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8
9 UNITED STATES BANKRUPTCY COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
11 NORTHERN DIVISION

12 In re

13 HARRINGTON WEST FINANCIAL
14 GROUP, INC.,

15 Debtor.
16
17

Bk. No. 9:10-bk-14677-RR

Chapter 11

**DISCLOSURE STATEMENT IN
SUPPORT OF THE DEBTOR'S PLAN OF
LIQUIDATION**

Confirmation Hearing

Date: [TO BE SET]

Time: [TO BE SET]

Place: Courtroom 201
1415 State Street
Santa Barbara, CA 93101-2511

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PLAN OVERVIEW

The Plan¹ provides for the disposition of all Assets of the Debtor's Estate through the establishment of a Liquidating Trust for the benefit of the Holders of Allowed Claims consistent with the priority provisions of the Bankruptcy Code and the Plan. Assets, to the extent not converted to Cash or other proceeds as of the Effective Date, will be sold or otherwise disposed of by the Liquidating Trustee after the Effective Date, with all net Available Cash proceeds to be distributed to Holders of Allowed Claims, as provided for in the Plan.

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¹ Capitalized terms used in this Disclosure Statement shall, unless otherwise indicated, bear the meaning ascribed to them in the Plan of Liquidation, attached as Exhibit "A" ("Plan").

Plan Summary				
Class	Treatment	Property Distributed	Recovery (approx.)	Voting Status
<p>Class 1: Other Priority Claims. Class 1 will include any Allowed Claim of the Federal Deposit Insurance Corporation to the extent deemed to be a priority claim pursuant to 11 U.S.C. § 507(a)(9) and/or other applicable authority. <i>See</i> FDIC Proof of Claim, <u>Exhibit "G"</u> hereto.</p> <p>The FDIC claim presently is unliquidated. To the extent that it becomes an Allowed Class 1 Claim it will reduce, and (if large enough) may eliminate, the amounts available for distribution to unsecured creditors in Class 3.</p> <p>The Debtor disputes the FDIC's claim and reserves all rights with respect thereto.</p>	Payment in Cash in full in accordance with the priorities set forth in section 507(a) of the Bankruptcy Code.	Cash	100% of Allowed Claim	Unimpaired - not entitled to vote (deemed to accept)
Class 2: Secured Claims	Retention of all legal, equitable and contractual rights	Cash and/or Property	100% of Allowed Secured Claim	Unimpaired - not entitled to vote (deemed to accept)
Class 3: General Unsecured Claims	Pro Rata distribution of Available Cash in the Liquidating Trust	Cash		Impaired - entitled to vote

Plan Summary				
Class	Treatment	Property Distributed	Recovery (approx.)	Voting Status
Class 4: Indenture Trustee Claims	Each Holder of an Allowed Class 4 Claim shall be allocated a Pro Rata share of each Distribution available to Holders of Allowed Class 3 Claims; <u>provided, however,</u> that the amount of distributions to Holders of Allowed Class 4 Claims shall first be paid on account of unpaid Indenture Trustee Fees accrued prior to the Petition Date, in an estimated amount of \$595.	Cash		Impaired - entitled to vote
Class 5: HWFG Preferred Stock Interests	Receives no distribution under the Plan unless and until Class 4 is paid in full; cancelled pursuant to the Plan	N/A	N/A	Impaired – not entitled to vote (deemed to reject)
Class 6: HWFG Common Stock Interests	Receives no distribution under the Plan unless and until Class 5 is paid in full; cancelled pursuant to the Plan	N/A	N/A	Impaired – not entitled to vote (deemed to reject)

Note Regarding Distributions:

Distributions to holders of Administrative Expenses and Priority Tax Claims and Holders of Claims in Classes 1 and 2 are anticipated to be made on the later of: (i) the Effective Date, or as soon as practicable thereafter; and (ii) as soon as practicable after the date the Claim becomes an Allowed Claim. On March 9, 2011, the Federal Deposit Insurance Corporation (“FDIC”), in its capacity as receiver for Los Padres Bank, FSB, filed its Proof of Claim in the Debtor’s Chapter 11 Case (the “FDIC POC”). As filed, the FDIC POC is for an unliquidated amount and alleges both

1 unsecured and priority claims pursuant to 11 U.S.C. § 507(a)(9) and/or other applicable authority.

2 A copy of the FDIC POC is attached hereto as Exhibit "G".

3 TO THE EXTENT THAT THE FDIC POC BECOMES AN ALLOWED CLAIM
4 ENTITLED TO PRIORITY TREATMENT, IT WILL BE CLASSIFIED AS A CLASS 1 CLAIM.
5 DISTRIBUTIONS MADE ON ACCOUNT OF ANY ALLOWED CLASS 1 CLAIM OF THE
6 FDIC SHALL BE IN ACCORDANCE WITH THE PRIORITY OF SUCH ALLOWED CLAIM
7 UNDER 11 U.S.C. § 507(a)(9) AND/OR OTHER APPLICABLE LAW. ANY SUCH
8 ALLOWED CLASS 1 CLAIM OF THE FDIC WILL REDUCE, AND MAY COMPLETELY
9 ELIMINATE, THE AMOUNTS AVAILABLE FOR DISTRIBUTION TO GENERAL
10 UNSECURED CREDITORS OF THE DEBTOR. THE DEBTOR DISPUTES THE FDIC'S
11 CLAIM. THE RIGHTS OF THE DEBTOR AND THE LIQUIDATING TRUSTEE, ON BEHALF
12 OF THE LIQUIDATING TRUST, WITH RESPECT TO THE FDIC'S CLAIM ARE, IN ALL
13 RESPECTS AND IN THEIR ENTIRETY, EXPRESSLY RESERVED.

14 Distributions to Holders of Allowed Class 3 Claims and Allowed Class 4 Claims will be
15 conducted as soon as practicable after the Effective Date in the discretion of the Liquidating
16 Trustee, provided, however, that distributions could be delayed by reason of: (a) claims filed after
17 the Effective Date (including claims arising from rejection of executory contracts and unexpired
18 leases); (b) Disputed Claims (including Disputed Claims that are not liquidated); and (c) the
19 Liquidating Trustee's evaluation of the Available Cash.

20 **I. INTRODUCTION**

21 HWFG filed a voluntary petition for relief (the "Petition") under Chapter 11 of Title 11 of
22 the United States Code, 11 U.S.C. § 101, *et seq.* (the "Bankruptcy Code"), on September 10, 2010
23 (the "Petition Date"), thereby commencing the above-captioned Chapter 11 Case. HWFG has
24 operated as a debtor in possession since the Petition Date pursuant to sections 1107 and 1108 of the
25 Bankruptcy Code. No trustee, examiner, or Official Committee of Creditors Holding Unsecured
26 Claims has been appointed in the Chapter 11 Case. The Debtor filed its Plan on March 24, 2011
27 (Docket No. 51). The Plan envisions a liquidation of all HWFG's remaining non-Cash Assets
28 pursuant to the provisions of the Bankruptcy Code and in accordance with the terms of the Plan.

A. 11 U.S.C. § 1125.

This *Disclosure Statement in Support of the Debtor's Plan of Liquidation* (as the same may be modified, amended, or supplemented, the "Disclosure Statement") is submitted pursuant to section 1125 of the Bankruptcy Code to holders of impaired Claims in connection with the proceedings seeking confirmation of the Plan. A copy of the Plan is attached hereto as Exhibit A". This Disclosure Statement sets forth information regarding, among other things, the history of HWFG and its business, the filing of the Petition and the Plan, and alternatives thereto. Its purpose is to provide the holders of impaired Claims adequate information to assist them in making an informed decision regarding acceptance or rejection of the Plan. Each holder of an impaired Claim should read this Disclosure Statement (including its exhibits) and the Plan (including its exhibits) in their entirety and consider them with such holder's legal and financial advisors in connection with the proceedings seeking confirmation of the Plan. No person has been authorized by HWFG to utilize, for purposes of solicitation, any information concerning HWFG or its business, other than the information contained or referred to herein.

B. Voting Class.

Pursuant to the Bankruptcy Code, each holder of an Allowed Class 3 Claim and Allowed Class 4 Claim (the "Voting Classes"), is entitled to vote on the Plan. Holders of Allowed Claims in Classes 1 and 2 are presumed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code because their Claims are not impaired under the Plan. Holders of Equity Interests in Classes 5 and 6 are presumed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code because they will not receive a distribution under the Plan. For a description of the Classes of Claims and Equity Interests and their treatment under the Plan, see Section II of the Plan entitled "*Classification and Treatment of Claims and Equity Interests.*"

Except as described below, the Plan may be confirmed only if accepted by the Voting Classes. The Bankruptcy Code defines "acceptance" with respect to a class of impaired Claims, as acceptance by Holders of at least two-thirds in dollar amount and more than one-half in number of the Allowed Claims in such class counting only those Holders who cast ballots.

1 **THE DEBTOR BELIEVES THAT THE PLAN PROVIDES THE BEST FEASIBLE**
2 **RECOVERIES TO THE HOLDERS OF CLASS 3 CLAIMS AND CLASS 4 CLAIMS AND**
3 **THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF SUCH**
4 **HOLDERS. THE DEBTOR THEREFORE RECOMMENDS THAT HOLDERS OF CLASS**
5 **3 CLAIMS AND CLASS 4 CLAIMS VOTE TO ACCEPT THE PLAN.**

6 The Debtor anticipates that Holders of Class 3 Claims and Class 4 Claims will vote to
7 accept the Plan. The Debtor reserves the right to modify the Plan in accordance with section
8 1127(a) of the Bankruptcy Code.

9 For a more detailed description of the requirements for acceptance of the Plan and of the
10 criteria for confirmation notwithstanding rejection by certain classes, see Section VI of this
11 Disclosure Statement entitled "*Confirmation Procedure*."

12 **C. Additional Information.**

13 Attached as exhibits to this Disclosure Statement are copies of the following:

- 14 1. The Plan (Exhibit "A");
- 15 2. Projected Available Cash Proceeds Analysis (Exhibit "B");
- 16 3. Hypothetical Chapter 7 Liquidation Analysis (Exhibit "C");
- 17 4. List of Pending Litigation (Exhibit "D");
- 18 5. Potential Preference Payments (Exhibit "E");
- 19 6. Potential Third Party Estate Causes of Action (Exhibit "F"); and
- 20 7. The FDIC POC (Exhibit "G") .

21 Also accompanying this Disclosure Statement and its attendant exhibits, including the
22 Plan, are copies of the following: (i) the Notice of the Order of the Bankruptcy Court approving
23 this Disclosure Statement, and scheduling the Confirmation Hearing, the deadlines and procedures
24 for voting and for objecting to confirmation of the Plan, and related matters (the "Confirmation
25 Hearing Notice"); and (ii) for each Holder of Claims in the Voting Classes (Class 3 and Class 4),
26 the form of ballot for casting an acceptance or rejection of the Plan.

27 ///

28 ///

D. Disclaimer.

The Bankruptcy Court has approved this Disclosure Statement as containing adequate information of a kind and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the Debtor and the condition of its books and records, to enable hypothetical, reasonable investors typical of the Holders of impaired Claims in the Voting Classes to make an informed judgment as to whether to accept or reject the Plan.

APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT, HOWEVER, CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT AS TO THE FAIRNESS OR THE MERITS OF THE PLAN. THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION (THE "COMMISSION") UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR BY ANY STATE AUTHORITY UNDER ANY STATE SECURITIES OR "BLUE SKY" LAW, NOR HAS THE COMMISSION (OR ANY STATE AUTHORITY) PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT.

THIS DOCUMENT WAS COMPILED FROM INFORMATION OBTAINED BY THE DEBTOR FROM NUMEROUS SOURCES BELIEVED TO BE ACCURATE AT THE TIMES MADE, TO THE DEBTOR'S KNOWLEDGE, INFORMATION AND BELIEF. HOWEVER, NOTHING CONTAINED HEREIN SHALL BE DEEMED TO BE AN ADMISSION OR A DECLARATION AGAINST INTEREST BY THE DEBTOR FOR PURPOSES OF ANY EXISTING OR FUTURE LITIGATION AGAINST THE DEBTOR OR ITS ESTATE.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, NOTHING CONTAINED HEREIN SHALL BE ATTRIBUTABLE TO OR IS DERIVED FROM OR REPRESENTED TO BE ACCURATE BY THE DEBTOR OR BY ANY OF ITS ADVISORS. NOR HAS THE DEBTOR OR ANY SUCH ADVISOR INDEPENDENTLY VERIFIED THE INFORMATION SET FORTH HEREIN.

1 **ALTHOUGH THE DEBTOR'S PROFESSIONAL ADVISORS HAVE ASSISTED**
2 **IN THE PREPARATION OF THIS DISCLOSURE STATEMENT BASED UPON**
3 **FACTUAL INFORMATION AND ASSUMPTIONS RESPECTING FINANCIAL,**
4 **BUSINESS, AND ACCOUNTING DATA PROVIDED BY THE DEBTOR, THEY HAVE**
5 **NOT INDEPENDENTLY VERIFIED THE INFORMATION SET FORTH HEREIN AND**
6 **MAKE NO REPRESENTATIONS AS TO THE ACCURACY THEREOF.**

7 After carefully reviewing this Disclosure Statement and the Plan, including the respective
8 exhibits, each Holder of an impaired Claim in the Voting Classes (Class 3 and Class 4) should
9 decide whether to accept or reject the Plan and should indicate its vote on the enclosed Ballot and
10 return it in the envelope provided.

11 **E. Balloting.**

12 **TO BE COUNTED, YOUR BALLOT MUST BE COMPLETELY FILLED IN,**
13 **SIGNED, AND TRANSMITTED IN THE MANNER SPECIFIED IN THE BALLOT SO**
14 **THAT IT IS RECEIVED BY THE VOTING DEADLINE SPECIFIED IN THE BALLOT.**
15 **PLEASE CAREFULLY FOLLOW ALL INSTRUCTIONS CONTAINED IN THE**
16 **BALLOT. ANY BALLOTS RECEIVED WHICH DO NOT FULLY COMPLY WITH THE**
17 **BALLOT INSTRUCTIONS WILL NOT BE COUNTED. BALLOTS WHICH INDICATE**
18 **BOTH AN ACCEPTANCE AND REJECTION OF THE PLAN, OR WHICH DO NOT**
19 **INDICATE EITHER AN ACCEPTANCE OR REJECTION OF THE PLAN, WILL NOT**
20 **BE COUNTED.**

21 If you have any questions about the procedure for voting, or if you did not receive a Ballot,
22 received a damaged Ballot, or have lost your Ballot, or if you would like any additional copies of
23 this Disclosure Statement, please contact the Debtor's Ballot tabulator, Patricia Swierszcz ("Ballot
24 Tabulator"), in writing, and send to 1801 Century Park East, Suite 1460, Los Angeles, California,
25 90067, Facsimile: (310) 557-0056.

26 **F. Confirmation Hearing.**

27 The Bankruptcy Court has scheduled a hearing on confirmation of the Plan (the
28 "Confirmation Hearing") on the date and at the place specified in the Confirmation Hearing Notice

1 accompanying this Disclosure Statement. The Bankruptcy Court has directed that objections, if
2 any, to confirmation of the Plan be served and filed on or before the date specified, and in the
3 manner described, in the Confirmation Hearing Notice. The Confirmation Hearing may be
4 continued from time to time by the Bankruptcy Court without further notice except for the
5 announcement of the continuation date made at the Confirmation Hearing or at any subsequent
6 continued Confirmation Hearing.

7 **II. SUMMARY**

8 The following is a summary of certain information contained elsewhere in this Disclosure
9 Statement. Reference is made to, and this Summary is qualified in its entirety by reference to, the
10 more detailed information contained herein and in the exhibits hereto. Holders of impaired Claims
11 are urged to read this Disclosure Statement, the Plan and their respective exhibits in their entirety.

12 **A. The Debtor.**

13 The Debtor is a savings and loan holding company that was incorporated in Delaware in
14 1995, and commenced operations after it was registered as a thrift holding company in April 1996.
15 Upon its registration as a bank holding company, the Debtor acquired all of the issued and
16 outstanding securities of Los Padres Bank, FSB (the "Bank"). The Debtor was formed as a savings
17 and loan holding company to provide additional flexibility to the organization through the ability to
18 serve a broader geographic area, expand its product offerings, access capital markets through the
19 ability to issue debt and other financial instruments, and to gain certain tax benefits. Its principal
20 business was to serve as the holding company for its wholly-owned subsidiary and principal asset,
21 the Bank. As of August 1, 2010, the Bank had eleven (11) full-service banking branches located in
22 the Central Coast of California and three (3) full service banking branches in the Phoenix
23 metropolitan area in Arizona. The Bank engaged in single family, multi-family and commercial
24 lending primarily in its direct market areas.

25 As a savings and loan holding company, the Debtor was subject to regulation by the Office
26 of Thrift Supervision ("OTS"). The Bank's deposits were insured through the Deposit Insurance
27 Fund of the FDIC, and the Bank was subject to regulation by the FDIC.

28 //

B. Overview of the Plan.

THE FOLLOWING OVERVIEW IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN, WHICH IS ATTACHED HERETO AS EXHIBIT "A". IN THE EVENT OF ANY INCONSISTENCY, THE PLAN WILL CONTROL.

The Plan provides for the liquidation of substantially all of the non-Cash Assets of the Debtor and the distribution of the Available Cash to Holders of Allowed Claims, consistent with the priority provisions of the Bankruptcy Code, and in accordance with the Plan. The Plan does not provide for any distribution to holders of Allowed Equity Interests unless and until Holders of Allowed Class 4 Claims have been paid in full, which -- as set forth in the projections attached as Exhibit "B" hereto-- is not projected to occur.

C. Recommendation.

The Debtor believes that the Plan provides the best feasible recoveries to Holders of Allowed Class 3 Claims and Allowed Class 4 Claims and is in the best interests of such Holders. ACCORDINGLY, THE DEBTOR RECOMMENDS THAT ALL SUCH HOLDERS ACCEPT THE PLAN.

III. BACKGROUND

As more fully described below, the Plan provides that all Assets of the Estate remaining on the Effective Date will vest in the Liquidating Trust. The Available Cash will be distributed to the Debtor's creditors by the Liquidating Trustee in accordance with applicable provisions of the Bankruptcy Code and in accordance with the Plan, and the Liquidating Trustee will be appointed to, among other things, handle prosecution and recovery of any and all Estate Causes of Action that may bring Cash into the Liquidating Trust, and sell any other Assets that may have value, bring any potential avoidance actions, and object to any claims.

A. The Debtor's Business.

On August 20, 2010, the OTS closed the Debtor's wholly-owned subsidiary and primary Asset, the Bank, and the FDIC was appointed as a receiver for the assets and liabilities of the Bank. Upon its appointment as receiver for the Bank, the FDIC entered into a purchase and assumption

1 agreement with Pacific Western Bank to assume all of the Bank's deposits and certain other of its
2 assets and liabilities.

3 As reflected in Section II.A. above, prior to the Bank's closure, the Debtor's primary
4 business was to serve as a holding company for the Bank. Other than the business conducted by
5 the Bank, on the Petition Date, the Debtor did not own or engage in any other operating businesses.
6 As a legal entity separate and distinct from its subsidiary Bank, the Debtor's principal source of
7 funds was dividends that were paid by the Bank and financing obtained by the Debtor as discussed
8 below.

9 As a result of the loss of its primary financial Asset, the Debtor commenced this Chapter
10 11 Case by filing a Petition on the Petition Date.

