reorganized Debtor may employ and pay all Professionals in the ordinary course of business without any further notice to, action by, or order or approval of the Bankruptcy Court or any other party.

41. Bar Date for Professionals. Applications for compensation for services rendered and reimbursement of expenses incurred by Professionals (a) from the Petition Date through the Effective Date, or (b) at any time during the Chapter 11 Case, when such compensation is sought pursuant to sections 503(b)(2) through (b)(5) of the Bankruptcy Code, shall be filed **no later than thirty (30) days after the Effective Date** (the "Professionals' Claims Bar Date"). Applications that are not timely filed will not be considered by the Bankruptcy Court.

42. Dissolution of Committee. On the Effective Date, the Committee shall be automatically dissolved and all of its members, Professionals and agents shall be deemed released of their duties, responsibilities and obligations, and shall be without further duties, responsibilities and authority in connection with the Debtor, the Chapter 11 Case, the Plan or its implementation.

43. Binding Effect. The provisions of the Plan shall be binding upon and inure to the benefit of Debtor, the Estate, Reorganized Debtor, any Claimholder or Interestholder treated therein or any Person named or referred to in the Plan, and each of their respective heirs, executors, administrators, representatives, predecessors, successors, assigns, agents, officers and directors, and, to the fullest extent permitted under the Bankruptcy Code and other applicable law, each other Person affected by the Plan.

44. Governing Law. Except to the extent that the Bankruptcy Code or Bankruptcy Rules or other federal laws are applicable, and subject to the provisions of any contract, instrument, release or other agreement or document entered into in connection with the Plan, the construction, implementation and enforcement of the Plan and all rights and obligations arising under the Plan shall be governed by, and enforced in accordance with, the laws of the State of

Kansas, without giving effect to conflicts of law principles which would apply the law of a jurisdiction other than the State of Kansas.

45. Notice of Entry of Confirmation Order and Effective Date. Pursuant to Bankruptcy Rules 2002(f)(7), 2002(k) and 3020(c), Reorganized Debtor shall file and serve notice of entry of this Confirmation Order and occurrence of the Effective Date (the "Notice of Confirmation") on all Claimholders and Interestholders, the United States Trustee for the District of Kansas and other parties in interest by causing the Notice of Confirmation to be delivered to such parties by first-class mail, postage prepaid, within ten business days after the Effective Date. The Notice of Confirmation shall also be posted on the Debtor's case website at www.bmcgroup.com/dickinsontheatres. Such notice is adequate under the particular circumstances and no other or further notice is necessary. The Notice of Confirmation also shall serve as the notice of the Administrative Claims Bar Date, the Rejection Claims Bar Date, and the Professionals Claims Bar Date and as the notice of the Effective Date.

46. Substantial Consummation. Upon the occurrence of the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

47. References to Plan Provisions. The failure to include or specifically describe or reference any particular provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Bankruptcy Court that the Plan be approved and confirmed in its entirety.

48. Spirit Master Lease and Promissory Note. Notwithstanding anything to the contrary in the Plan or this Confirmation Order (including any provisions relating to releases, lease rejections and jurisdiction), as of the Effective Date, the rights of Spirit Master Funding,