11 **B. The Debtor's Financing.**

12 **1. Secured Indebtedness.**

13 The Debtor has no secured indebtedness.

14 **2. Unsecured Indebtedness.**

15 The bulk of Debtor's unsecured indebtedness consists of the Indenture Trustee Claim
16 classified in Class 4 of the Plan, which is based on the following:

17 (a) Between September 2003 and September 2004, the Debtor raised
18 approximately \$25.8 million of capital through two (2) statutory business trusts ("Statutory
19 Business Trusts") that were established in approximately September 2003 and September 2004
20 respectively. The Debtor sponsored the Statutory Business Trusts for the purpose of selling and
21 administering trust originated preferred securities ("TRUPs"). The Debtor guaranteed certain
22 performance obligations of the Statutory Business Trusts (as distinguished from payment
23 obligations) pursuant to the Guarantee Agreements. The Statutory Business Trusts sold the TRUPs
24 to investors and then used the proceeds of the sale of the TRUPs to purchase from the Debtor
25 junior subordinated deferrable interest Debentures pursuant to two Indentures: (i) the Indenture
26 dated as of September 25, 2003 by and between the Debtor and Wilmington Trust Company as
27 indenture trustee thereunder ("Wilmington Trust") in the total principal amount of \$15,464,000 due
28 2033 and (ii) the Indenture dated as of September 27, 2004 by and between the Debtor and Wells

1 Fargo Bank, National Association (“Wells Fargo”) in the total principal amount of \$10,310,000
2 due 2034 (Wells Fargo and Wilmington Trust collectively referred to as the “Indenture Trustees”
3 when acting in that capacity). The total aggregate amount owing under the two Indentures as of the
4 Petition Date is \$25,774,000 in original principal *plus* (b) approximately \$1,300,000 in accrued but
5 unpaid interest as of the Petition Date.²

6 The sole assets of the Statutory Business Trusts are the Debentures issued by the
7 Debtor and the sole obligations of each Statutory Business Trust relate to the TRUPs it issued
8 (other than the payment of fees, expenses, and other amounts to the trustees of the respective
9 Statutory Business Trusts). As a result, the Statutory Business Trusts are essentially conduits, or
10 pass through entities, organized for the primary purpose of paying amounts received on the
11 Debentures to the holders of the TRUPs. The Debentures are governed by the Indentures and the
12 Statutory Business Trusts are governed by the Declaration of Trusts. One institution typically
13 serves as the trustee under both the Indentures (the Indenture Trustees) and the Declaration of
14 Trusts (“TRUP Trustees”). In this case Wells Fargo and Wilmington Trust are both the Indenture
15 Trustees and the TRUP Trustees.

16 The Declaration of Trusts provide that upon an event of default, including the filing
17 of a chapter 11 case by the Debtor, the TRUP Trustees are to distribute the Debentures directly to
18 the holders of the TRUPs, thereby entitling them to directly exercise the right to authorize, consent
19 to, and take other actions with respect to the Debentures. To date, the TRUP Trustees have not
20 distributed the Debentures to the holders of the TRUPs.³ Furthermore, the Indentures provide that
21 the Indenture Trustees are not authorized to accept or adopt any chapter 11 plan on behalf of the
22 holders of the TRUPs.⁴ Due to the single purpose, pass-through nature of the Statutory Business
23 Trusts and the clear instruction of the Indentures and the Declaration of Trusts that holders of the

24 ² The cash raised was typically down-streamed by the Debtor to the Bank to provide adequate capital to support
25 the Bank’s strategic plan initiatives, fulfilling regulatory capital requirements, and providing capital and liquidity for
26 general operating purposes.

27 ³ The Declaration of Trusts provide that the TRUP Trustees are not required to distribute the Debentures if doing
28 so would be impractical.

⁴ Section 5.02 states “Nothing herein contained shall be construed to authorize the Trustee to authorize or consent
to or accept or adopt on behalf of any Security holder any plan of organization, arrangement, adjustment or composition
affecting the [Debentures] or the rights of any holder thereof or to authorize the Trustee to vote in respect of the claim of
any Security holder in any such proceeding..

1 TRUPs have the right to receive a distribution on account of the Debentures and exercise
2 ownership and voting rights associated with the Debentures, only the holders of the TRUPs are
3 entitled to vote on the Plan directly.⁵

4 The balance of other unsecured indebtedness includes franchise taxes owed to the State of
5 Delaware (the jurisdiction of Debtor's incorporation), unliquidated intercompany claims that may
6 be held by the Bank, unliquidated claims for pre-petition professional services rendered and other
7 vendor claims in Class 3 of the Plan.

8 **3. Equity Interests.**

9 There are two types of equity, HWFG Preferred Stock Interests and HWFG Common
10 Stock Interests.

11 (a) HWFG Preferred Stock Interests – In or about September 2008, the
12 Debtor raised approximately \$3,301,000 through the issuance of the HWFG Preferred Stock
13 Interests. As of the Petition Date, 57,000 shares of HWFG Preferred Stock Interests were issued
14 and outstanding. The HWFG Preferred Stock Interests are privately held. The HWFG Preferred
15 Stock Interests rank senior to the HWFG Common Stock Interests and as such have rights,
16 preferences and privileges which are superior to the HWFG Common Stock Interests, including,
17 dividend and liquidation preferences.⁶

18 The Holders of Preferred Stock Interests are not receiving any distribution under the Plan
19 and therefore are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code.

20 (b) HWFG Common Stock Interests - As of the Petition Date, the Debtor
21 had 7,364,089 shares of HWFG Common Stock Interests issued and outstanding. Except as
22 otherwise provided under the law, the HWFG Common Stock Interests have no special rights,
23 preferences or privileges. In liquidation, if there are any assets remaining of the Debtor legally
24 available for distribution to stockholders after payment or provision for payment of all debts and
25

26 ⁵ See 11 U.S.C. § 1126 (providing that a “holder of a claim of interest allowed under section 502 of this title may
27 accept or reject a plan.”)(emphasis added); *see also* 11 U.S.C. § 101(5)(A)(defining a claim as the “right to payment,
28 whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured,
disputed, legal, equitable, secured or unsecured. . . .”)(emphasis added).

⁶ The HWFG Preferred Stock Interests could be converted to common shares at the option of the Holder of
HWFG Preferred Stock Interests.

1 liabilities of the Debtor, the order of priority is: (a) the Holders of the HWFG Preferred Stock
2 Interests to the extent of their liquidation preference; and (b) all remaining assets are distributed to
3 the Holders of HWFG Common Stock Interests. The HWFG Common Stock Interests were
4 publicly traded until such stock was delisted from the NASDAQ stock exchange as set forth below.
5 Currently, the HWFG Common Stock Interests are traded in the over-the-counter market on the
6 Pink Sheets under the symbol "HWFG."

7 The Holders of HWFG Common Stock Interests are not receiving any distribution under
8 the Plan and therefore are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy
9 Code.

10 **C. Events Leading Up to Bankruptcy.**

11 **1. Overall Business Erosion - Declining Real Estate Market and Increasing**
12 **Unemployment.**

13 Prior to 2009, the principal business of the Bank was attracting checking and savings
14 deposits from the general public and using those deposits, together with borrowings and other
15 funds, to make real estate, business and consumer loans and invest in certain residential mortgage
16 backed securities ("RMBS").

17 Beginning in late 2007, the residential real estate markets in the Bank's principal markets
18 of Arizona and California started to decline in value and defaults on mortgage loans began to rise.
19 The availability of mortgage credit through RMBS started to decline precipitously as the
20 underlying liquidity and demand for the RMBS decreased due to rising defaults and losses. This
21 caused increased strain in the residential housing market, which in turn caused further decline in
22 the value of the residential real estate.

23 Although the Bank had a diversified portfolio of loans across residential and commercial
24 properties and a non-mortgage loan portfolio of commercial and industrial loans, the broad decline
25 in real estate values caused loan delinquencies to rise, especially on its residential construction and
26 later commercial real estate construction loans. These construction loans were dependent on sales
27 of the underlying collateral or borrower funds for interest and principal payments on the loans.
28 With the rapidly falling real estate values, a lack of buyers, and constrained financing sources, the

1 underlying collateral value of these loans continued to decline sharply and debts went unpaid due
2 to a lack of cash flow. Loan defaults ensued with, in most cases, the eventual repossession of the
3 underlying collateral. Collateral underlying defaulted and weak loans were re-appraised and the
4 loans were written-down to current market values of the underlying collateral less the cost to sell
5 the collateral, resulting in significant losses to the Bank.

6 In 2008 and continuing into 2010, the residential real estate decline became a full blown
7 economic recession with rapidly falling consumer demand and rising unemployment. In both
8 Arizona and California, unemployment levels exceeded 10% by the last quarter of 2009 and into
9 2010. This caused additional stress on the Bank's loan portfolio as businesses experienced much
10 lower sales and reduced profits or losses. The weaker financial performance of businesses caused
11 even further reduced cash flow to service their debt and to pay rents. This situation caused
12 commercial real estate and business loan defaults to rise. Although the Bank applied prudent
13 underwriting standards for the loans with respect to debt service coverage and loan to value ratios,
14 the swift decline in real estate values and the rising unemployment in Arizona and California were
15 too severe and resulted in rising loan defaults and increased losses for the Bank.

16 A compounding effect to the loan losses was the rising delinquencies and losses on the
17 Bank's investment portfolio of initially investment grade RMBS. This portfolio was largely
18 originally rated "AAA" or "AA" by the nationally recognized rating agencies but as the steep
19 decline in real estate values and the economic recession took hold, the delinquency and default
20 rates on the RMBS underlying loans increased dramatically with high losses on the repossessed
21 real estate, causing significant mark to market losses and impairments on the RMBS. The Bank's
22 management conducted stress tests on the cash flows of these RMBS of two (2) to three (3)
23 standard deviations of currently projected default rates, but the real estate debacle proved the
24 default rates to be over ten (10) standard deviations of the widely accepted normal deviations by
25 the rating agencies and market participants.

26 **2. Regulatory Actions By The OTS.**

27 As a result of the above, between 2009 and 2010, several regulatory enforcement actions
28 were taken by the OTS concerning the Debtor and the Bank.

(a) OTS Supervisory Agreements.

On or about April 24, 2009, both the Debtor and the Bank entered into Supervisory Agreements with the OTS that, among other things, placed operating and financial restrictions on both entities and required that the capital ratios of the Bank be increased to 6% core tangible and 11% risk-based by June 30, 2009 and 7% core tangible and 12% risk-based by September 30, 2009. The Supervisory Agreements also required, among other things, that the Bank submit a capital plan, revise and implement several Bank policies, and have the asset quality of its commercial loan portfolio reviewed by an independent contractor. The Debtor and Bank submitted their capital plan on or about May 1, 2009 reflecting that they were able to comply respectively with each and every one of the requirements in the Supervisory Agreements except satisfying the required capital ratio levels by the prescribed dates due to the further loan and RMBS losses and reserves for loan losses realized by the Bank (and some forced by the OTS) emanating from the adverse economic and real estate environment.

(b) August 2009 -OTS Prompt Corrective Action Notice.

After an OTS examination in the Summer of 2009, the OTS, on or about August 20, 2009, issued a Prompt Corrective Action notice to the Debtor and the Bank requiring, among other things, that the Bank increase its capital ratio to adequate capitalization levels of 4% core tangible and 8% total risk-based. The Debtor and Bank complied with the Prompt Corrective Action and filed a capital restoration plan on or about September 22, 2009 reflecting that the Debtor would be exceeding the required capital ratio levels after the sale of the Bank's Kansas City metropolitan bank division in November 2009 as discussed in further detail below.

(c) OTS Cease and Desist Orders.

On or about October 14, 2009, the Debtor and the Bank were directed through Cease and Desist Orders ("CDO") to increase the Bank's capital ratios to adequately capitalized of 4% core tangible and 8% risk-based capital by November 6, 2009, and then 8% core tangible and 12% risk-based capital by December 31, 2009. The CDO, among other things, left in place the operating and financial restrictions from the prior Supervisory Agreements, added additional restrictions, required revisions to several policies, and required the Bank to develop a capital plan to meet the capital

1 ratio requirements. Additionally, the CDO required that a concentrations risk management policy
2 be established and that the Debtor agree to reduce classified assets. Again, the Debtor and the Bank
3 complied with each of the non-capital related restrictions and requirements. The Bank was also
4 able to reach the first capital ratio hurdle set forth in the CDO and to satisfy the August Prompt
5 Corrective Action notice with the sale of its Bank division in the Kansas City metropolitan area for
6 a \$4.1 million premium on November 6, 2009⁷, but was unable to meet the higher mandated capital
7 requirements by December 31, 2009. The OTS rejected the Debtor's and Bank's capital plan
8 submitted on or about October 30, 2009 on the premise that it did not have a credible capital source
9 with a definitive agreement to complete a capital transaction sufficient to meet the capital ratios
10 required on December 31, 2009. The OTS required and the Bank agreed to amend its capital plan
11 to qualify that it would use any and all means to recapitalize the Bank.

12 **(d) April 2010 -OTS Prompt Corrective Action Notice.**

13 After further examination by the OTS in March and April of 2010 and with the OTS'
14 demands for higher loan loss reserves based on the OTS' subjective analysis of the loan loss
15 reserve and further write-downs of the RMBS portfolio due to the continued defaults of and
16 declines in the residential properties collateralizing the loans in the Bank's RMBS, the Bank again
17 fell below the adequately capitalized level of 4% core tangible capital and 8% risk-based capital.

18 On or about April 23, 2010 the OTS issued a Prompt Corrective Action notice to the
19 Debtor and the Bank requiring the filing of a capital restoration plan and immediate restoration of
20 the Bank's capital levels to the adequately capitalized level of 4% core tangible and 8% total risk-
21 based capital. The Bank filed another capital restoration plan on or about May 10, 2010, as
22 required by the OTS, which was again rejected due to the lack of a definitive agreement for a
23 capital raise or acquisition or merger sufficient to meet the capital requirements.

24 During the period from the signing of the Supervisory Agreements with the OTS to the
25 date the OTS closed the Bank and appointed the FDIC as receiver on August 20, 2010, the Debtor
26 and the Bank continued making every effort to achieve the capital requirements as set forth above
27

28 ⁷ The Debtor and Bank received formal approval from the OTS that they were relieved from the August Prompt
Correction Action status after the sale of the Kansas City metropolitan area Bank division.

1 and to satisfy all the other onerous requirements established by the OTS. The Bank and Debtor
2 filed timely bi-weekly reports of its efforts with the OTS, and up until the Bank's closure had
3 viable recapitalization options they were pursuing as set forth in detail below.

4 **3. Capital Raising Efforts Between 2007 and 2010.**

5 The Debtor understood that the economic downturn would adversely impact not only its
6 capital ratios, which were the OTS' primary measurement of the Bank's stability, but also its
7 overall financial condition. Management was proactive in trying to boost its capital ratios through
8 multiple efforts.

9 Between approximately December 31, 2007 and December 31, 2009, the Debtor raised
10 approximately \$11.7 million through the sale and issuance of its common and preferred stock as
11 follows: (i) in or about March of 2008, the Debtor engaged in a private placement offering of its
12 common stock and raised approximately \$4.3 million; (ii) in or about September 2008, despite the
13 fact that the real estate market worsened and the deep economic recession ensued with higher
14 losses for the Bank, the Debtor was able to raise another approximately \$6.9 million from private
15 equity sources and individuals through a common and preferred stock offering; and (iii) in or about
16 March 2009, the Debtor again raised approximately \$500,000 through a private common stock
17 offering to an individual.

18 On or about July 27, 2009, Debtor's management engaged Oak Ridge Financial to assist it
19 and the Bank to explore a major recapitalization or sale of the Bank. Hundreds of potential
20 acquirers and capital providers were contacted. Several private equity firms delivered letters of
21 intent to recapitalize the Bank to the required capital ratios and conducted due diligence on the
22 Debtor and the Bank. One such recapitalization was to contribute the classified assets and RMBS
23 owned by the Bank to a special purpose entity, majority owned subsidiary of the Bank that would
24 be separately capitalized with preferred stock, and then funds from another capital raise by the
25 Debtor from the sale of its common stock would be down-streamed to the Bank. This
26 recapitalization would have met OTS's capital ratio requirements but the OTS summarily rejected
27 this plan due to a revised interpretation of the capital treatment of the preferred stock of the special
28 purpose entity.

1 In or about the end of April 2010 after no recapitalization or sale had occurred, the Debtor
2 terminated its engagement of Oak Ridge Financial and engaged another company, Luminous
3 Ventures. Luminous Ventures was retained in or about early June 2010 to conduct due diligence
4 and seek an approximately \$60 million recapitalization of the Bank through the sale of common
5 and preferred stock of the Debtor, with Steadfast Companies as the lead investor. The
6 recapitalization unfortunately could not be accomplished in the time period allowed by the OTS.

7 Also in April 2010, in a further effort to raise capital, the Debtor engaged Hexagon Capital
8 Markets, LLC to assist it in deleveraging the Debtor so as to make it more attractive to potential
9 investors. Hexagon and the Debtor developed a comprehensive proposal to the holders of TRUPs
10 to redeem the TRUPs at discount to par but well in excess of what could be expected if the
11 Debtor's primary Asset, the Bank, was closed by the OTS. This proposal was contingent on a
12 capital raise. After lengthy discussions between Hexagon and associates of the TRUP owners, it
13 was determined that such redemption efforts would likely be fruitless.

14 While exploring the redemption option above, the Debtor was also investigating a potential
15 merger with another bank holding company. The Debtor and the Bank were near completion of a
16 definitive merger agreement with a publicly traded company (in formation as a bank holding
17 company) valued at approximately \$88 million of cash equity. The merger was delayed by
18 complications with the company's other acquisition venture in Nevada.

19 In July 2010, the Debtor and Bank's management were contacted by at least three (3)
20 different entities that were interested in acquiring the Debtor and/or Bank, however, after such
21 entities became aware of the FDIC's marketing process discussed below, the discussions with these
22 entities ceased and some decided to bid on the Bank through the FDIC's bidding process.

23 While investigating the various options discussed above, the Debtor and Bank's
24 management continued to take aggressive steps to reduce problem assets and overall asset levels to
25 boost capital ratios. From approximately December 31, 2007 to approximately March 31, 2010,
26 the Debtor and Bank reduced the Bank's assets by approximately \$293 million from approximately
27 \$1.2 billion to approximately \$903 million. This reduction in assets was accomplished through the
28 sale and payoff of loans and the sale of approximately \$100 million in assets and approximately

1 \$92 million of its deposits of its Bank division in the Kansas City metropolitan area. As mentioned
2 above, this sale of the Kansas City Bank division not only boosted the capital ratios but resulted in
3 the Bank earning a \$4.1 million premium for the sale.

4 **4. Common Stock Delisting From NASDAQ.**

5 Prior to October 2009, the Debtor's HWFG Common Stock Interests were publicly traded
6 on the NASDAQ stock exchange under the symbol "HWFG". In or about October 2009, the
7 Debtor was notified by NASDAQ that it was subject to delisting given that the aggregate market
8 value of its common stock had fallen to below \$5.0 million and the trading value of its common
9 shares had dropped below \$1 per share. Given the unlikelihood that the Debtor would be able to
10 reach the NASDAQ requirements within the required timeframes, it voluntarily delisted from
11 NASDAQ on or about December 4, 2009 and simultaneously started to trade its common stock on
12 the Over the Counter Bulletin Board and related Pink Sheets under the symbol of "HWFG".

13 **5. FDIC's Marketing Of The Bank.**

14 In or about the end of May 2010, the Debtor and Bank's management were notified that
15 the FDIC's resolution process was beginning with the gathering of marketing and financial
16 information on the Bank in the FDIC's format. This gathering of information took approximately
17 three (3) weeks. In its initial meeting regarding such process with the FDIC, the Debtor's
18 management expressed the concern that any leak of information regarding the existence of the
19 FDIC's marketing process would seriously adversely impact the Debtor's and Bank's ability to
20 raise capital. The FDIC ignored these concerns and the marketplace became aware of the
21 resolution process, which effectively caused the termination of all recapitalization/sale alternatives
22 the Debtor was then pursuing.

23 **D. Debtor in Possession Administration.**

24 The Debtor commenced its Chapter 11 Case on the Petition Date to implement the
25 liquidation of the Debtor's assets and operations. Since the Petition Date, the Debtor has continued
26 to have only two employees assist in administering the Debtor's estate, both of whom were officers
27 of the Debtor pre-Petition: Craig Cerny, Chief Executive Officer and Chairman of the Board, and
28

1 William Phillips, Jr., President. The Debtor's current Board of Directors are the following persons:
2 William D. Ross, Timothy Hatlestad, Paul Halme, Craig Cerny and William Phillips, Jr.

3 The Debtor has taken the following steps to efficiently administer its Chapter 11 Case to
4 date:

5 **1. Application to Employ Landau Gottfried & Berger LLP As Bankruptcy**
6 **Counsel.**

7 On September 13, 2010, the Debtor filed an application to employ Landau Gottfried &
8 Berger, LLP ("LGB") as its bankruptcy counsel (Docket No. 2). By Order entered on October 1,
9 2010, the Bankruptcy Court approved the employment of LGB (Docket No. 16).

10 **2. Application to Employ Crowe Horwath LLP as Accountants.**

11 On September 29, 2010, the Debtor filed its application to employ Crowe Horwath LLP
12 ("Crowe"), its pre-Petition accountants (Docket No. 14). By Order entered on October 18, 2010,
13 the Bankruptcy Court approved the employment of Crowe as the Debtor's accountants (Docket No.
14 19). As noted, one of the principal assets of the Debtor is its right to receive a refund of its federal
15 taxes estimated to be in an amount of more than \$9 million ("Tax Refund") as a result of the
16 enactment, on November 6, 2009, of the Worker, Homeownership, and Business Assistance Act of
17 2009 (the "WHBAA"), and the promulgation of Revenue Procedure 2009-52, which permit
18 companies to carry back Net Operating Losses ("NOL") and Alternative Minimum Tax Net
19 Operating Losses ("ATNOL") incurred in either the 2008 or 2009 tax years for a period of five (5)
20 years versus the two (2) year period under the old rule.

21 However, the amount of the Tax Refund is not certain, and some or all of it may be
22 claimed by the FDIC as receiver for the Bank, thus raising complex legal and accountancy issues.
23 Crowe was retained to prepare and file the Debtor's amended tax returns for prior tax years (2004 –
24 2007), which reflect the approximately \$9 million Tax Refund and to handle any other tax matters
25 that arise during the Chapter 11 Case. Crowe was retained on account of its experience in the
26 banking sector and its direct experience, gleaned in other bank holding company bankruptcy cases,
27 of the legal and accountancy issues arising in connection with the Tax Refund.

28 //

1 **3. Bar Date Motion.**

2 On October 18, 2010, the Debtor filed its *Notice of Motion and Motion for Entry of an*
3 *Order (I) Establishing Bar Dates for Filing Proofs of Claim or Interest; and (II) Approving the*
4 *Form and Manner of Notice Thereof* (Docket No. 18) ("Bar Date Motion"). Pursuant to an Order
5 of the Bankruptcy Court entered on November 15, 2010 (Docket No. 25), the Bar Date Motion was
6 approved, as modified by the Order, and the Bar Date for filing proofs of claim was fixed as
7 January 20, 2011 (the "Bar Date"). The last date for "governmental units" (as defined in section
8 101(27) of the Bankruptcy Code) to file proofs of claim was set for March 9, 2011. On November
9 17, 2010, the Debtor served on all creditors, equity holders and other parties-in-interest and filed
10 with the Bankruptcy Court its *Notice of Bar Date for Filing Proofs of Claim or Interest against*
11 *Debtor and Debtor-in-Possession Harrington West Financial Group, Inc.* (Docket No. 27).

12 **4. Extension of Exclusivity to File Plan and Solicit**

13 On January 6, 2011, the Debtor filed its *Notice Of Motion And Motion For Entry Of An*
14 *Order Pursuant To Section 1121(D) Of The Bankruptcy Code Extending The Periods In Which The*
15 *Debtor Exclusively May File A Chapter 11 Plan And Solicit Acceptances Thereto* (Docket No. 36).
16 By Order entered on February 7, 2011, the Court approved the Motion and the deadlines to file a
17 plan and solicit acceptance of the same were extended to April 8, 2011 and June 7, 2011
18 respectively.

19 **5. Application to Employ BMC Group, Inc. as Noticing and Solicitation**
20 **Agent.**

21 On March 1, 2010, the Debtor filed an application to employ BMC Group, Inc. ("BMC")
22 to act as the Debtor's agent to provide notice services in connection with approval of this
23 Disclosure Statement and notice of the hearing to consider confirmation of the Plan and
24 dissemination of court-approved solicitation materials. (Docket No. 47). No objections to the
25 application to employ BMC were filed and an order has been lodged with the Court but has not yet
26 been entered.

27 ///

28 ///

1 **6. Schedules and Statement of Financial Affairs.**

2 On the Petition Date, the Debtor filed its Schedules, Statement of Financial Affairs, and all
3 other required documents with the Bankruptcy Court.

4 **7. Tax Audit and Refunds.**

5 The Internal Revenue Service ("IRS") has commenced an audit of the Debtor's federal
6 income tax returns for the 2004 through 2009 tax years. The Debtor's accountants, Crowe, are
7 handling all communications with and document requests by the IRS.

8 As previously noted, the Debtor may be eligible to claim a Tax Refund of its federal taxes
9 in an amount estimated to be more than \$9 million due to a change in the tax law promulgated
10 under the WHBAA Revenue and Procedure 2009-52 permitting companies to carry back NOLs
11 and ATNOLs incurred in either the 2008 or 2009 tax years for a period of five (5) years versus the
12 (2) year period under the old rule.

13 However, the amount of such Tax Refund is not certain and some or all of the Tax Refund
14 may be claimed by the FDIC as Receiver for the Bank. Further, there can be no guaranty that the
15 Tax Refund will be allowed by the IRS in full or in part, or that the Debtor, as opposed to the FDIC
16 as Receiver for the Bank, will receive any, or any material portion of, any such Tax Refund.⁸

17 **8. Insurance Refunds.**

18 During the Chapter 11 Case, the Debtor reviewed its existing insurance policies which
19 were pre-paid prior to the Petition Date. After such review, the Debtor, through its insurance
20 broker, terminated and/or reduced certain policies. As a result of the same, the Debtor anticipates
21 it may recover approximately \$80,000 in cash refunds from these cancellations for the benefit of its
22 Estate and its creditors. To date, the Debtor has recovered approximately \$27,472 of these funds.⁹

23 **9. FDIC Proof of Claim.**

24 On March 9, 2011, the FDIC filed the FDIC POC in the Debtor's Chapter 11 Case. As

25
26 ⁸ Counsel for the Debtor and the FDIC are in discussions to establish, subject to Bankruptcy Court approval, an
27 escrow account where any Tax Refund received will be deposited. It is anticipated that a stipulation between the FDIC
and Debtor would provide that the Tax Refund, if any, would remain in the escrow account until such time as the
dispute between the Debtor's estate and the FDIC is resolved.

28 ⁹ Approximately \$52,528 of these insurance refunds were erroneously transferred by the Debtor's insurance
broker, Lockton Insurance, to the FDIC. The Debtor is in the process of seeking the turnover of these funds from the
FDIC. To date, the FDIC has not returned these funds and claims an interest in some or all of these funds.

1 filed, the FDIC POC is for an unliquidated amount and alleges both unsecured and priority claims
2 pursuant to 11 U.S.C. § 507(a)(9) and/or other applicable authority. A copy of the FDIC POC is
3 attached hereto as Exhibit "G".

4 TO THE EXTENT THAT THE FDIC POC BECOMES AN ALLOWED CLAIM, IT
5 WILL BE CLASSIFIED AS A CLASS 1 PRIORITY CLAIM. DISTRIBUTIONS MADE ON
6 ACCOUNT OF ANY ALLOWED CLASS 1 CLAIM OF THE FDIC SHALL BE IN
7 ACCORDANCE WITH THE PRIORITY OF SUCH ALLOWED CLAIM UNDER 11 U.S.C. §
8 507(a)(9) AND/OR OTHER APPLICABLE LAW. ANY SUCH ALLOWED CLASS 1 FDIC
9 CLAIM WILL REDUCE AND MAY COMPLETELY ELIMINATE THE AMOUNTS
10 AVAILABLE FOR DISTRIBUTION TO OTHER UNSECURED CREDITORS OF THE
11 DEBTOR. THE DEBTOR DISPUTES THE FDIC'S CLAIM. THE RIGHTS OF THE DEBTOR
12 AND THE LIQUIDATING TRUSTEE, ON BEHALF OF THE LIQUIDATING TRUST, WITH
13 RESPECT TO THE FDIC'S CLAIM ARE, IN ALL RESPECTS AND IN THEIR ENTIRETY,
14 EXPRESSLY RESERVED.

15 **E. Prosecution of Estate Causes of Action.**

16 **1. Estate Causes of Action Against Third Parties.**

17 The Debtor and its professionals have made a diligent effort to identify in Exhibit "F" to
18 this Disclosure Statement, all Estate Causes of Action against third parties other than
19 preference/fraudulent transfer actions and objections to Claims. No reliance should be placed on
20 the fact that a particular Estate Cause of Action is or is not identified in Exhibits "E" and "F"
21 because the lists are non-exclusive and may be amended prior to the Confirmation Date to provide
22 for additional disclosures. The Liquidating Trustee may seek to investigate, file and prosecute
23 Estate Causes of Action after the Effective Date of the Plan, whether or not the Estate Causes of
24 Action are identified in the Disclosure Statement. As reflected in Section V of the Plan, on the
25 Effective Date, any and all Estate Causes of Action the Estate may have against any third parties
26 shall be vested in the Liquidating Trust and Section V of the Plan provides that the Liquidating
27 Trustee has the authority to prosecute these Estate Causes of Action.

28 ///

1 **2. Recovery of Preferential or Fraudulent Transfers.**

2 The Liquidating Trustee will investigate whether certain prepetition payments to creditors
3 may be recovered pursuant to sections 544, 547, 548 and 550 of the Bankruptcy Code or applicable
4 State law. Exhibit "E" to the Disclosure Statement lists and/or identifies (i) all payments to
5 creditors made within ninety (90) days of the Petition Date, (ii) all payments to insiders made
6 within one (1) year of the Petition Date, and (iii) all distributions given to an insider of the Debtor,
7 including compensation in any form, bonuses, loans, stock, redemptions, and options exercised,
8 also within one year of the Petition Date. Each transfer listed therein and all other prepetition
9 transfers and obligations of the Debtor will be evaluated to determine whether the transfer or
10 obligation is avoidable on any grounds. Any creditor or party in interest that received a transfer
11 from the Debtor within four (4) years prior to the Petition Date or in whose favor the Debtor
12 incurred an obligation may be the subject of an Estate Causes of Action on account of such transfer
13 or obligation if grounds exist to avoid the transfer or obligation. The Liquidating Trustee has the
14 authority to prosecute preferential and fraudulent transfers. See Section V of the Plan.

15 **3. Objections to Claims.**

16 To date, the Debtor has not filed any objections to Claims. As set forth in Section V of the
17 Plan, after the Effective Date, the Liquidating Trustee has the authority to object, prosecute, and
18 settle Claims.

19 **IV. THE PLAN OF LIQUIDATION**

20 A DETAILED CHART SETTING FORTH EACH CLASS DESIGNATED UNDER THE
21 PLAN, THE PROPOSED TREATMENT UNDER THE PLAN OF EACH CLASS, THE
22 PROJECTED RECOVERY UNDER THE PLAN FOR EACH CLASS, AND WHETHER A
23 CLASS IS ENTITLED TO VOTE, IS SET FORTH AT THE OUTSET OF THIS DISCLOSURE
24 STATEMENT. *See Plan Summary.*

25 The Plan envisions a liquidation of all remaining Assets of the Debtor's Estate by the
26 Liquidating Trustee. The Assets of the Estate will vest in the Liquidating Trust upon the Effective
27 Date and will be distributed consistent with the Bankruptcy Code priority scheme and in
28 accordance with the terms of the Plan and the Liquidating Trust Agreement.

1 The Debtor believes that through the Plan: (x) Holders of impaired unsecured Claims will
2 obtain a greater recovery than would be available if the Debtor's Assets were liquidated in any
3 other manner under the Bankruptcy Code or if any other feasible alternatives were pursued; and (y)
4 the value of the Assets of the Estate will be maximized by converting the Assets of the Estate into
5 Cash in the most efficient and economical manner.

6 THE DEBTOR BELIEVES THAT THE PLAN PROVIDES THE BEST FEASIBLE
7 RECOVERIES TO THE HOLDERS OF IMPAIRED CLAIMS AND THAT ACCEPTANCE OF
8 THE PLAN IS IN THE BEST INTERESTS OF SUCH HOLDERS. THE DEBTOR
9 THEREFORE RECOMMENDS THAT HOLDERS OF IMPAIRED CLAIMS ACCEPT THE
10 PLAN.

11 In accordance with the Bankruptcy Code, the Plan classifies Claims and Equity Interests
12 separately and provides, separately for each Class, that Holders of Claims or Equity Interests in the
13 Class will receive various types of consideration, thereby giving effect to the different rights of the
14 Holders in each Class.

15 In general, under the Plan, on the Effective Date, all of the Estate's Assets will vest in the
16 Liquidating Trust and the Allowed Administrative Expenses, Allowed Priority Tax Claims, and the
17 Allowed Class 1 Claims and Allowed Class 2 Claims will receive payment from the Liquidating
18 Trustee in full in Cash or as otherwise noted in the Plan.

19 Each Holder of an Allowed Class 3 Claim will receive, as soon as practicable in the
20 discretion of the Liquidating Trustee a Pro Rata Share of the Available Cash (the "Initial Class 3
21 Distribution"). In addition, after the Initial Class 3 Distribution but prior to the Final Distribution
22 Date, the Disbursing Agent shall, but is not required, to make Pro Rata Interim Distributions of
23 Available Cash to the Holders of Allowed Class 3 Claims, when, in the discretion of the
24 Liquidating Trustee, the Liquidating Trust has sufficient Available Cash to make such Interim
25 Distributions. Pro Rata distributions relating to Disputed Claims will be placed in the Disputed
26 Claims Reserve.

27 Class 4 Claims are unsecured claims. Class 4 consists of the Indenture Trustee Claims that
28 are contractually subordinate to unpaid Indenture Trustee Fees accrued prior to the Petition Date.

1 Subject to the provisions of the Plan related to the payment of the Indenture Trustee Fees, each
2 Holder of a Class 4 Claim shall be allocated a Pro Rata share of each Distribution available to
3 Holders of Class 3 Claims; provided, however, that the amount of distributions to Holders of
4 Allowed Class 4 Claims shall first be paid on account of unpaid Indenture Trustee Fees accrued
5 prior to the Petition Date, in an amount estimated to be \$595.

6 Based upon the Debtor's estimate of the total (a) General Unsecured Claims in Class 3 and
7 (b) the Indenture Trustee Claims in Class 4, and the Debtor's estimate of the Available Cash, the
8 Debtor estimates that holders of Allowed Claims in Classes 3 and 4 will receive a percentage
9 recovery of approximately 0.22 % of the face amount of their Allowed Claims.¹⁰ The actual
10 percentage recovery will vary depending upon, among other things, the actual amount of Allowed
11 Claims and the actual amount of Available Cash realized, such that the actual recovery may be
12 different than the Debtor's estimate. Based upon the Debtor's estimates, the Available Cash is not
13 sufficient to pay the Allowed Class 3 Claims and Allowed Class 4 Claims in full. See Exhibit "B"
14 to this Disclosure Statement.

15 Holders of Allowed HWFG Preferred Stock Interests and HWFG Common Stock Interests
16 in Classes 5 and 6 are junior in priority to Allowed Class 4 Claims and will not receive a
17 distribution under the Plan unless and until the Holders of Allowed Class 4 Claims are paid in full.
18 Since no distribution is expected to be made on account of Allowed Class 5 Claims and Allowed
19 Class 6 Claims, Allowed HWFG Preferred Stock Interests and Allowed HWFG Common Stock
20 Interests in Classes 5 and 6 respectively will be deemed to receive nothing on account of their
21 interests under the Plan, and such HWFG Preferred Stock Interests and HWFG Common Stock
22 Interests will be deemed cancelled upon confirmation of the Plan.

23 THE SUMMARY OF THE PLAN SET FORTH HEREIN IS QUALIFIED IN ITS
24 ENTIRETY BY REFERENCE TO THE MORE DETAILED PROVISIONS SET FORTH IN THE
25 PLAN, THE TERMS OF WHICH ARE CONTROLLING. THE PLAN IS ATTACHED
26 HERETO AS EXHIBIT "A", AND FORMS A PART OF THIS DISCLOSURE STATEMENT.

27
28 ¹⁰ This estimate does not take into account any proceeds of, or costs of recovery of, Estate Causes of Action, including without limitation Tax Refund claims, avoidance claims arising under Chapter 5 of the bankruptcy Code or costs of distribution, all of which remain unknown at this time.

A. Summary of Certain Other Provisions of the Plan.

1. Deadline for Filing Certain Administrative Tax Claims.

Except as otherwise provided in Section 503(b)(1)(D) of the Bankruptcy Code and 28 U.S.C. § 960, all requests for payment of Claims by a “governmental unit” (as defined under section 101(27) of the Bankruptcy Code) for Taxes (and for interest and/or penalties related to such Taxes) for any tax year or period, all or any portion of which occurs or falls within the period from and including the Petition Date through and including the Effective Date, and for which no bar date has otherwise been previously established, must be Filed on or before the later of: (a) sixty (60) days following the Effective Date; or (b) ninety (90) days following the filing of the tax return for such Taxes for such tax year or period with the applicable governmental unit. Except as otherwise provided in Section 503(b)(1)(D) of the Bankruptcy Code and 28 U.S.C. § 960, any Holder of a Claim for Taxes is required to File a request for a payment of the post-petition Taxes and other monies due related to such Taxes. Except as otherwise provided in Section 503(b)(1)(D) of the Bankruptcy Code and 28 U.S.C. § 960, any holder of a Claim for Taxes which does not File such a Claim by the applicable bar date shall be forever barred from asserting any such Claim against any of the Estate, the Liquidating Agent or their respective property, whether any such Claim is deemed to arise prior to, on, or subsequent to the Effective Date, and shall receive no distribution under the Plan or otherwise on account of such Claim.

2. Executory Contracts and Unexpired Leases.

Subject to the approval of the Bankruptcy Court, the Bankruptcy Code empowers the Debtor to assume, assume and assign, or reject executory contracts and unexpired leases. As a general matter, an “executory contract” is a contract under which material performance remains due by each party. If an executory contract or unexpired lease is rejected by the Debtor, the other party to the agreement may file a Claim for any damages incurred by reason of the rejection. In the case of rejection of employment agreements and leases of real property, such damage Claims are subject to certain limitations imposed by the Bankruptcy Code. If an executory contract or unexpired lease is assumed, the debtor generally has the obligation to perform its obligations thereunder in accordance with the terms of such agreement. If an executory contract is assumed

1 and assigned, the assignee generally has the obligation to perform the obligations of the debtor
2 thereunder in accordance with the terms of such agreement.

3 Section VII of the Plan discusses the assumption and rejection of executory contracts in
4 further detail. Executory contracts and unexpired leases to be assumed pursuant to the Plan and the
5 projected Cure Payments, if any, are listed in Exhibit "1" to the Plan. The procedures for disputing
6 a Cure Payment or objecting to the assumption of such executory contracts or unexpired leases are
7 discussed in further detail in Section VII.B of the Plan. The Debtor reserves the right to delete any
8 contract or lease from Exhibit "1" to the Plan, thereby rejecting the contract or lease, up to and
9 including the hearing on confirmation of the Plan, by filing with the Bankruptcy Court an amended
10 Exhibit "1" to the Plan and by giving notice to counsel for the Indenture Trustee and counsel for
11 the non-debtor party to the contract or lease.