LLC ("Spirit") and Spirit Master Funding IV, LLC ("Spirit IV") with respect to Reorganized Debtor shall be as follows (i) that certain Promissory Note dated as of April 11, 2012 executed by Debtor in the original principal amount of \$500,000 (the "Note") shall be deemed to have been reaffirmed and shall not in any way be impaired (as that term is used in section 1124 of the Bankruptcy Code) so that Spirit IV shall have all rights and remedies provided therein with respect to Reorganized Debtor without further resort to the Bankruptcy Court, and (ii) that certain Amended and Restated Master Lease Agreement dated as of August 1, 2009 between Spirit and Debtor (as amended, the "Master Lease") shall be fully assumed pursuant to section 365 of the Bankruptcy Code in accordance with a Second Amendment to Amended and Restated Master Lease Agreement (the "Second Amendment"), in form and substance acceptable to Spirit, the execution and delivery of which shall be a condition precedent to the occurrence of the Effective Date, so that Spirit shall have all rights thereunder with respect to the Reorganized Debtor without further resort to the Bankruptcy Court. Pursuant to the Bankruptcy Court's Memorandum Opinion and Judgment Denying Debtor's Motion for Order Rejecting, in Part, the Amended and Restated Master Lease Agreement with Spirit Master Funding, LLC dated October 12, 2012 (the "Rejection Order"), the Bankruptcy Court determined that the Master Lease is not subject to partial rejection; by executing the Second Amendment, the Debtor, on behalf of itself and any successor or assignee, shall be deemed to have waived any right to challenge such determination in the Chapter 11 Case or in any future bankruptcy proceeding. Reorganized Debtor shall, within ten days after the Effective Date, take all steps necessary to dismiss with prejudice its pending appeal of the Rejection Order. Notwithstanding the Debtor's preservation of certain causes of action under the Plan, as of the Effective Date, the Debtor shall be deemed to have released any claims or causes of action against Spirit or Spirit IV. Notwithstanding any

provision of the Plan or this Confirmation Order, no payments shall be made to Class 5 creditors until all of Spirit's legal fees and expenses have been reimbursed in accordance with section 5 of the Second Amendment.

49. Findings of Fact. The determinations, findings, judgments, decrees and orders set forth and incorporated herein constitute the Bankruptcy Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. Each finding of fact set forth or incorporated herein, to the extent it is or may be deemed a conclusion of law, shall also constitute a conclusion of law. Each conclusion of law set forth or incorporated herein, to the extent it is or may be deemed a finding of fact, shall also constitute a finding of fact.

50. Conflicts Between Confirmation Order and Plan. The provisions of the Plan and of this Confirmation Order shall be construed in a manner consistent with each other so as to effect the purposes of each; provided, however, that if there is determined to be any inconsistency between any Plan provision and any provision of this Confirmation Order that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of this Confirmation Order shall govern and any such provision of this Confirmation Order shall be deemed a modification of the Plan and shall control and take precedence.

51. Final Order. This Confirmation Order is a final order and the period in which an appeal must be filed shall commence upon the entry hereof.

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Order prepared by:

STINSON MORRISON HECKER LLP

s/Sharon L. Stolte

Sharon L. Stolte, KS #14302

Paul M. Hoffmann, KS Fed. Bar No. 70170

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*Reorganization Counsel for
the Debtor and Debtor-in-Possession*

Exhibit A

United States Bankruptcy Court
District of Kansas

In re:
Dickinson Theatres, Inc.
Debtor

Case No. 12-22602-DLS
Chapter 11

CERTIFICATE OF NOTICE

District/off: 1083-2

User: knicole
Form ID: pdf020

Page 1 of 2
Total Noticed: 1

Date Rcvd: Dec 28, 2012

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Dec 30, 2012.

db +Dickinson Theatres, Inc., 6801 W 107th Street, Overland Park, KS 66212-1825

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE. TOTAL: 0

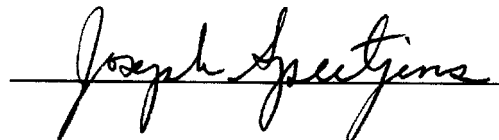
Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Dec 30, 2012

Signature:



The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on December 28, 2012 at the address(es) listed below:

Alicia C Davis on behalf of Creditor Spirit Master Funding LLC alicia.davis@lw.com
Andrew F Whatnall on behalf of Creditor Debt Acquisition Co of America V, LLC
awhatnall@daca4.com
Benjamin Blaustein on behalf of Creditor Committee Unsecured Creditors Committee
bblaustein@kelleydrye.com
Brian M Holland on behalf of Creditor Little Rock Development Company, LLC
bholland@lathropgage.com, stimper@lathropgage.com;mdscott@lathropgage.com
Brian T. Fenimore on behalf of Creditor John W. Hartley, Jr. bfenimore@lathropgage.com,
stimper@lathropgage.com;mdscott@lathropgage.com
Bruce E. Strauss on behalf of Creditor First Community Bank bruce@merrickbakerstrauss.com,
bestrauss@mbslaw.psemail.com
Carl R. Clark on behalf of Interested Party Ron Horton Revocable Trust lclaw@lclaw.com,
docket@docket2-lcecf.com;cclark@lclaw.com
Cynthia F Grimes on behalf of Creditor Committee Unsecured Creditors Committee
grimreb@gmail.com, cafrogley@aol.com
Douglas Bacon on behalf of Creditor Spirit Master Funding LLC douglas.bacon@lw.com
Eric R Wilson on behalf of Creditor Committee Unsecured Creditors Committee
ewilson@kelleydrye.com
Jennifer D Raviele on behalf of Creditor Committee Unsecured Creditors Committee
jraiviele@kelleydrye.com
Joseph A DiPietro on behalf of U.S. Trustee U.S. Trustee joseph.a.dipietro@usdoj.gov
Joyce Owen on behalf of U.S. Trustee U.S. Trustee joyce.owen@usdoj.gov,
ustpregion20.wi.ecf@usdoj.gov
Lisa R. Wetzler on behalf of Creditor Board of County Commissioners of Johnson County Kansas
Lisa.Wetzler@jocogov.org
Lori Lewis on behalf of Creditor Maricopa County Treasurer lewisl01@mcao.maricopa.gov
Michael D. Fielding on behalf of Creditor Hawthorn Bank michael.fielding@huschblackwell.com,
karen.shackelford@huschblackwell.com;Tricie.Loudon@huschblackwell.com;susan.williams@huschblackwe
ll.com
Paul M. Hoffmann on behalf of Debtor Dickinson Theatres, Inc. phoffmann@stinson.com
Robert D. Maher on behalf of Creditor Hartley's Executive Cleaners, Inc.
rmaher@mcdowellrice.com, jcummings@mcdowellrice.com
Ronald M Tucker on behalf of Creditor Simon Property Group, Inc. rtucker@simon.com,
cmartin@simon.com;psummers@simon.com;Bankruptcy@simon.com
Scott B Haines on behalf of Creditor Arrowhead Mall 2005, LLC sbhaines@martinpringle-kc.com
Scott M. Brinkman on behalf of Creditor Spirit Master Funding LLC sbrinkman@bscr-law.com
Sharon L. Stolte on behalf of Debtor Dickinson Theatres, Inc. sstolte@stinson.com
Steven J Woolley on behalf of Creditor Ballantyne Strong, Inc. stevewoolley@mgwl.com
Susan L Lissant on behalf of Creditor Missouri Department of Revenue ks@dor.mo.gov
Susan P DeCoursey on behalf of Creditor Marks Nelson Vohland Campbell Radetic, LLC
sdecoursey@cmplaw.net, gpappas@cmplaw.net;jdavis@cmplaw.net
Thomas M. Mullinix on behalf of Creditor Jack Waters TMM@evans-mullinix.com,
jeff@evans-mullinix.com;denise@evans-mullinix.com
Timothy M Swanson on behalf of Debtor Dickinson Theatres, Inc. tswanson@stinson.com
U.S. Trustee ustpregion20.wi.ecf@usdoj.gov
W. Rick Griffin on behalf of Creditor NR 14 LLC wrgriffin@martinpringle.com,
mmcortez@martinpringle.com;angoupil@martinpringle.com;wedwards@martinpringle.com
Wesley F. Smith on behalf of Creditor Peoples Bank wsmith@stevensbrand.com,
jackerman@stevensbrand.com;sdatumtate@stevensbrand.com;mcarroll@stevensbrand.com

TOTAL: 30