12 All executory contracts and unexpired leases which have not previously been rejected,
13 which are not specifically assumed, either pursuant to the Plan or by separate order in the Chapter
14 11 Case, or which are not the subject of a motion to assume pending on the Effective Date, are
15 deemed rejected pursuant to the Plan as of the Effective Date (or as of such earlier date as
16 announced by the Debtor at the Confirmation Hearing). Exhibit "2" to the Plan contains a
17 nonexclusive list of executory contracts and unexpired leases to be rejected under the Plan. Section
18 VII.D sets forth the procedures for filing a Claim arising from the rejection of an executory
19 contract or unexpired lease.

20 All Allowed Claims arising from the rejection of executory contracts or unexpired leases,
21 whether under the Plan or by separate proceeding, will be treated as Allowed Class 3 Claims under
22 the Plan.

23 **3. Means of Implementation of the Plan.**

24 **(a) From the Confirmation Date to the Effective Date.**

25 Although the Plan will become effective only on the Effective Date, on and after the
26 Confirmation Date and until the Effective Date, the Debtor shall take or cause to be taken all
27 actions which are necessary or appropriate to enable the Plan to become effective on the Effective
28 Date and to implement and perform the Plan on and after the Effective Date.

(b) Establishment of the Liquidating Trust.

On the Effective Date, the Debtor, on behalf of the Estate, and the Liquidating Trustee will be authorized and directed to, and will execute the Liquidating Trust Agreement in substantially the form attached as Exhibit "3" to the Plan. The Liquidating Trust is organized and established as a trust for the benefit of the Beneficiaries and is intended to qualify as a liquidating trust within the meaning of Treasury Regulation Section 301.7701-4(d).

In accordance with Treasury Regulation Section 301.7701-4(d), the Beneficiaries of the Liquidating Trust will be the Holders of all Allowed Claims against and, to the extent Allowed Claims are paid in full with interest, Allowed Equity Interests in the Debtor. The Holders of Allowed Claims will receive an allocation of the Liquidating Trust Assets as provided for in the Plan and the Liquidating Trust Agreement. The Beneficiaries of the Liquidating Trust shall be treated as the grantors and owners of such Beneficiaries' respective portion of the Liquidating Trust.

(c) Vesting and Transfer of Debtor's Assets.

Unless otherwise expressly provided under the Plan, on the Effective Date, pursuant to the Plan and sections 1123, 1141 and 1146(a) of the Bankruptcy Code, the Debtor is authorized and directed to transfer, grant, assign, convey, set over, and deliver to the Liquidating Trustee all of the Debtor's and its Estate's right, title and interest in and to its Assets, including all Estate Causes of Action, free and clear of all liens, Claims, encumbrances or interests of any kind in such property, except as otherwise expressly provided in the Plan. To the extent required to implement the transfer of the Debtor's Assets from the Debtor and its Estate to the Liquidating Trust, all Persons will cooperate with the Debtor and its Estate to assist the Debtor and its Estate to implement said transfers.

(d) Implementation of the Liquidating Trust.

From and after the Effective Date, the Liquidating Trustee will be authorized to, and will take all such actions as required, to implement the Liquidating Trust Agreement and the provisions of the Plan as are contemplated to be implemented by the Liquidating Trustee, including, without limitation, directing Distributions to Holders of Allowed Claims, objecting to Claims, prosecuting

1 or otherwise resolving Estate Causes of Action and causing Distributions from the Liquidating
2 Trust to be made to the Beneficiaries. The Liquidating Trustee may use, acquire and dispose of
3 property of the Liquidating Trust free of any restrictions imposed under the Bankruptcy Code.
4 This section is a summary of pertinent provisions of the Liquidating Trust Agreement. You are
5 urged to review the Liquidating Trust Agreement in its entirety. The Liquidating Trust Agreement
6 is the operative governing document and nothing contained herein shall in any way modify,
7 supplement or supersede the provisions within the Liquidating Trust Agreement.

8 **(i) Representative of the Estate.**

9 The Debtor will select the person to be appointed as the Liquidating Trustee, provided,
10 however, such person shall be reasonably satisfactory to the Indenture Trustees. The Debtor will
11 disclose the identity of the Liquidating Trustee prior to the Confirmation Hearing. The Liquidating
12 Trustee will be appointed as the representative of the Estate pursuant to sections 1123(a)(5), (a)(7)
13 and (b)(3)(B) of the Bankruptcy Code and as such will be vested with the authority and power
14 (subject to the Liquidating Trust Agreement) to *inter alia*: (i) object to Claims against and Equity
15 Interests in the Debtor; (ii) administer, investigate, prosecute, settle and abandon all Estate Causes
16 of Action assigned to the Liquidating Trust; (iii) make Distributions provided for in the Plan,
17 including, but not limited to, on account of Allowed Claims; and (iv) take such action as required
18 to administer, wind-down, and close the Chapter 11 Case. As the representative of the Estate, the
19 Liquidating Trustee will be vested with all of the rights and powers of the Debtor and its Estate
20 with respect to all Estate Causes of Action assigned and transferred to the Liquidating Trust, and
21 the Liquidating Trustee will be substituted in place of the Debtor and/or its Estate, as applicable, as
22 the party in interest in all such litigation pending as of the Effective Date.

23 **(ii) No Liability of Liquidating Trustee.**

24 To the maximum extent permitted by law, the Liquidating Trustee, its employees, officers,
25 directors, agents, members, or representatives, or professionals employed or retained by the
26 Liquidating Trustee (the "Liquidating Trustee's Agents"), and their employees, officers, directors,
27 agents, members, or representatives, or professionals employed or retained, will not have or incur
28 liability to any Person for an act taken or omission made in good faith in connection with or related

1 to the administration of the Liquidating Trust Assets, the implementation of the Plan and the
2 Distributions made thereunder or Distributions made under the Liquidating Trust Agreement. The
3 Liquidating Trustee, the Liquidating Trustee's Agents and their employees, officers, directors,
4 agents, members, or representatives, or professionals employed or retained will in all respects be
5 entitled to reasonably rely on the advice of counsel with respect to their duties and responsibilities
6 under the Plan and the Liquidating Trust Agreement. Entry of the Confirmation Order constitutes a
7 judicial determination that the exculpation provision contained in Section X.A of the Plan is
8 necessary to, *inter alia*, facilitate confirmation and feasibility and to minimize potential claims
9 arising after the Effective Date for indemnity, reimbursement or contribution from the Estate or the
10 Liquidating Trust. The Confirmation Order's approval of the Plan will also constitutes a *res*
11 *judicata* determination of the matters included in the exculpation provisions of the Plan.
12 Notwithstanding the foregoing, nothing herein or in Section X.A of the Plan will alter any
13 provision in the Liquidating Trust Agreement that provides for the potential liability of the
14 Liquidating Trustee to any Person.

15 **(iii) Prosecution of Estate Causes of Action by the Liquidating**
16 **Trustee.**

17 Pursuant to the Confirmation Order, on the Effective Date, the Debtor irrevocably assigns,
18 transfers and conveys to the Liquidating Trust all property of the Estate, including, but not limited
19 to, all Estate Causes of Action. Subject to the provisions of Section V.B.4 of the Plan, the
20 Liquidating Trustee shall have the power and authority to prosecute, compromise or otherwise
21 resolve any and all such Estate Causes of Action, with all recoveries derived therefrom to be
22 included within Available Cash.

23 Therefore, the Estate Causes of Action described in Exhibit "E" (potential preference
24 payments), Exhibit "F" (litigation against third parties) and the pending litigation claims described
25 on Exhibit "D", if any, will be investigated and may be prosecuted by the Liquidating Trustee
26 thereafter. Additionally, the Liquidating Trustee will investigate and may object to Claims after
27 the Effective Date. The Debtor and its Professional Persons have made a diligent effort to identify
28 in Exhibits "D," "E" and "F" to this Disclosure Statement, all potential Estate Causes of Action

(other than objections to Claims). However, no reliance should be placed on the fact that a particular Estate Cause of Action is or is not identified in Exhibits "D," "E", or "F". The Liquidating Trustee may seek to investigate, file and prosecute Estate Causes of Action after the Effective Date of the Plan, whether or not the Estate Causes of Action are identified in the Disclosure Statement.

Neither the Debtor nor the Liquidating Trustee waives, relinquishes, or abandons any right or cause of action which constitutes property of the Debtor's Estate, whether or not such right or cause of action has been listed or referred to in the Schedules or in this Disclosure Statement and whether or not such right or cause of action is currently known to the Debtor or the Liquidating Trustee. The Debtor submits that the reservation of Estate Causes of Action herein is sufficient to preserve such Estate Causes of Action and shall not give rise to any release, waiver, extinguishment, forfeiture or other impairment of any Estate Cause of Action against any party, nor shall same subject the Estate or the Liquidating Trustee to any claims or defenses of *res judicata*, equitable estoppel or any other similar doctrines or theories in connection with any of the Estate Causes of Action.

**(e) Issuance and Execution of Plan Related Documents and
Corporate Action.**

Pursuant to Section V.D of the Plan, as of the Effective Date, the Liquidating Trustee will be authorized to execute such amendments, modifications, supplements, and other documents as provided for in the Plan. From and after the Effective Date, the Debtor shall be dissolved and the Liquidating Trustee shall be authorized to take all action necessary to dissolve the Debtor. On the Effective Date, the employment, retention, appointment and authority of all Officers, Directors, Employees and Professionals of the Debtor shall be deemed to terminate.

(f) Cancellation/Surrender of Debentures and Related Agreements.

As of the Effective Date the Indentures, Debentures, Declaration of Trusts, Guarantee Agreements, Debenture Subscription Agreements, Capital Securities Agreement, Purchase Agreement, and Common Securities Agreements (collectively, the "Trust Related Agreements") shall be terminated. Notwithstanding the foregoing, the Trust Related Agreements shall continue

1 in effect solely for purposes of (i) allowing the Indenture Trustees to receive Distributions under
2 the Plan on behalf of the Holders of Allowed Class 4 Claims; (ii) thereafter, allowing the Indenture
3 Trustees to make distributions to Holders of Allowed Class 4 Claims; and (iii) permitting the
4 Indenture Trustees to maintain any rights and charging liens they may have against property held
5 or collected by the Indenture Trustees for reasonable fees, costs and expenses pursuant to the
6 Indentures, or for indemnification as provided for under the Indentures. The Trust Related
7 Agreements shall terminate completely upon completion of all distributions by the Indenture
8 Trustees to the Holders of Allowed Class 4 Claims.

9 Following the Effective Date, Holders of Allowed Class 4 Claims will receive from the
10 Indenture Trustee or its designee(s) specific instructions regarding the time and manner in which
11 the Debentures are to be surrendered. Pending such surrender, such Debentures will be deemed
12 cancelled and shall represent only the right to receive the Distributions to which the Holder is
13 entitled under this Plan. Any such Holder who fails to surrender or cause to be surrendered such
14 Debenture or fails to execute and deliver an affidavit of loss and indemnity reasonably satisfactory
15 to the Disbursing Agent or the respective Indenture Trustee, agent or servicer, as the case may be,
16 within six (6) months after the Effective Date, shall be deemed to have forfeited all rights and
17 claims in respect of such Debenture and shall not participate in any distribution hereunder, and all
18 cash in respect of such forfeited distribution, including interest accrued thereon, shall revert to
19 Distributions to be made to other Holders of Debentures.

20 Provision for Allowance of the Claims Asserted by the Indenture Trustee On Behalf of the
21 Indenture Trustee Claims.

22 As set forth in further detail in Section IV.A. of the Plan, a beneficial owner of the
23 Debentures of record as of June 1, 2011 (the "Record Date") shall, for purposes of voting on the
24 Plan and distributions under the Plan, be deemed to have an Allowed Class 4 Claim for the
25 outstanding principal amount of the Debentures owned by such beneficial owner plus accrued and
26 unpaid interest as of the Petition Date, and need not file a proof of claim with respect thereto.

27 With respect to distributions to be made to Holders of Allowed Class 4 Claims, the
28 Indenture Trustee shall (i) be the Disbursing Agent, (ii) receive the consideration to be paid to

1 Holders of the Debentures which are classified as Allowed Class 4 Claims; (iii) be solely
2 responsible for making distributions to Holders of Allowed Class 4 Claims arising from such
3 Debentures; and (iv) be authorized to deduct the Indenture Trustee's Fees from the consideration
4 provided to holders of Allowed Class 4 Claims to the extent so provided for in the Indentures.

5 **4. Resolution of Disputed Claims.**

6 As set forth in Section V of the Plan, after the Effective Date and subject to the provisions
7 of the Plan and Liquidating Trust Agreement, the Liquidating Trustee will review all Claims and
8 determine if any grounds exist to object to such Claims. Only Allowed Claims will be paid.
9 Distributions relating to Disputed Claims will be placed into the Disputed Claims Reserve until
10 such time as such Disputed Claim is adjudicated or otherwise settled. Any Disputed Claim that
11 becomes an Allowed Claim after the Effective Date will be paid from the Disputed Claims
12 Reserve. If such Disputed Claim fails to become an Allowed Claim, money placed in the Disputed
13 Claims Reserve on behalf of such Disputed Claim shall be deemed to be Available Cash and shall
14 be distributed to holders of Allowed Class 3 Claims, and if appropriate under the Plan, Allowed
15 Class 4 Claims. All objections to claims shall be filed prior to the Liquidating Trustee Claim
16 Objection Deadline, as defined in I.A of the Plan, and served upon the Holder of the Claim to
17 which the objection is made.

18 Additionally, any Claims filed by the Debtor's officers and directors seeking
19 indemnification from the Debtor pursuant to employment agreements, by-laws or otherwise, shall
20 be channeled, subject to any defenses thereto and 11 U.S.C. 510(b) and (c), to the Debtor's
21 applicable directors' and officers' insurance policies including but not limited to: St. Paul Mercury
22 Insurance, Policy No. EC08500090 and XL Insurance, Policy No. ELU118152-10.

23 **5. Distributions Under the Plan.**

24 **(a) General Provisions.**

25 Except as otherwise provided herein, or as may be ordered by the Bankruptcy Court,
26 distributions to be made on the Effective Date on account of Allowed Claims, other than Allowed
27 Class 3 Claims and Allowed Class 4 Claims, shall be made on the Effective Date or as soon as
28 practicable thereafter. Each Holder of an Allowed Class 3 Claim shall receive an Initial Class 3

1 Distribution, as soon as practicable in the discretion of the Liquidating Trustee, comprising a Pro
2 Rata Share of the Available Cash. Each Holder of an Allowed Class 4 Claim shall be allocated a
3 Pro Rata share of each Distribution available to Holders of Class 3 Claims; provided, however, that
4 the amount of distributions to Holders of Allowed Class 4 Claims shall first be paid on account of
5 unpaid Indenture Trustee Fees accrued prior to the Petition Date.

6 Notwithstanding the foregoing, no distributions will be made on a Claim unless it is an
7 Allowed Claim or, in the case of a Disputed Claim, an order of the Bankruptcy Court has been
8 entered estimating the Claim for purposes of distribution; and, provided, further, however,
9 distributions on Allowed Claims may be delayed as a result of, or the allowance or estimation of,
10 Disputed Claims, or the expiration of time for filing a proof of claim.

11 **(b) Delivery of Distributions, Address of Holder.**

12 For purposes of all notices and distributions under the Plan, and except as provided in
13 Section 4 above, the Liquidating Trustee shall be entitled to rely on the name and address of the
14 Holder of each Claim as shown on, and distributions to Holders of Allowed Claims shall be made
15 by regular U.S. first class mail to, the following addresses: (a) at the addresses set forth in the
16 proofs of Claim Filed by such Holders; (b) at the addresses set forth in any written notices of
17 address change delivered to the Debtor or to the Liquidating Trustee after the date on which any
18 related proof of Claim was Filed; or (c) the address reflected on the Schedules if no proof of Claim
19 or proof of Equity Interest is Filed and the Debtor or the Liquidating Trustee has not received a
20 written notice of a change of address. The Liquidating Trustee shall be under no duty to attempt to
21 locate Holders of Allowed Claims who are entitled to unclaimed distributions.

22 **(c) Record Date.**

23 Pursuant to Bankruptcy Rule 3021 and effective as of 5:00 p.m. (Pacific time) on the
24 Record Date (June 1, 2011), the transfer ledgers for the Debentures and the Equity Interests shall
25 be closed, and there shall be no further changes in the record holders of such Debentures and
26 Equity Interests. The Liquidating Trustee shall have no obligation to recognize any transfer of any
27 such Debentures and/or Equity Interests occurring after the Record Date, but shall instead be
28 entitled to recognize and deal for all purposes with only those Holders of record stated on the

1 applicable transfer ledgers as of the Record Date and shall be entitled instead to recognize and deal
2 for all purposes hereunder with only those record holders stated on the transfer ledgers as of the
3 close of business on the Record Date.

4 The trustees of the Statutory Business Trusts shall be responsible for making any
5 distributions to the holders of TRUPs as of the Record Date in accordance with the Declaration of
6 Trusts.

7 **6. Conditions Precedent.**

8 The Plan provides that it will not become effective until the Confirmation Order has been
9 entered on the docket of the Bankruptcy Court and no stay of the Confirmation Order is in effect,
10 unless this condition has been waived in writing by the Debtor.

11 **7. Retention of Jurisdiction.**

12 The Plan provides for the retention by the Bankruptcy Court of jurisdiction over the
13 Chapter 11 Case as specified in the Plan.

14 **8. Effective Date.**

15 The Effective Date is the first day when the Confirmation Order has been entered on the
16 docket in the Chapter 11 Case and no stay of the Confirmation Order is in effect, provided, that, the
17 Debtor may waive the condition that no stay be in effect as provided under section VIII of the Plan.

18 **9. Amendment, Modification or Revocation of the Plan.**

19 Prior to the Effective Date, the Plan may be altered, amended, or modified pursuant to
20 section 1127 of the Bankruptcy Code by the Debtor. After the Effective Date, the Liquidating
21 Trustee shall have the sole authority and power to alter, amend, or modify the Plan pursuant to
22 section 1127 of the Bankruptcy Code.

23 The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation
24 Date. If the Debtor revokes the Plan prior to the Confirmation Date or if the Confirmation Date
25 or the Effective Date does not occur, then the Plan shall be deemed null and void. In such event,
26 nothing contained herein shall be deemed to constitute a waiver or release of any claims by or
27 against the Debtor or its Estate or any other person or to prejudice in any manner the rights of the
28 Debtor, the Debtor or its Estate or any person in any further proceedings involving the Debtor.

1 **10. Post Confirmation Notice.**

2 From and after the Effective Date, any person who desires notice of any pleading or
3 document filed in the Bankruptcy Court, or any hearing in the Bankruptcy Court, or other matter as
4 to which the Bankruptcy Code requires notice to be provided, shall file a request for post-
5 confirmation notice and shall serve the request on the Liquidating Trustee; provided, however, the
6 Office of the United States Trustee in this district, counsel to the Debtor and counsel to the
7 Indenture Trustees shall be deemed to have requested post-confirmation notice.

8 **V. EFFECT OF PLAN CONFIRMATION**

9 **A. Preservation of Rights of Action.**

10 Except to the extent any rights, claims, causes of action, defenses, and counterclaims are
11 expressly and specifically released in connection with the Plan or in any settlement agreement
12 approved during the Chapter 11 Case: (i) any and all Estate Causes of Action vesting with the
13 Liquidating Trust under the Plan shall remain Liquidating Trust Assets, whether or not litigation
14 relating thereto is pending on the Effective Date, and whether or not any such Estate Causes of
15 Action have been listed or referred to in this Plan, this Disclosure Statement, or any other
16 document filed with the Bankruptcy Court, and (ii) neither the Debtor nor the Estate waives,
17 releases, relinquishes, forfeits, or abandons (nor shall either be estopped or otherwise precluded or
18 impaired from asserting) any Estate Cause of Action that constitutes property of the Debtor's
19 Estate: (a) whether or not such Estate Cause of Action has been listed or referred to in the Plan, this
20 Disclosure Statement, or any other document filed with the Bankruptcy Court, (b) whether or not
21 such Estate Cause of Action is currently known to the Debtor or the Liquidating Trustee, and (c)
22 whether or not a defendant in any litigation relating to such Estate Cause of Action filed a proof of
23 claim in the Chapter 11 Case, filed a notice of appearance or any other pleading or notice in the
24 Chapter 11 Case, voted for or against this Plan, or received or retained any consideration under this
25 Plan.

26 **B. No Liability for Solicitation or Participation.**

27 In accordance with section 1125(e) of the Bankruptcy Code and as more fully set forth in
28 Section X.A of the Plan, on the Effective Date, the Debtor, the Indenture Trustee, and their

1 respective officers, directors, employees, representatives, counsel, financial advisors or other
2 agents and their successors and assigns shall be deemed released by each of them against the other,
3 and by all Holders of Claims or Equity Interests or any other entity, of and from any Claims,
4 obligations, rights, causes of action and liabilities for any act or omission in connection with, or
5 arising out of, the Chapter 11 Case (including, for example, proposal and solicitation of
6 acceptances for the Plan), except for acts or omissions which constitute willful misconduct or gross
7 negligence.

8 **VI. CONFIRMATION PROCEDURE**

9 HOLDERS OF IMPAIRED CLAIMS AND OTHER INTERESTED PARTIES ARE
10 URGED TO READ THE PLAN (INCLUDING THE EXHIBITS THERETO) IN ITS ENTIRETY
11 SO THAT THEY MAY MAKE AN INFORMED JUDGMENT CONCERNING THE PLAN.

12 In order for the Plan to be confirmed by the Bankruptcy Court, all of the applicable
13 requirements of section 1129 of the Bankruptcy Code must be met. These include, among others,
14 the requirements that the Plan: (i) is accepted by all impaired classes of Claims; (ii) is feasible; and
15 (iii) is in the "best interest" of Holders of Claims and Equity Interests in each class impaired under
16 the Plan.

17 The Plan and the Disclosure Statement were filed with the Bankruptcy Court and, after
18 notice and a hearing, the Bankruptcy Court approved the Disclosure Statement. The Plan, the
19 Disclosure Statement, Ballots, and other solicitation materials approved by the Bankruptcy Court
20 were distributed to all known holders of impaired Claims in the Voting classes (Class 3 and Class
21 4). A Confirmation Hearing with respect to the Plan is scheduled to commence as set forth in the
22 Confirmation Hearing Notice included in the solicitation materials and served on all creditors and
23 parties in interest. At the Confirmation Hearing, the Debtor will request the Bankruptcy Court to
24 confirm the Plan on the basis that all confirmation requirements have been satisfied.

25 **A. Voting; Acceptance.**

26 Any Holder of a Claim in an impaired Class is entitled to vote if either (i) such Holder's
27 Claim has been scheduled by the Debtor in the Schedules filed with the Bankruptcy Court
28 (provided that such Claim has not been scheduled as disputed, contingent, unknown, or

1 unliquidated), or (ii) such Holder has filed a proof of Claim on or before the deadline previously
2 fixed by the Bankruptcy Court and such Claim is deemed allowed pursuant to section 502 of the
3 Bankruptcy Code or has been allowed by the Bankruptcy Court, unless such Claim has been
4 disallowed for voting purposes by the Bankruptcy Court, or is disallowed under the Plan. The date
5 for determining who is a "Record Holder" for voting purposes in the Voting Classes will be the
6 Record Date, June 1, 2011. A vote may be disregarded if the Bankruptcy Court determines, after
7 notice and a hearing, that an acceptance or rejection was not solicited or procured or made in good
8 faith or in accordance with the provisions of the Bankruptcy Code.

9 The Voting Classes of Claims (*i.e.* Class 3 and Class 4) will be deemed to have accepted
10 the Plan if the Plan is accepted by Holders of at least two-thirds in dollar amount and more than
11 one-half in number of the Claims of such Class (excluding certain Claims designated under section
12 1126(e) of the Bankruptcy Code) that will have voted to accept or reject the Plan.

13 AS DESCRIBED IN SECTION III.B.2 ABOVE, WITH RESPECT TO THE
14 INDENTURE TRUSTEE CLAIMS IN CLASS 4, THE HOLDERS OF THE TRUPS AS OF THE
15 RECORD DATE ARE ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN. THE
16 INDENTURE TRUSTEES ARE NOT PERMITTED TO VOTE ON THE PLAN.
17 CONSEQUENTLY, THE DEBTOR WILL CAUSE BMC TO SEND A BALLOT FOR CLASS 4
18 CLAIMS DIRECTLY TO TRUP HOLDERS IN ACCORDANCE WITH THE DIRECTION OF
19 THE INDENTURE TRUSTEE AND SUCH TRUP HOLDER MUST SUBMIT ITS OWN
20 BALLOT IN ACCORDANCE WITH THE TERMS OF THE INDENTURE AND THE VOTING
21 INSTRUCTIONS ON THE BALLOT IN ORDER FOR ITS VOTE TO COUNT.

22 Classes 3 and 4 are the only Voting Classes because Classes 1 and 2 are not impaired and
23 therefore are deemed to accept the Plan and Classes 5 and 6 are impaired but deemed to reject the
24 Plan because they will not receive a distribution under the Plan.

25 **B. Confirmation Hearing.**

26 Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to
27 hold a hearing on confirmation of the Plan. The Confirmation Hearing may be postponed from
28 time to time by the Bankruptcy Court without further notice except for an announcement of the

1 postponement made at the Confirmation Hearing. Section 1128(b) of the Bankruptcy Code
2 provides that any party in interest may object to confirmation of the Plan. Objections must be
3 made in writing, specifying in detail the name and address of the person or entity objecting, the
4 grounds for the objection, and the nature and amount of the Claim or Equity Interest held by the
5 objector, and otherwise complying with the requirements of the Bankruptcy Rules and Local
6 Bankruptcy Rules. Objections must be filed and served pursuant to the Confirmation Hearing
7 Notice in the manner set forth therein, on or before the time and date designated in the
8 Confirmation Hearing Notice as being the last date for serving and filing objections to confirmation
9 of the Plan.

10 UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED
11 IN ACCORDANCE WITH THE CONFIRMATION HEARING NOTICE, IT MAY NOT BE
12 CONSIDERED BY THE BANKRUPTCY COURT. AS SET FORTH IN THE CONFIRMATION
13 HEARING NOTICE, THE BANKRUPTCY COURT MAY NOT CONSIDER ANY
14 OBJECTIONS THAT ARE NOT TIMELY RAISED.

15 At the Confirmation Hearing, the Bankruptcy Court will determine, among other things,
16 whether the following confirmation requirements specified in section 1129 of the Bankruptcy Code
17 have been satisfied:

- 18 1. The Plan complies with the applicable provisions of the Bankruptcy Code.
- 19 2. The Debtor has complied with the applicable provisions of the Bankruptcy
20 Code.
- 21 3. The Plan has been proposed in good faith and not by any means proscribed
22 by law.
- 23 4. Any payment made or promised by the Debtor for services or for costs and
24 expenses in, or in connection with, the Chapter 11 Case, or in connection with the Plan and
25 incident to the Chapter 11 Case, has been disclosed to the Bankruptcy Court, and any such payment
26 made before the confirmation of the Plan is reasonable or, if such payment is to be fixed after the
27 confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as
28 reasonable.

1 5. The Debtor has disclosed the identity and affiliations of any individual
2 proposed to serve, after confirmation of the Plan, as a director or officer of the Debtor, and the
3 appointment to, or continuance in, such office of such individual is consistent with the interests of
4 creditors and with public policy, and the Debtor has disclosed the identity of any insider that will
5 be employed or retained by the Debtor and the nature of any compensation for such insider.

6 6. Each Holder of an impaired Claim and each Holder of Equity Interests either
7 has accepted the Plan or will receive or retain under the Plan on account of such Holder's Claims or
8 Equity Interests, as the case may be, property of a value, as of the Effective Date, that is not less
9 than the amount that such entity would receive or retain if the Debtor's Estate were liquidated on
10 such date under chapter 7 of the Bankruptcy Code.

11 7. Unless the Debtor proposes a nonconsensual plan of liquidation, each class
12 of Claims or Equity Interests has either accepted the Plan or is not impaired under the Plan.

13 8. Except to the extent that the holder of a particular Claim has agreed to a
14 different treatment of such Claim, the Plan provides that Administrative Expenses and such Other
15 Priority Claims as are designated in section 1129(a)(9) of the Bankruptcy Code will be paid in full
16 on the Effective Date and that holders of Priority Tax Claims will receive on account of such
17 Claims payment in full on the Effective Date equal to the allowed amount of such Claims.

18 9. At least one impaired class of Claims has accepted the Plan, determined
19 without including any acceptance of the Plan by any insider holding a Claim in such class.

20 10. The Plan contemplates the disposition of all of the assets of the Estate and
21 the distribution of the proceeds therefrom to holders of Allowed Claims and Allowed Equity
22 Interests in order of priority and as provided for in the Plan.

23 The Debtor believes that, upon acceptance of the Plan by the Voting Classes, the
24 Plan will satisfy all the statutory requirements of Chapter 11 of the Bankruptcy Code, that the
25 Debtor has complied or will have complied with all of the requirements of Chapter 11, and that the
26 Plan is being proposed and will be submitted to the Bankruptcy Court in good faith.

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1 **C. Feasibility.**

2 The Bankruptcy Code requires that, in order for the Plan to be confirmed by the
3 Bankruptcy Court, it must be demonstrated that consummation of the Plan is not likely to be
4 followed by the liquidation or the need for further financial reorganization of the Debtor, unless a
5 liquidation is contemplated by the Plan. Here, the Plan contemplates the orderly sale or disposition
6 of all of the Assets of the Debtor by the Liquidating Trustee and the distribution of the proceeds
7 therefrom in accordance with the Plan. The Debtor has prepared a Projection of the Available
8 Cash (see Exhibit "B" hereto). Exhibit "B" includes a detailed schedule of the sources and uses of
9 Cash and property at the assumed Effective Date. The sources of funds for such cash payments
10 will be Cash on hand at the Effective Date. The Debtor believes that, based upon the assumptions
11 made, such available funds will be adequate to fund the Plan.

12 **D. Best Interests Test.**

13 As referred to in subparagraph 6 of Section VI.B. above, confirmation of the Plan requires
14 that each Holder of an impaired Claim either (a) accepts the Plan or (b) receives or retains under
15 the Plan property of a value, as of the Effective Date, that is not less than the value such Holder
16 would receive or retain if the Debtor's Estate were liquidated under chapter 7 of the Bankruptcy
17 Code.

18 The Debtor has determined that confirmation of the Plan will provide each Holder of a
19 Claim with a recovery that is not less than that which it would receive pursuant to a liquidation of
20 the Debtor under chapter 7 of the Bankruptcy Code. This determination is based upon a
21 consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds
22 available for distribution to such Holders.

23 Conversion of this case to one under chapter 7 at this stage would simply add another layer
24 of administrative expenses which would only serve to diminish the distributions to all creditors in
25 this case. In a chapter 7 case, the chapter 7 trustee will incur fees and expenses of professionals
26 that will be paid prior to any chapter 11 Claims. Accordingly, the distributions to creditors will
27 likely be larger under the Plan than in a chapter 7 case. Moreover, initial distributions to creditors
28 contemplated by the terms of the Debtor's Plan will be made quicker than any likely distribution

1 that would be made by a chapter 7 trustee because a chapter 7 trustee will need an undetermined
2 period of time to investigate and comprehend the assets, liabilities, and asserted Claims against the
3 Debtor's Estate.

4 Based on the foregoing, the Debtor believes that the Plan satisfies the Best Interest Test
5 and represents a preferred alternative to the costs and delays attendant to a chapter 7 case and the
6 appointment of a chapter 7 trustee therein.

7 **E. Risks.**

8 Because the final amount of monies that will be collected and the final amount of Allowed
9 Administrative, Priority Tax, Secured, Other Priority, General Unsecured Claims and Indenture
10 Trustee Claims have not yet been determined, the amounts for distribution to holders of Allowed
11 Class 3 Claims and Allowed Class 4 Claims and the percentage that each holder of an Allowed
12 Class 3 Claim and Allowed Class 4 Claim may receive on account of its Allowed Claim could be
13 less than the percentage estimated herein.

14 **VII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN**
15 **OF LIQUIDATION**

16 The Debtor believes that the Plan affords Holders of Claims the potential for the greatest
17 feasible realization out of the Debtor's assets, and, therefore, is in the best interest of such holders.
18 The Debtor has considered alternatives to the Plan, such as a liquidation in the context of a chapter
19 7 case. In the opinion of the Debtor, such alternatives would not afford Holders of Claims a return
20 greater than that achieved under the Plan.

21 **A. Liquidation Under Chapter 7.**

22 If no plan can be confirmed, the Chapter 11 Case may be converted to a case under chapter
23 7 of the Bankruptcy Code, pursuant to which a trustee would be elected or appointed to liquidate
24 the Debtor's assets for distribution to creditors in accordance with the priorities established by the
25 Bankruptcy Code. A discussion of the effects that a chapter 7 liquidation would have on the
26 recovery by holders of Claims is set forth above in the section entitled "Best Interests Test." (*See*
27 *Section VI.D above*).

28 ///

B. Alternative Plan of Liquidation.

If the Plan is not confirmed, the Debtor could attempt to formulate a different plan. With respect to an alternative plan, the Debtor has explored various other alternatives in connection with the negotiation process involved in the formulation and development of the Plan, but concluded that the Plan provides the best feasible recoveries attainable under the circumstances. The Plan provides for an orderly disposition of the assets of the Estate on a timetable, and on terms, which maximizes the value of the Estate. Any alternative liquidation under chapter 11 or under chapter 7, is likely to result in a lower recovery.

THE DEBTOR BELIEVES THAT CONFIRMATION AND IMPLEMENTATION OF THE PLAN IS PREFERABLE TO ANY OF THE ALTERNATIVES DESCRIBED HEREIN BECAUSE IT IS EXPECTED TO PROVIDE GREATER RECOVERIES AND INVOLVE LESS DELAY AND UNCERTAINTY AND LOWER ADMINISTRATIVE COSTS.

VIII. VOTING PROCEDURES

The Debtor is providing, or causing to be provided, the solicitation package ("Solicitation Package"), which consists of copies of the Confirmation Hearing Notice, this Disclosure Statement, the Plan, and/or Ballots or master ballots ("Master Ballots"), as applicable, to all known Holders of impaired Claims in the Voting Classes. With respect to Class 4 Claims, since the TRUPs are voting whether to accept or reject the Plan, BMC will send Solicitation Packages to registered holders of TRUPs as of the Record Date (or, if applicable, to those holders who are listed as participants in a clearing agency's position). Registered holders may include brokerage firms, commercial banks, trust companies, or other nominees (the "Nominees"). If such Nominees do not hold for their own account, they should follow the procedures described in Section VIII.B below. Any beneficial owner of a TRUP who has not received a Ballot should contact such owner's Nominees, or write to the Debtor's Ballot Tabulator. Ballots must be returned to the Ballot Tabulator by no later than the Voting Deadline set forth in the Ballot.

A. Procedures for Tabulation of Votes on the Plan.

Solely for purposes of voting to accept or reject the Plan, and not for the purpose of the allowance of, or distribution on account of, a Claim and without prejudice to the rights of the

Debtor in any other context, the Debtor proposes that each Claim within the Voting Classes that is entitled to vote to accept or reject the Plan be temporarily allowed in accordance with the following rules (collectively, the “Tabulation Rules”):

1. The amount of a Claim for the purposes of ballot tabulation will be:

i. For a Claim identified in the Schedules as not contingent, not unliquidated, and not disputed, and that has not been disallowed, waived, or withdrawn by order of the Court, stipulation, or otherwise prior to the Voting Deadline of August 4, 2011, and for which no proof of claim has been timely filed, the Claim amount as identified in the Schedules (the “Scheduled Amount”);

ii. For a timely proof of claim that is filed in a specified liquidated amount and that is not the subject of an objection filed before the Voting Deadline that has not been disallowed, waived, or withdrawn by order of the Court, stipulation, or otherwise prior to the Voting Deadline, the specified liquidated amount in such proof of claim (the “Liquidated Amount”);

iii. Holders of Indenture Trustee Claims (as defined in the Plan) in Class 4 shall, for voting purposes only, vote only the aggregate principal amount of their Claim as of the Petition Date¹¹;

iv. For a Claim that is the subject of an objection in whole or in part before the Voting Deadline, only the undisputed amount, if any, of such Claim, unless such Claim is temporarily allowed under Bankruptcy Rule 3018(a);

v. If a Claim holder identifies a Claim amount on its ballot that is less than the amount otherwise calculated in accordance with these voting procedures, the Claim will be temporarily allowed for voting purposes in the lesser amount identified on such ballot;

vi. If a Claim for which a proof of claim has been timely filed is marked as contingent, unliquidated or disputed on the face of the proof of claim such Claim will be temporarily allowed for voting purposes only in the amount of \$1.00, unless otherwise ordered by the Court, after notice and a hearing; and

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¹¹ A single TRUPS share is equal to \$1.00 in principal amount of Debentures.

1 vii. An entity may not split its vote within a Claim; thus, each voting
2 creditor shall be deemed to have voted the full amount of its Claim either to accept or reject the
3 Plan.

4 2. If an entity submits a ballot for a Claim (i) for which there is no timely proof
5 of Claim filed and for which there is no corresponding Scheduled Amount, or (ii) which is the
6 subject of an unresolved objection filed prior to the Confirmation Hearing, such ballot will not be
7 counted unless otherwise ordered by the Court.

8 3. If an entity casts more than one eligible ballot with respect to the same
9 Claim before the Voting Deadline, the last properly executed, timely received ballot will be deemed
10 to reflect the voter's intent and shall supersede any prior ballot.

11 4. Any ballot that is incomplete or that is not received by the Voting Deadline
12 shall not be counted; provided, however, the Debtor may waive any defects or irregularities as to
13 any particular ballot or Master Ballot at anytime, whether before or after the Voting Deadline, and
14 any such waivers shall be documented in the tabulation report.

15 5. Any ballot that is signed but that does not indicate an acceptance or rejection
16 of the Plan or is marked to show both acceptance and rejection of the Plan will not be counted.

17 6. If a ballot is signed by a trustee, executor, administrator, guardian, attorney-
18 in-fact, officer of a corporation, or other person acting in a fiduciary or representative capacity, such
19 person should indicate such capacity when signing.

20 7. All votes to accept or reject the Plan must be cast by using the appropriate
21 ballot and in accordance with the voting instructions attached to each ballot and/or as set forth on
22 the ballot (as may be applicable) and votes cast in any other manner will not be counted.

23 8. To be counted, the ballot must contain an original signature. Any ballot that
24 is faxed, emailed or sent by any other electronic means will not be accepted unless authorized by the
25 Debtor in writing.

26 9. The Ballot Tabulator shall tabulate the ballots and prepare the appropriate
27 reports with respect thereto.
28

10. Each ballot will disclaim to the voting creditors that the deadline for objecting to Claims is after the date of the Confirmation Hearing. As a result, creditors may not rely on the absence of an objection to their proofs of claim in determining whether to vote to accept or reject the Plan, or as any indication that the Debtor ultimately will not object to the amount, priority, security, or allowability of any such Claims.

B. Special Provisions With Respect to Voting Class 4 Claims

As stated above, the TRUP holders will vote the Indenture Trustee Claims in Class 4. A single TRUPs share is equal to \$1.00 in principal amount of the Debentures. The TRUPs holders may only vote the aggregate principal amount of their TRUPs as of the Petition Date. The Debtor has retained BMC as its noticing and solicitation agent. BMC will contact the Indenture Trustees to request both a list of registered holders of the TRUPS and the Security Position Report which will list the Nominees, CUSIP numbers and aggregate face amount of the TRUPS. Once BMC obtains this information, BMC will send the Solicitation Packages to: (a) the beneficial holders of the TRUPs (or their Nominees, if held in "street name"), and (b) request that such Nominees (if held in "street name") distribute the Solicitation Packages to such beneficial holders of the TRUPs, and (c) such TRUP holders shall vote on the Plan in accordance with the terms of the relevant Indentures and the instructions on the ballot.

IX. CERTAIN FEDERAL INCOME TAX CONSEQUENCES

A. Introduction.

The following discussion summarizes certain federal income tax consequences of the implementation of the Plan on Holders of Claims in Classes 3 and 4. The following summary does not address the federal income tax consequences to Holders of any other Claims and Claims that are not Impaired by the Plan, or to Holders of Equity Interests. The following summary is based on the Internal Revenue Code, ("IRC") Treasury regulations promulgated and proposed thereunder, judicial decisions and published administrative rules and pronouncements of the IRS as in effect on the date hereof. Changes in such rules or new interpretations thereof may have retroactive effect and could significantly affect the federal income tax consequences described below. Further, any discussion of the Liquidating Trust and the powers, obligations and/or actions of the Litigating

1 Trustee that may be set forth below is subject to the applicable provisions of the Plan and the
2 Liquidating Trust Agreement; if and to the extent that there is any inconsistency between such
3 discussion on one hand and the Plan and the Liquidating Trust Agreement on the other hand, the
4 terms of the latter documents shall control. Holders of Claims and Equity Interests should read the
5 Plan and the Liquidating Trust Agreement in their entirety.

6 The federal income tax consequences of the Plan are complex and are subject to significant
7 uncertainties. The Debtor has not requested a ruling from the IRS or an opinion of counsel with
8 respect to any of the tax aspects of the Plan. Thus, no assurance can be given as to the interpretation
9 that the IRS or a reviewing court might adopt. In addition, this summary does not address foreign,
10 state or local tax consequences of the Plan, nor does it purport to address the federal income tax
11 consequences of the Plan to special classes of taxpayers (such as foreign taxpayers, broker-dealers,
12 banks, mutual funds, insurance companies, financial institutions, small business investment
13 companies, regulated investment companies, tax-exempt organizations, investors in pass-through
14 entities, Holders that hold Claims as part of a hedge, straddle or conversion transaction, Holders
15 who acquired their Claims as compensation, and Holders who do not hold their Claims as capital
16 assets).

17 ACCORDINGLY, THE FOLLOWING SUMMARY OF CERTAIN FEDERAL INCOME
18 TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A
19 SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE
20 INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM OR
21 INTEREST. ALL HOLDERS OF CLAIMS OR INTERESTS ARE URGED TO CONSULT
22 THEIR OWN TAX ADVISORS FOR THE FEDERAL, STATE, LOCAL AND OTHER TAX
23 CONSEQUENCES APPLICABLE UNDER THE PLAN.

24 TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, WE
25 INFORM YOU THAT (A) ANY WRITTEN UNITED STATES FEDERAL TAX ADVICE
26 CONTAINED IN THIS DISCLOSURE STATEMENT (INCLUDING ANY ATTACHMENT) IS
27 NOT INTENDED AND WAS NOT WRITTEN TO BE USED, AND CANNOT BE USED, FOR
28 THE PURPOSE OF AVOIDING UNITED STATES FEDERAL TAX PENALTIES, (B) ANY

1 SUCH ADVICE WAS WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF THE
2 TRANSACTION OR MATTER ADDRESSED HEREIN AND (C) ALL HOLDERS OF CLAIMS
3 AND/OR EQUITY INTERESTS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR
4 CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

5 **B. Consequences to the Debtor.**

6 Under the Plan, the Liquidating Trust will be treated for U.S. federal income tax purposes
7 as a “grantor” trust (i.e., a pass-through tax entity), rather than a separate taxable entity. The transfer
8 of the Debtor’s Assets to the Liquidating Trust may result in the Debtor recognizing gain or income,
9 depending in part on the value of such Assets on the Effective Date and the adjusted basis of such
10 Assets on the Effective Date.

11 **C. Consequences to Holders of Allowed Claims in Classes 3 and 4.**

12 **1. Recognition of Gain or Loss Generally.**

13 Pursuant to the Plan, on the Effective Date, each Holder of an Allowed Class 3 Claim and
14 Allowed Class 4 Claim will receive an interest in the Liquidating Trust, which is a beneficial
15 interest in the Liquidating Trust, entitling the holder thereof to distributions from the Liquidating
16 Trust as provided for in the Plan and in the Liquidating Trust Agreement. Except to the extent that
17 the Holder of a Class 3 Claim or Class 4 Claim agrees to a different treatment, said Persons will
18 receive on account of their Allowed Class 3 Claim and Allowed Class 4 Claim, in full and complete
19 satisfaction thereof, from the Liquidating Trust, one or more Pro Rata Distributions of the Available
20 Cash based upon the amount of the respective Holder’s Allowed Claim. In general, each Holder of
21 an Allowed Claim will recognize gain or loss in an amount equal to the difference between (i) the
22 sum of the amount of any Cash and the fair market value of any other property (including, as
23 discussed below, its undivided interest in the Liquidating Trust Assets) that such Holder receives in
24 satisfaction of its Claim (other than in respect of any Claim for accrued but unpaid interest, and
25 excluding any portion required to be treated as imputed interest due to the post-Effective Date
26 Distribution of such consideration upon the resolution of Disputed Claims), and (ii) such Holder’s
27 adjusted tax basis in its Claim (other than any Claim for accrued but unpaid interest). For a
28

1 discussion of the U.S. federal income tax consequences of any Claim for accrued interest, see
2 Section 2 below.

3 As discussed below, the Liquidating Trust has been structured to qualify as a “grantor trust”
4 for U.S. federal income tax purposes. Accordingly, each holder of an Allowed Claim receiving a
5 beneficial interest in the Liquidating Trust will be treated for U.S. federal income tax purposes as
6 directly receiving and as a direct owner of its allocable percentage of the Liquidating Trust Assets
7 (see section 3 below). As set forth in the Liquidating Trust Agreement, as soon as practicable after
8 the Effective Date, and thereafter as may be required, the Liquidating Trustee (if reasonably deemed
9 necessary or desirable by the Liquidating Trustee) will make or have caused to be made a good faith
10 valuation of the Liquidating Trust Assets of the Liquidating Trust, and all parties, including the
11 Holders of Class 3 Claims, must consistently use such valuation for all federal income tax purposes.

12 Due to the possibility that a holder of an interest in the Liquidating Trust may receive more
13 than one Distribution subsequent to the Effective Date (due to the subsequent disallowance of
14 certain Disputed Claims or unclaimed Distributions), the imputed interest provisions of the IRC may
15 apply to treat a portion of such later Distributions to such Holders as imputed interest. In addition, it
16 is possible that any loss realized by a Holder in satisfaction of an Allowed Claim may be deferred
17 until all subsequent Distributions relating to Disputed Claims are determinable, and that a portion of
18 any gain realized may be deferred under the “installment method” of reporting. Holders are urged
19 to consult their tax advisors regarding the possibility for deferral, and the potential ability to elect
20 out of the installment method of reporting any gain realized in respect of their Claims.

21 After the Effective Date, any amount that a Holder receives as a Distribution from the
22 Liquidating Trust in respect of its beneficial interest therein (other than as a result of the subsequent
23 disallowance of Disputed Claims) should not be included for federal income tax purposes in the
24 Holder’s amount realized in respect of its Allowed Claim, but should be separately treated as a
25 distribution received in respect of such Holder’s beneficial (ownership) interest in the Liquidating
26 Trust.

27 Where a Holder recognizes gain or loss in respect of its Claim, the character of such gain or
28 loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined

1 by a number of factors, including the tax status of the Holder, whether the Claim constitutes a
2 capital asset in the hands of the Holder and how long it has been so held, whether the Holder had
3 acquired the Claim at a market discount, and whether and to what extent the Holder had previously
4 claimed a bad debt deduction. A Holder that purchased its Claim from a prior Holder at a market
5 discount may be subject to the market discount rules of the IRC. Under those rules, assuming that
6 the Holder has made no election to amortize the market discount into income on a current basis with
7 respect to any market discount instrument, any gain recognized on the exchange of such Claim
8 (subject to a *de minimis* rule) generally would be characterized as ordinary income to the extent of
9 the accrued market discount on such Claim as of the date of the exchange.

10 In general, a Holder's tax basis in any beneficial interest received (and undivided interest in
11 the Liquidation Trust Assets deemed owned) will equal the fair market value of its proportionate
12 share of the Liquidating Trust Assets on the Effective Date. The holding period for such assets
13 generally will begin the day following the Effective Date.

14 **2. Distributions in Payment of Accrued but Unpaid Interest.**

15 Distributions to any Holder of an Allowed Claim will be allocated first to the original
16 principal portion of such Claim as determined for federal income tax purposes, and then, to the
17 extent the consideration exceeds such amount, to the portion of such Claim representing accrued but
18 unpaid interest. However, there is no assurance that the IRS would respect such allocation for
19 federal income tax purposes.

20 To the extent a Holder of debt receives an amount of cash or property in satisfaction of
21 interest accrued during its holding period, such Holder generally recognizes taxable interest income
22 in such amount (if not previously included in the Holder's gross income). Conversely, a Holder
23 generally recognizes a deductible loss to the extent any accrued interest claimed was previously
24 included in its gross income and is not paid in full. Each Holder is urged to consult its tax advisor
25 regarding the allocation of consideration and the deductibility of unpaid interest for U.S. federal
26 income tax purposes.

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28 //

1 **3. Tax Treatment of the Liquidating Trust and Holders of Interests**
2 **Therein.**

3 On the Effective Date, the Liquidating Trust will be established for the benefit of Holders
4 of all Allowed Claims. The Liquidating Trust is intended to qualify and be treated as a “grantor”
5 (*i.e.*, a pass-through tax entity), rather than as a separate taxable entity. However, merely
6 establishing a trust as a liquidating trust does not ensure that it will be treated as a grantor trust for
7 U.S. federal income tax purposes. The IRS, in Revenue Procedure 94-45, 1994-2 C.B. 684, set forth
8 the general criteria for obtaining an IRS ruling as to the grantor trust status of a liquidating trust
9 under a chapter 11 plan. The Liquidating Trust has been structured with the intention of complying
10 with such general criteria. Pursuant to the Plan, and in conformity with Revenue Procedure 94-45,
11 all parties (including the Debtor, the Liquidating Trustee, and the Beneficiaries of the Liquidating
12 Trust) are required for federal income tax purposes to treat the Liquidating Trust as a grantor trust of
13 which the Persons receiving interests therein are the owners and grantors. The following discussion
14 assumes that the Liquidating Trust will be so respected for U.S. federal income tax purposes.
15 However, no ruling has been requested from the IRS and no opinion of counsel has been requested
16 concerning the tax status of the Liquidating Trust as a grantor trust. Accordingly, there can be no
17 assurance that the IRS would not take a contrary position. If the IRS were to challenge successfully
18 such classification, the federal income tax consequences to the Liquidating Trust and the
19 Beneficiaries could vary from those discussed herein.

20 For all U.S. federal income tax purposes, all parties (including the Debtor, the Liquidating
21 Trustee, and the Beneficiaries) must treat the transfer of the Liquidating Trust Assets to the
22 Liquidating Trust, in accordance with the terms of the Plan and the Liquidating Trust Agreement, as
23 a transfer of such Liquidating Trust Assets directly to the Beneficiaries, followed by such
24 Beneficiaries’ transfer of the Liquidating Trust Assets to the Liquidating Trust. Consistent
25 therewith, all parties must treat the Liquidating Trust as a grantor trust of which the Beneficiaries
26 are the owners and grantors. Thus, such Beneficiaries will be treated as the direct owners of their
27 respective undivided interests in the Liquidating Trust Assets for all U.S. federal income tax
28 purposes. Each such Person will have a tax basis in its proportionate share of the Liquidating Trust

1 Assets deemed owned equal to the fair market value thereof on the Effective Date. As set forth in
2 the Liquidating Trust Agreement, as soon as practicable after the Effective Date, and thereafter as
3 may be required, the Liquidating Trustee will (if reasonably deemed necessary or desirable by the
4 Liquidating Trustee) make or have caused to be made a good faith valuation of the Liquidating
5 Trust Assets, and all parties, including the Beneficiaries, must consistently use such valuation for all
6 federal income tax purposes.

7 Accordingly, except as discussed below (in connection with pending Disputed Claims),
8 each holder of a Class 3 Claim and Class 4 Claim receiving a beneficial interest in the Liquidating
9 Trust will be required to report on its U.S. federal income tax return its allocable share of any
10 income, gain, loss, deduction, or credit recognized or incurred by the Liquidating Trust, in
11 accordance with its relative beneficial interest. The character of items of income, deduction, and
12 credit to any holder and the ability of such holder to benefit from any deduction or losses may
13 depend on the particular situation of such holder.

14 The U.S. federal income tax reporting obligations of a Holder are not dependent upon the
15 Liquidating Trust distributing any Cash or other proceeds. Therefore, a Holder may incur a federal
16 income tax liability with respect to its allocable share of the income of the Liquidating Trust
17 regardless of the fact that the Holder has not received any prior or concurrent Distribution. Other
18 than in respect of Cash retained on account of Disputed Claims and subsequently distributed, the
19 Liquidating Trust's Distribution of Cash to Beneficiaries generally will not be taxable to said
20 Beneficiaries because they already are regarded for federal income tax purposes as owning the
21 underlying Liquidating Trust Assets.

22 The assets set aside or reserved to fund the payment of the Disputed Claims Reserve will be
23 treated and taxed for federal income tax purposes similar to the other assets transferred and held by
24 the Liquidating Trust (i.e. the reserved assets will be treated as transferred to the grantor Liquidating
25 Trust owned by the Beneficiaries) *unless* the Liquidating Trustee files a tax election to treat the
26 Disputed Claim Reserve as a Disputed Ownership Fund. Under the Plan, the Liquidating Trustee is
27 allowed, for federal income tax purposes, to treat the Disputed Claims Reserve as either (a) a part of
28 the assets of the grantor Liquidating Trust owned by the Beneficiaries (i.e., the Beneficiaries, rather

1 than the Liquidating Trust, will pay tax on their share of Tax Items, as that term is defined in the
2 Liquidating Trust, attributable to the Disputed Claims) or (b) a Disputed Ownership Fund (“DOF”),
3 taxable under IRC Section 468B and Treasury Income Tax Regulation Section 1.468B-9 (separate
4 taxable entity). If the Liquidating Trustee fails to file a DOF tax election, the tax consequences with
5 respect to the transfer of assets used to fund the Disputed Claims reserve will be the same as
6 described above for the other assets transferred by the Debtor to the Liquidating Trustee.

7 If the Liquidating Trustee files a tax election to treat the Disputed Claims reserve accounts
8 as a DOF, then the DOF will be treated as a separate taxable entity for federal income tax purposes
9 (rather than a pass-through tax entity) that is required to file federal income tax returns and pay any
10 federal income tax due with respect to Tax Items that are attributable to the Disputed Claims. All of
11 the federal income tax liability of the DOF will reduce the distributions of all of the Beneficiaries,
12 including the Holders of Disputed Claims. The DOF will be taxed for federal income tax purposes
13 as either (a) a C corporation, unless all the assets transferred to the fund by or on behalf of
14 transferors are passive investments assets, or (b) a “qualified settlement fund” within the meaning of
15 IRC Section 468B and the Treasury Income Tax Regulations thereunder (a “QSF”), if all the assets
16 transferred to the fund are passive investment assets. For purposes of determining the DOF’s
17 federal income tax liability, a DOF is not required to report as income transfers of assets to the
18 DOF, but is required to include in income all income received or accrued from the assets transferred
19 to the DOF. The DOF is not allowed a tax deduction for a distribution of disputed assets or the net
20 after tax income earned by the DOF made to a Beneficiary. The initial tax basis of assets
21 transferred to a DOF is the fair market value of the asset determined on the date of transfer to the
22 DOF, and the DOF’s holding period begins on the date of the transfer.

23 **4. Tax Reporting.**

24 Only to the extent that the Liquidating Agent does not make the DOF tax election, all
25 parties (including the Debtors, the Liquidating Trustee and the Beneficiaries) shall, for all federal
26 income tax purposes, treat the transfer of assets to the Liquidating Trust in accordance with the
27 terms of the Plan as a transfer of such assets directly to the Beneficiaries, followed by the transfer
28 thereof by such Beneficiaries to the Liquidating Trust. Consistent therewith, for federal income tax

1 purposes, all parties shall treat the Liquidating Trust as a grantor trust of which such Beneficiaries
2 are the owners and grantors. Thus, such Beneficiaries (and any subsequent Beneficiaries) shall be
3 treated as the direct owners of an undivided beneficial interest in the assets and liabilities of the
4 Liquidating Trust for all federal income tax purposes. The Debtor and Liquidating Trustee will
5 jointly determine the fair market value of the assets, and all parties, including the Beneficiaries,
6 must consistently use such valuation for all federal income tax purposes.

7 The Liquidating Trustee will file tax returns with the IRS as a grantor trust pursuant to
8 Treasury Regulations Section 1.671-4(a). The Liquidating Trustee will also send to each
9 Beneficiary a separate statement setting forth the Beneficiary's share of the Liquidating Trustee's
10 tax items of income, gain, loss, deduction or credit and will instruct the Beneficiary to report such
11 items on its federal income tax return.

12 Each of the Beneficiaries will be required to report on his/her federal income tax return(s)
13 the Beneficiary's allocable share of any tax items such as income, gain, loss, deduction or credit
14 recognized or incurred by the Liquidating Trust and that is set forth on the tax statement provided to
15 the Beneficiary. The character of items of income, deduction and credit to any Beneficiary and the
16 ability of such Beneficiary to benefit from any deduction or losses may depend on the particular
17 situation of the Beneficiary.

18 The federal income tax reporting obligation of the Beneficiaries is not dependent upon the
19 Liquidating Trustee's distribution of cash or other proceeds. Therefore, Beneficiaries may receive
20 tax items in a taxable year regardless of the fact that the Liquidating Trustee has not made, or will
21 not make, any concurrent or subsequent distributions to the Beneficiaries. If a Beneficiary does not
22 receive distributions from the Liquidating Trustee commensurate with the tax items allocated to it,
23 the Beneficiary may be entitled to a subsequent loss or deduction.

24 If the Liquidating Trustee files a DOF tax election with respect to the Disputed Claims
25 Reserve then, for federal income tax purposes, the Liquidating Trustee will file a tax return for the
26 DOF and pay any federal income tax due.

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28 //

1 For federal income tax purposes, Disputed Claimants are not treated as transferring assets to
2 the DOF. The taxability of distributions to Disputed Claimants is determined by reference to the
3 Disputed Claim in which the distribution is made.

4 **5. Withholding.**

5 All Distributions by the Liquidating Trustee to Holders of Allowed Claims are subject to
6 any applicable tax withholding, including employment tax withholding. Under federal income tax
7 law, interest, dividends, and other reportable payments may, under certain circumstances, be subject
8 to "backup withholding" at the then applicable withholding rate (currently 28%). Backup
9 withholding generally applies if the Holder (a) fails to furnish its social security number or other
10 taxpayer identification number ("TIN"), (b) furnishes an incorrect TIN, (c) fails properly to report
11 interest or dividends, or (d) under certain circumstances, fails to provide a certified statement,
12 signed under penalty of perjury, that the TIN provided is its correct number and that it is not subject
13 to backup withholding. Backup withholding is not an additional tax but merely an advance
14 payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons
15 are exempt from backup withholding, including, in certain circumstances, corporations and financial
16 institutions.

17 THE FOREGOING SUMMARY HAS BEEN PROVIDED FOR INFORMATIONAL
18 PURPOSES ONLY. ALL HOLDERS OF CLAIMS OR EQUITY INTERESTS ARE URGED TO
19 CONSULT THEIR OWN TAX ADVISORS CONCERNING THE FEDERAL, STATE, LOCAL
20 AND OTHER TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.

21 **X. FEES AND EXPENSES**

22 The expenses of seeking acceptances of the Plan and of other aspects of Plan proceedings
23 have been and will be borne by the Debtor's Estate. The solicitation has been and is being made
24 principally by mail. Arrangements also have been or will be made with brokerage houses and other
25 custodians, nominees, and fiduciaries to forward this Disclosure Statement, Ballots, and other
26 pertinent materials to the beneficial holders of the Debentures. The Debtor has reimbursed and will
27 reimburse such forwarding agents for reasonable out-of-pocket expenses incurred by them, but no
28 compensation has been or will be paid for their services.

1 In addition to the foregoing, the Debtor's Estate is obligated to pay fees and reimburse
2 expenses for the various professionals employed in connection with the Chapter 11 Case to the
3 extent such fees and expenses are allowed by the Bankruptcy Court.

4 **XI. SUMMARY OF ADDITIONAL SOURCES OF INFORMATION**

5 Additional sources of information regarding the Debtor's Estate and documents relating to
6 the Plan are available to holders of Claims and Equity Interests. The following is a summary of
7 certain documents and the places they can be reviewed or obtained:

8 A. Prior to the Petition Date, the Debtor filed documents with the SEC in accordance
9 with the informational requirements of the 1934 Act. Copies of such material can be obtained from
10 the Public Reference Section of the Commission at 450 Fifth Street, NW, Washington, D.C. 20549,
11 at prescribed rates. Certain of such material may be accessible via online computer.

12 B. Orders of the Bankruptcy Court and related papers pertaining to transactions outside
13 of the Debtor's ordinary course of business may be inspected at the office of the Clerk of the
14 Bankruptcy Court located at 1415 State Street, Santa Barbara, California 93101.

15 C. The Debtor's Schedules of Assets and Liabilities, Statement of Financial Affairs,
16 List of Equity Security Holders, and Schedules of Executory Contracts and Unexpired Leases, as
17 amended, may be inspected at the office of the Clerk of the Bankruptcy Court located 1415 State
18 Street, Santa Barbara, California 93101.

19 D. Periodic post-petition financial reports as filed with the OUST and the Bankruptcy
20 Court may be inspected at the office of the Clerk of the Bankruptcy Court located 1415 State Street,
21 Santa Barbara, California 93101.

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XII. RECOMMENDATION AND CONCLUSION

The Debtor believes that confirmation and implementation of the Plan are preferable to any of the feasible alternatives because the Plan will provide substantially greater recoveries for holders of Claims. Accordingly, the Debtor urges holders of Claims in the Voting Classes to accept the Plan.

DATED: March 24, 2011

DEBTOR AND DEBTOR IN POSSESSION
HARRINGTON WEST FINANCIAL GROUP, INC.

By: /s/ William W. Phillips, Jr.
William W. Phillips, Jr.
President

SUBMITTED BY:

LANDAU GOTTFRIED & BERGER LLP

By: /s/ Sharon M. Kopman
Sharon M. Kopman
Attorneys for Debtor Harrington West Financial Group, Inc.

EXHIBITS TO DISCLOSURE STATEMENT

Exhibit "A" - PLAN

Exhibit "B" - PROJECTED AVAILABLE CASH ANALYSIS

Exhibit "C" - HYPOTHETICAL CHAPTER 7 LIQUIDATION ANALYSIS

Exhibit "D" - LIST OF PENDING LITIGATION CLAIMS

Exhibit "E"- POTENTIAL PREFERENCE PAYMENTS

Exhibit "F" - POTENTIAL THIRD PARTY ESTATE CAUSES OF ACTION

Exhibit "G" - FDIC POC

EXHIBIT "A"

PLAN

(See attached)

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7 Harrington West Financial Group, Inc.

8 UNITED STATES BANKRUPTCY COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA
10 NORTHERN DIVISION
11

12 In re

13 HARRINGTON WEST FINANCIAL
14 GROUP, INC.,

15 Debtor.

Bk. No. 9:10-bk-14677-RR

Chapter 11

**DEBTOR AND DEBTOR IN POSSESSION
HARRINGTON WEST FINANCIAL
GROUP, INC.'S PLAN OF LIQUIDATION**

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Debtor and Debtor in Possession Harrington West Financial Group, Inc. ("Debtor") proposes the following Plan of Liquidation (along with any amendments, supplements or exhibits hereto, collectively, the "Plan") pursuant to section 1121(a) of the Bankruptcy Code for resolution of all Claims against and Equity Interests in the Debtor and its Estate. The Disclosure Statement In Support of the Debtor's Plan of Liquidation (the "Disclosure Statement"), which accompanies the Plan, discusses the Debtor's history, business, contracts, leases, results of operations, resolution of material disputes, financial projections for the liquidation and distribution of Debtor's remaining Assets, and contains a summary and discussion of the Plan. Holders of Claims are encouraged to read the Disclosure Statement before voting to accept or reject the Plan.

The Debtor is the proponent of the Plan. The Debtor, following solicitation, will seek the Bankruptcy Court's confirmation of the Plan. No solicitation materials other than the Disclosure Statement and any schedules, exhibits or letters attached thereto or referenced therein have been authorized by the Debtor or the Bankruptcy Court for use in soliciting acceptances or rejections of the Plan.

I. DEFINITIONS AND RULES OF CONSTRUCTION

A. Defined Terms.

As used herein, the following terms have the respective meanings specified below (such meanings to be equally applicable to both the singular and plural, and masculine and feminine forms of the terms defined):

1. "Administrative Expense" means any cost or expense of administration of the Chapter 11 Case under sections 503(b) and 507(a)(2) of the Bankruptcy Code, including, without limitation, any actual and necessary post-petition expenses of preserving the Estate, any actual and necessary post-petition expenses of administering and liquidating the Estate, all compensation or reimbursement of expenses to the extent allowed by the Bankruptcy Court under sections 330, 331, or 503 of the Bankruptcy Code, and any fees or charges assessed against the Estate under section 1930 of Title 28 of the United States Code.

2. "Allowed Claim" means, except as otherwise allowed or otherwise provided herein,

1 a Claim, proof of which was timely and properly filed or, if no proof of claim was filed, which has
2 been or hereafter is listed on the Debtor's Schedules as liquidated in amount and not disputed or
3 contingent, and, in either case, as to which no objection to the allowance thereof has been
4 interposed. Unless otherwise specified herein or by order of the Bankruptcy Court, "Allowed
5 Claim" shall not include interest on such Claim accruing after the Petition Date.

6 3. "Allowed Class ____ Claim" means an Allowed Claim in the Class specified.

7 4. "Available Cash" means the Cash in the Liquidating Trust that is not otherwise
8 designated by the Liquidating Trustee as Cash to be used to satisfy Allowed Administrative
9 Claims, Allowed Priority Tax Claims, Allowed Secured Claims, Allowed Other Priority Claims,
10 and expenses of the Liquidating Trust or otherwise subject to a reserve established by the
11 Liquidating Trustee.

12 5. "Assets" means all assets of the Debtor's Estate including "property of the estate" as
13 described in section 541 of the Bankruptcy Code and shall, without limitation, include Cash, Estate
14 Causes of Action, securities, proceeds of insurance and insurance policies, all rights and interests,
15 all real and personal property, and all files, books and records of the Estate.

16 6. "Bankruptcy Code" means Title 11 of the United States Code, 11 U.S.C. §§ 101, *et*
17 *seq.*, as amended.

18 7. "Bankruptcy Court" means the United States Bankruptcy Court for the Central
19 District of California, Northern Division or, in the event such court ceases to exercise jurisdiction
20 over the Chapter 11 Case, such other court that exercises jurisdiction over the Chapter 11 Case.

21 8. "Bankruptcy Rules" means, collectively, (i) the Federal Rules of Bankruptcy
22 Procedure, as amended from time to time, as applicable to the Chapter 11 Case, and (ii) the Local
23 Bankruptcy Rules applicable to cases pending before the Bankruptcy Court, as now in effect or
24 hereafter amended.

25 9. "Bar Date Order" means the Order entered by the Bankruptcy Court on November
26 15, 2010, approving the Debtor's *Notice of Motion and Motion For Entry Of An Order (I)*
27 *Establishing Bar Dates For Filing Proofs Of Claim or Interests; And (II) Approving The Form And*
28

1 *Manner Of Notice Thereof* (Docket No. 25), *as modified by the Order.*

2 10. "Beneficiaries" means the Holders of Claims who are the beneficiaries of the
3 Liquidating Trust.

4 11. "Business Day" means any day which is not a Saturday, a Sunday, or a "Legal
5 holiday" as defined in Bankruptcy Rule 9006(a)(6).

6 12. "Capital Securities Agreement" means the Capital Securities Subscription
7 Agreement dated as of September 17, 2003 by and among the Harrington West Capital Trust I, the
8 Debtor and ALESCO Funding I, Ltd.

9 13. "Cash" means cash or cash equivalents.

10 14. "Chapter 11 Case" means the case under Chapter 11 of the Bankruptcy Code,
11 commenced by the Debtor on the Petition Date, styled "*In re Harrington West Financial Group,*
12 *Inc.*" and assigned Case No. 9:10-bk-14677-RR.

13 15. "Claim" means (a) any right to payment from the Debtor's Estate, whether or not
14 such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured,
15 disputed, undisputed, legal, equitable, secured, or unsecured, or (b) any right to an equitable
16 remedy for breach of performance if such breach gives rise to a right of payment from the Debtor's
17 Estate, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent,
18 matured, unmatured, disputed, undisputed, secured, or unsecured.

19 16. "Claims Bar Date" means January 20, 2011, which is the general deadline set
20 pursuant to the Bar Date Order or, in the case of a "governmental unit" (as defined in 11 U.S.C.
21 §101(27)), March 9, 2011 pursuant to the Bar Date Order and 11 U.S.C. §502(b)(9).

22 17. "Class" means one of the Classes of Claims or Classes of Equity Interests
23 designated in Section II of the Plan.

24 18. "Common Securities Agreements" means collectively the following: (i) the
25 Common Securities Subscription Agreement dated September 25, 2003 between the Harrington
26 West Capital Trust I and the Debtor; and (ii) the Common Securities Subscription Agreement dated
27 September 23, 2004 between the Harrington West Capital Trust II and the Debtor.
28

1 19. "Confirmation Date" means the date on which the Clerk of the Bankruptcy Court
2 enters the Confirmation Order on its docket.

3 20. "Confirmation Hearing" means the hearing before the Bankruptcy Court pursuant to
4 section 1128 of the Bankruptcy Code to consider confirmation of the Plan.

5 21. "Confirmation Order" means the order of the Bankruptcy Court confirming the Plan
6 in accordance with the provisions of Chapter 11 of the Bankruptcy Code.

7 22. "Debentures" means those debt securities issued pursuant to the Indentures.

8 23. "Debenture Subscription Agreements" means collectively the following: (i) the
9 Debenture Subscription Agreement dated as of September 27, 2004 between the Debtor and
10 Harrington West Capital Trust II; and (ii) the Debenture Subscription Agreement dated as of
11 September 25, 2003 between the Debtor and Harrington West Capital Trust I.

12 24. "Debtor" means Harrington West Financial Group, Inc., a Delaware corporation.

13 25. "Debtor in Possession" means the Debtor when it is acting in the capacity of
14 representative of the Estate in the Chapter 11 Case.

15 26. "Declaration of Trusts" means collectively the following: (i) the Declaration of
16 Trust of Harrington West Capital Trust I dated as of September 16, 2003; (ii) the Amended and
17 Restated Declaration of Trust of Harrington West Capital Trust I, dated as of September 25, 2003;
18 (iii) the Initial Declaration of Trust of Harrington West Capital Trust II dated as of September 23,
19 2004, and (iv) the Amended and Restated Declaration of Trust of Harrington West Capital Trust II
20 dated September 27, 2004.

21 27. "Disbursing Agent" means the Liquidating Trustee or any entity selected by the
22 Liquidating Trustee to act as its agent in conducting the disbursements to Holders of Allowed
23 Claims pursuant to the Liquidating Trust Agreement; provided, however, that with respect to the
24 Allowed Class 4 Claims, the respective Indenture Trustee shall be the Disbursing Agent.

25 28. "Disclosure Statement" means that certain document entitled "*Disclosure Statement*
26 *In Support of The Debtor's Plan of Liquidation*" filed in the Chapter 11 Case, including the
27 exhibits attached thereto, either in its present form or as it may be amended, modified or
28

1 supplemented from time to time.

2 29. "Disputed Claim" means any Claim (i) which is listed in the Schedules as
3 unliquidated, disputed, contingent, and/or unknown and for which no proof of Claim has been
4 filed; (ii) as to which a Proof of Claim has been filed and the dollar amount of such Claim is not
5 specified in a fixed amount; or (iii) as to which the Debtor or any other party in interest has
6 interposed a timely objection or request for estimation in accordance with the Bankruptcy Code,
7 the Bankruptcy Rules, the Plan and/or any order of the Bankruptcy Court, which objection or
8 request for estimation has not been withdrawn or determined by a Final Order.

9 30. "Disputed Claims Reserve" means the Cash to be set aside for, and in an amount
10 sufficient to pay the required distribution under the Plan to, all Disputed Claims which have not
11 been finally adjudicated as of the Effective Date and which may become Allowed Claims prior to
12 the Final Distribution Date.

13 31. "Distribution(s)" means any transfer under the Plan of Cash or other property or
14 instruments to a Holder of an Allowed Claim.

15 32. "Effective Date" means the first day when the Confirmation Order has been entered
16 on the docket in the Chapter 11 Case and no stay of the Confirmation Order is in effect, provided,
17 that, the Debtor may waive the condition that no stay be in effect as provided under section VIII of
18 the Plan.

19 33. "Equity Interests" means any equity interest in the Debtor represented by HWFG
20 Preferred Stock Interests and HWFG Common Stock Interests.

21 34. "Estate" shall mean with respect to the Debtor, the estate created by section 541(a)
22 of the Bankruptcy Code upon the Petition Date.

23 35. "Estate Cause of Action" shall mean, on behalf of the Estate, any and all manner of
24 causes of action, claims, rights, obligations, suits, debts, judgments, demands, rights of offset or
25 recoupment, damages (actual, compensatory or punitive), counterclaims or affirmative defenses,
26 whatsoever, whether in law or in equity including, but not limited to, the claims arising under or
27 pursuant to sections 541 through 551, inclusive, and section 553, of the Bankruptcy Code and
28

1 objections to filed proofs of Claim.

2 36. "File," "Filed," "Files," or "Filing" means properly and timely filed with the
3 Bankruptcy Court in the Chapter 11 Case, as reflected on the official docket of the Bankruptcy
4 Court for the Chapter 11 Case, served on Persons, as such filing and service are required pursuant
5 to the Bankruptcy Code, Bankruptcy Rules and/or order of the Bankruptcy Court.

6 37. "Final Distribution Date" means the first Business Day on which any and all
7 Disputed Claims have been resolved pursuant to a Final Order and all interests of the Estate in
8 property and all Estate Causes of Action and other rights to payment existing in favor of the Estate
9 have been liquidated, reduced to Available Cash, and distributed Pro Rata to Holders of Allowed
10 Claims.

11 38. "Final Order" means an order or judgment of the Bankruptcy Court or other
12 applicable court as to which the time to appeal, petition for certiorari, or move for reargument or
13 rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for
14 reargument or rehearing shall then be pending; or as to which any right to appeal, reargue, rehear,
15 or petition for certiorari shall have been waived in writing in form and substance satisfactory to the
16 Debtor prior to the Effective Date, or the Liquidating Trustee after the Effective Date, respectively,
17 or, in the event that an appeal, writ of certiorari, reargument or rehearing thereof has been sought,
18 such order or judgment of the Bankruptcy Court or other applicable court shall have been affirmed
19 by the highest court to which such order or judgment was appealed or from which reargument or
20 rehearing was sought, or certiorari shall have been denied, and the time to take any further appeal,
21 petition for certiorari or move for reargument or rehearing shall have expired.

22 39. "General Unsecured Claim" means any Claim that is not an Administrative
23 Expense, Priority Tax Claim or a Claim classified in Classes 1, 2 and 4. General Unsecured
24 Claims, include, without limitation, unsecured obligations owing to vendors, unsecured Claims
25 arising from the rejection of executory contracts and unexpired leases.

26 40. "Guarantee Agreements" means collectively the following: (i) the Guarantee
27 Agreement dated as of September 25, 2003 between the Debtor and Wilmington Trust; and (ii) the
28

1 Guarantee Agreement dated September 27, 2004 between the Debtor and Wells Fargo.

2 41. "Holder" means the owner of a Claim or Equity Interest against the Debtor.

3 42. "HWFG Common Stock Interests" means the shares of common stock of the
4 Debtor issued and outstanding prior to the Effective Date, and all rights and interests arising
5 thereunder or in connection therewith.

6 43. "HWFG Preferred Stock Interests" means the shares of Preferred Stock of the
7 Debtor issued and outstanding prior to the Effective Date, and all rights and interests arising
8 thereunder or in connection therewith.

9 44. "Indentures" means collectively, the (i) Indenture between the Debtor and trustee
10 Wilmington Trust dated September 25, 2003, authorizing the issuance of Floating Rate Junior
11 Subordinated Debt Securities due 2033; and (ii) Indenture between Debtor and trustee Wells Fargo,
12 authorizing the issuance of Junior Subordinated Debt Securities due October 7, 2034.

13 45. "Indenture Trustee Claims" means the Claims of the Indenture Trustees arising
14 under the Indentures, including, but not limited to, arising from or associated with the transactions
15 relating to the issuance contemplated by and referred to in the Indentures, but excluding the
16 Indenture Trustee Fees.

17 46. "Indenture Trustee Fees" means any fees, costs, expenses, disbursements and
18 advances incurred or made by the Indenture Trustee pursuant to the Indentures (including, without
19 limitation, (a) any reasonable fees, costs, expenses and disbursements incurred by the Indenture
20 Trustee with any of its attorneys, advisors (including, without limitation, financial advisors), agents
21 and other professionals and (b) any fees, costs or expenses for services performed by the Indenture
22 Trustee in connection with distributions made to the Holders of Indenture Trustee Claims pursuant
23 to this Plan, in each case, whether prior to, on or after the Petition Date, or on or after the Effective
24 Date.

25 47. "Indenture Trustees" means collectively, Wilmington Trust and Wells Fargo, acting
26 in their capacity as trustee under the respective Indentures together with their successors and
27 assigns.
28

1 48. "Interim Distributions" means one or more Pro Rata Distributions of Available Cash
2 made in accordance with the Plan and/or any Order of the Bankruptcy Court on account of
3 Allowed Claims before the Final Distribution.

4 49. "Liquidating Trust" means the trust created pursuant to the Plan, Confirmation
5 Order, and the Liquidating Trust Agreement, and created for the benefit of Holders of all Allowed
6 Claims. Except as otherwise expressly provided in the Plan, all of the Assets of the Debtors will be
7 transferred to the Liquidating Trust on the Effective Date of the Plan. The Liquidating Trust will
8 continue and conclude the liquidation of such Liquidating Trust Assets, including the resolution of
9 all Estate Causes of Action, and make Distributions to the Holders of Allowed Claims and pay the
10 expenses of the Liquidating Trust, all as provided in the Plan.

11 50. "Liquidating Trust Agreement" means that certain liquidating trust agreement by
12 and between the Debtor and the Liquidating Trustee to be entered into pursuant to the Plan and the
13 Confirmation Order, substantially in the form included in Exhibit "3" hereto, as may be amended
14 from time to time.

15 51. "Liquidating Trust Assets" means any and all Assets of the Debtor and Estate,
16 including, without limitation, Cash, Estate Causes of Action, and other personal and real property,
17 all of which shall be transferred or assigned to the Liquidating Trust on the Effective Date of the
18 Plan, free and clear of any liens or claims that might otherwise have existed in favor of any party.

19 52. "Liquidating Trustee" means a person selected by the Debtor that is reasonably
20 satisfactory to the Indenture Trustees or any other person approved by the Court as Liquidating
21 Trustee, and any successor trustee(s) appointed pursuant to the Liquidating Trust Agreement, that
22 has the powers and responsibilities set forth in the Plan, the Confirmation Order and the
23 Liquidating Trust Agreement and in such capacity shall act as a liquidator of the Liquidating Trust
24 Assets for the benefit of Holders of Allowed Claims. Whenever the Liquidating Trustee is referred
25 to herein, all such references are qualified by the Liquidating Trustee's powers, rights and
26 obligations as set forth in the Liquidating Trust Agreement.

27 53. "Liquidating Trustee Claim Objection Deadline" means the first Business Day to
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1 occur ninety (90) days after the Effective Date, provided, however, that such date may be
2 continued by order of the Bankruptcy Court to a later date upon motion brought by the Liquidating
3 Trustee at any time before the occurrence thereof, and such later date shall then become the
4 Liquidating Trustee Claim Objection Deadline.

5 54. "Local Bankruptcy Rules" means the Local Bankruptcy Rules of the United States
6 Court for the Central District of California.

7 55. "Other Priority Claim" means any Claim accorded priority in right of payment
8 under section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative
9 Expense.

10 56. "Person" means any individual, corporation general partnership, limited partnership,
11 association, joint stock company, joint venture, estate, trust, government or any political
12 subdivision, governmental unit, official committee appointed by the Office of the United States
13 Trustee, unofficial committee of creditors, or other entity.

14 57. "Petition Date" means September 10, 2010, the date on which the Debtor filed its
15 voluntary petition commencing the Chapter 11 Case.

16 58. "Plan" means this Chapter 11 plan of liquidation, including all exhibits hereto,
17 either in their present form or as they may be altered, amended, or modified from time to time.

18 59. "Priority Tax Claim" means a Claim of a "governmental unit" (as defined in 11
19 U.S.C. § 101(27)) of the kind specified in section 507(a)(8) of the Bankruptcy Code.

20 60. "Professional Person" means for purposes of this Plan, any professional person
21 employed by the Debtor pursuant to section 327 of the Bankruptcy Code.

22 61. "Pro Rata," "Pro Rata Share," and "Pro Rata Basis" means, at any time, the
23 proportion that the face amount of a Claim in a particular Class or Classes bears to the aggregate
24 face amount of all Claims (including Disputed Claims, but excluding disallowed Claims) in such
25 Class or Classes; and "face amount," as used herein, means (a) when used in reference to a
26 Disputed or disallowed Claim, the full stated liquidated amount claimed by the claimholder in any
27 proof of claim timely filed with the Bankruptcy Court or otherwise deemed timely filed by any
28

1 Final Order of the Bankruptcy Court or other applicable bankruptcy law; and (b) when used in
2 reference to an Allowed Claim, the allowed amount of such Claim.

3 62. "Purchase Agreement" means the Purchase Agreement among Harrington West
4 Capital Trust II, the Debtor and Bear, Stearns & Co., Inc dated as of September 23, 2004.

5 63. "Schedules" means the schedules of assets and liabilities, list of equity security
6 holders, and statement of financial affairs filed by the Debtor as required by section 521(a)(1) of
7 the Bankruptcy Code, Bankruptcy Rules 1007(a)(1) and(3) and (b)(1), and Official Bankruptcy
8 Form Nos. 6 and 7, as amended from time to time.

9 64. "Secured Claim" means a Claim against the Debtor to the extent of the value, as
10 determined by the Bankruptcy Court pursuant to section 506(a) of the Bankruptcy Code, of any
11 interest in property of the Estate securing such Claim.

12 65. "Taxes" means all income, gaming, franchises, excise, sales, use, employment,
13 withholding, property, payroll or other taxes, assessments, or governmental charges, together with
14 any interest, penalties, additions to tax, fines, and similar amounts relating thereto, imposed or
15 collected by any federal, state, local or foreign governmental authority.

16 66. "TRUPs" means the trust originated preferred securities issued by the respective
17 Statutory Business Trusts.

18 67. "Wells Fargo" means Wells Fargo Bank, National Association.

19 68. "Wilmington Trust" means the Wilmington Trust Company.

20 **B. Other Terms.**

21 The words "herein," "hereof," "hereto," "hereunder," and others of similar import refer to
22 the Plan as a whole and not to any particular section, subsection, or clause contained in the Plan. A
23 term used herein that is not defined herein shall have the meaning ascribed to that term, if any, in
24 the Bankruptcy Code or Bankruptcy Rules and shall be construed in accordance with the rules of
25 construction thereunder.

26 **C. Computation of Time.**

27 In computing any period of time prescribed or allowed by the Plan, unless otherwise
28

expressly provided, the provisions of Bankruptcy Rule 9006(a) shall apply.

D. Exhibits.

All exhibits to the Plan are incorporated into and are a part of the Plan as if set forth in full herein.

II. CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

A. Summary.

The chart below summarizes the classes of Claims and Equity Interests for all purposes, including voting, confirmation, and distribution pursuant to the Plan:

CLASS	STATUS
Class 1: Other Priority Claims	Unimpaired - not entitled to vote
Class 2: Secured Claims	Unimpaired - not entitled to vote
Class 3: General Unsecured Claims	Impaired – entitled to vote
Class 4: Indenture Trustee Claims	Impaired – entitled to vote
Class 5: HWFG Preferred Stock Interests	Impaired – deemed to reject
Class 6: HWFG Common Stock Interests	Impaired – deemed to reject

B. Unclassified Claims.

1. Administrative Expense Claims.

(a) General.

Subject to the allowance procedures and deadlines provided herein, the Disbursing Agent shall pay to each Holder of an Allowed Administrative Expense, on account of the Allowed Administrative Expense, and in full satisfaction thereof, Cash equal to the amount of such Allowed Administrative Expense, unless the Holder agrees to other treatment. Except as otherwise provided herein or a prior order of the Bankruptcy Court: (i) payment of an Administrative Expense that is an Allowed Claim as of the Effective Date shall be made on the later of the Effective Date or the

1 date such payment would have become due for payment of such Allowed Administrative Expense
2 in the absence of the Chapter 11 Case, whether pursuant to contract or applicable nonbankruptcy
3 law; and (ii) payment of an Administrative Expense that becomes an Allowed Claim following the
4 Effective Date shall be made on or before (a) the date that is thirty (30) days after an order deeming
5 such Administrative Expense an Allowed Claim becomes a Final Order, or (b) the Final
6 Distribution Date, whichever is earlier.

7 **(b) Deadlines For Filing Claims For Administrative Expenses.**

8 **(i) Pre-Effective Date Claims and Expenses.**

9 All applications for final compensation of Professional Persons for services rendered and
10 for reimbursement of expenses incurred on or before the Effective Date and all other requests for
11 payment of Administrative Expenses incurred before the Effective Date pursuant to Bankruptcy
12 Code sections 327, 328, 330, 331, 503(b), 507(a)(2) or 1103 (except only for post-petition
13 obligations incurred through the Effective Date in the ordinary course of Debtor's post-petition
14 business and obligations under section 1930 of Title 28 of the United States Code) shall be filed no
15 later than the first Business Day that is not less than forty-five (45) days after the Effective Date
16 (the "Administrative Expense Claims Bar Date"). Professional Persons and others that do not File
17 such requests on or before the Administrative Expense Claims Bar Date shall be barred from
18 asserting such Claims against the Debtor, its Estate, the Liquidating Trust, the Liquidating Trustee,
19 or any other Person or entity, or any of their respective property. Objections to applications of
20 Professional Persons or others for compensation or reimbursement of expenses must be Filed and
21 served on the Liquidating Trustee and its counsel, as well as the Professional Persons and others to
22 whose application the objection is addressed, in accordance with the Bankruptcy Code, the
23 Bankruptcy Rules or pursuant to any other procedure set forth by an order of the Bankruptcy Court.
24 From and after the Effective Date the Liquidating Trustee will comply with such reporting
25 requirements, and payment of quarterly fees to the Office of the United States Trustee as required
26 by applicable law.

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(ii) Indenture Trustee Fees.

Fees Accrued During the Chapter 11 Case: Each of the Indenture Trustees shall serve on or before the Administrative Expense Claims Bar Date a statement of its Indenture Trustee Fees accrued from the Petition Date through the Effective Date on the Liquidating Trustee and its counsel, and the Office of the United States Trustee. Indenture Trustees that do not serve such statements on or before the Administrative Expense Claims Bar Date shall be barred from asserting such Claims against the Debtor, its Estate, the Liquidating Trust, and the Liquidating Trustee. Unless a written objection is made to the reasonableness of such fees within twenty (20) days after receipt of such statement, the Liquidating Trustee shall promptly pay the Indenture Trustee Fees, without the necessity or requirement of the Indenture Trustees to file any applications with the Bankruptcy Court therefor. Any such objection made to any Indenture Trustee Fees shall be resolved by the Bankruptcy Court, provided the Liquidating Trustee shall be authorized and directed to pay the Indenture Trustee Fees to the extent not objected to in accordance with this Section.

Fees Accrued After the Effective Date: Following the Effective Date, each of the Indenture Trustees shall serve monthly statements of its Indenture Trustee Fees accrued after the Effective Date on the Liquidating Trustee and its counsel, and the Office of the United States Trustee. Unless a written objection is made to the reasonableness of such fees within twenty (20) days after receipt of each such statement, the Liquidating Trustee shall promptly pay the submitted Indenture Trustee Fees. Any such objection made to any Indenture Trustees Fees shall be resolved by the Bankruptcy Court, provided the Liquidating Trustee shall be authorized and directed to pay the Indenture Trustee Fees to the extent not objected to in accordance with this Section.

(iii) Tax Claims.

All requests for payment of Claims by a "governmental unit" (as defined under 11 U.S.C. 101(27)) for Taxes (and for interest and/or penalties related to such Taxes) for any tax year or period, all or any portion of which occurs or falls within the period from and including the Petition Date through and including the Effective Date, and for which no bar date has otherwise been

1 previously established, must be Filed on or before the later of: (a) sixty (60) days following the
2 Effective Date; or (b) ninety (90) days following the filing of the tax return for such Taxes for such
3 tax year or period with the applicable "governmental unit". Any Holder of a Claim for Taxes is
4 required to File a request for a payment of the post-petition Taxes and other monies due related to
5 such Taxes. Any Holder of a Claim for Taxes which does not File such a Claim by the applicable
6 bar date shall be forever barred from asserting any such Claim against any of the Debtor, its Estate,
7 the Liquidating Trust, the Liquidating Trustee or their respective property, whether any such Claim
8 is deemed to arise prior to, on, or subsequent to the Effective Date, and shall receive no distribution
9 under the Plan or otherwise on account of such Claim.

10 **2. Priority Tax Claims.**

11 Except as otherwise agreed to by the parties, or ordered by the Court, as soon as practicable
12 after the Effective Date, each Holder of an unpaid Allowed Priority Tax Claim shall receive
13 payment in full in an amount equal to the Allowed Priority Tax Claim.

14 **C. Classification and Treatment**

15 **1. Class 1: Other Priority Claims.**

16 (a) Classification: Class 1 consists of all Claims entitled to priority in
17 right of payment under section 507(a) of the Bankruptcy Code, except Administrative Expenses
18 and Priority Tax Claims.

19 (b) Treatment: The Debtor estimates the Allowed Class 1 Claims to be
20 zero. The Liquidating Trustee shall pay all Allowed Claims in this class in full, in Cash, on the
21 later of: (i) the Effective Date; and (ii) the date on which an order allowing such Claim becomes a
22 Final Order, and in each case or as soon thereafter as is practicable. Class 1 is not impaired, and
23 the Holders of Claims in Class 1 are not entitled to vote to accept or reject the Plan.

24 **2. Class 2: Secured Claims.**

25 (a) Classification: Class 2 consists of Secured Claims.

26 (b) Treatment: The Debtor estimates the Allowed Class 2 Claims to be
27 zero. To the extent any Allowed Class 2 Claims exist, Holders of Allowed Class 2 Claims shall
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1 receive payment in full in Cash or of Property of the amount of their respective Allowed Secured
2 Claims. Distributions to Holders of Allowed Class 2 Claims shall occur on the later of the
3 Effective Date if such Secured Claim is deemed to be an Allowed Claim or the first Business Day
4 that is at least thirty (30) days from the date the Secured Claim becomes an Allowed Claim. Class
5 2 is not impaired, and the Holders of Claims in Class 2 are not entitled to vote to accept or reject
6 the Plan.

7 **3. Class 3: General Unsecured Claims.**

8 (a) Classification. Class 3 consists of General Unsecured Claims.

9 (b) Treatment. Each Holder of an Allowed Class 3 Claim shall receive,
10 as soon as practicable in the discretion of the Liquidating Trustee, in full satisfaction thereof,
11 unless such Holder agrees to accept lesser treatment of such Claim, a Pro Rata Share of the
12 Available Cash (the "Initial Class 3 Distribution"). In addition, after the Initial Class 3 Distribution
13 but prior to the Final Distribution Date, the Disbursing Agent shall, but is not required, to make Pro
14 Rata Interim Distributions of Available Cash to the Holders of Allowed Class 3 Claims, when, in
15 the discretion of the Liquidating Trustee, the Liquidating Trust has sufficient Available Cash to
16 make such Interim Distributions. Finally, on the Final Distribution Date, each Holder of an
17 Allowed Class 3 Claim shall receive a Pro Rata share of the Available Cash remaining in the
18 Liquidating Trust. Class 3 is impaired, and the Holders of Allowed Class 3 Claims are entitled to
19 vote to accept or reject the Plan.

20 **4. Class 4: Indenture Trustee Claims**

21 (a) Classification. Class 4 consists of Indenture Trustee Claims and
22 Indenture Trustee Fees accrued prior to the Petition Date.

23 (b) Treatment. Subject to the provision in this Plan related to the
24 payment of Indenture Trustee Fees, each Holder of an Allowed Class 4 Claim shall receive, as soon
25 as practicable in the discretion of the Liquidating Trustee, in full satisfaction thereof, unless such
26 Holder agrees to accept lesser treatment of such Claim, a Pro Rata Share of each Distribution
27 available to the Holders of Allowed Class 3 Claims; provided, however, that the amount of
28

Distributions to Holders of Allowed Class 4 Claims shall be paid first on account of unpaid Indenture Trustee Fees accrued prior to the Petition Date. Class 4 is impaired, and the Holders of Allowed Class 4 Claims are entitled to vote to accept or reject the Plan.

5. Class 5: HWFG Preferred Stock Interests

(a) Classification: Class 5 consists of the HWFG Preferred Stock Interests in the Debtor.

(b) Treatment: As of the Effective Date, each Holder of record of an Allowed HWFG Preferred Stock Interest shall not receive a distribution under the Plan and all HWFG Preferred Stock Interests will be deemed cancelled and void. Class 5 is impaired, but because no distributions shall be made to Holders of HWFG Preferred Stock Interests in Class 5, such Holders are deemed conclusively to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore the Holders of HWFG Preferred Stock Interests in Class 5 are not entitled to vote to accept or reject the Plan.

6. Class 6: HWFG Common Stock Interests

(a) Classification: Class 6 consists of HWFG Common Stock Interests in the Debtor.

(b) Treatment: As of the Effective Date, each Holder of record of an Allowed HWFG Common Stock Interest shall not receive a distribution under the Plan and all HWFG Common Stock Interests will be deemed to be cancelled and void. Class 6 is impaired, but because no distributions shall be made to Holders of HWFG Common Stock Interests in Class 6, such Holders are deemed conclusively to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore the Holders of HWFG Common Stock Interests in Class 6 are not entitled to vote to accept or reject the Plan.

III. ACCEPTANCE OR REJECTION OF THE PLAN

A. Voting Classes.

Each Holder of an Allowed Class 3 Claim and Allowed Class 4 Claim shall be entitled to vote to accept or reject the Plan.

B. Voting Rights Of Holders Of Disputed Claims.

A Disputed Claim will not be counted for purposes of voting on the Plan to the extent it is disputed, provided an objection to such Claim has been filed no later than fourteen (14) days prior to the deadline for casting ballots on the Plan, unless an order of the Bankruptcy Court is entered after notice and a hearing temporarily allowing the Disputed Claim for voting purposes under Bankruptcy Rule 3018(a).

C. Acceptance By Impaired Classes.

An impaired class of Claims shall have accepted the Plan if (i) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in dollar amount of the Allowed Claims actually voting in such class have voted to accept the Plan and (ii) more than one-half in number of the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of such Allowed Claims actually voting in such Class have voted to accept the Plan.

D. Presumed Acceptance Of The Plan.

Classes 1 and 2 are unimpaired under the Plan and, therefore, are conclusively presumed by the Bankruptcy Code to accept the Plan.

**IV. PROVISIONS FOR ALLOWANCE OF CLASS 4 INDENTURE TRUSTEE CLAIMS
AND TREATMENT OF DISPUTED, CONTINGENT, OR UNLIQUIDATED
CLAIMS AND ADMINISTRATIVE EXPENSES**

A. Allowance Of Claims Of Holders Of Record Of Indenture Trustee Claims.

A beneficial owner of Debentures of record as of June 1, 2011 (the "Record Date") shall, for purposes of distributions under the Plan, be deemed to have an Allowed Class 4 Claim for the outstanding principal amount of the Debentures owned by such beneficial owner plus accrued and unpaid interest as of the Petition Date, and need not file a proof of claim with respect thereto.

In the event any Person that is neither the record Holder as of the Record Date of a Debenture, nor the beneficial owner with respect thereto, shall file a proof of right to record status pursuant to Bankruptcy Rule 3003(d), the Liquidating Trustee shall establish such reserve, if any,

1 as may be ordered by the Bankruptcy Court on account of any objection thereto. Such reserve shall
2 be held in trust for the Holder of such Disputed Claim. To the extent such Disputed Claim is
3 disallowed, any reserve pertaining to such Disputed Claim shall be distributed to all Holders of
4 Allowed Class 4 Claims on a Pro Rata basis.

5 With respect to distributions to be made to Holders of Debentures classified in Class 4, the
6 Indenture Trustees for the respective Indentures shall (i) be the Disbursing Agent, (ii) receive the
7 consideration to be paid to Holders of the Debentures as Indenture Trustees for the Debentures
8 which are classified as Allowed Class 4 Claims; (iii) be responsible for making distributions to
9 Holders of Allowed Class 4 Claims arising from such Debentures in accordance with the terms of
10 this Plan and the Indentures; and (iv) be authorized to deduct the Indenture Trustee Fees from the
11 consideration provided to Holders of Allowed Class 4 Claims to the extent so provided for in the
12 Indentures.

13 The trustees of the Statutory Business Trusts shall be responsible for making any
14 distributions to the holders of TRUPs as of the Record Date in accordance with the Declaration of
15 Trusts.

16 **B. Resolution Of Disputed Claims.**

17 As of the Effective Date, and subject to the provisions of this Plan, the Liquidating Trustee
18 shall have sole authority for investigating, administering, monitoring, implementing, litigating and
19 settling all Disputed Claims. From and after the Effective Date, the Liquidating Trustee shall have
20 the sole and exclusive right to make and file, and to prosecute, objections to Claims, including, but
21 not limited to, Administrative Expenses and Priority Tax Claims. All objections shall be filed prior
22 to the Liquidating Trustee Claim Objection Deadline and served upon the Holder of the Claim to
23 which the objection is made.

24 **C. Reserve for Disputed Claims.**

25 Cash which would be issued and distributed on account of Holders of Disputed Claims, in
26 the event that such Disputed Claims become Allowed Claims, shall instead be placed in the
27 Disputed Claims Reserve maintained by the Liquidating Trustee. Such Cash in the Disputed
28

1 Claims Reserve will be reserved for the benefit of Holders of such Disputed Claims pending
2 determination of their entitlement thereto. Unless the Bankruptcy Court orders otherwise, the
3 Liquidating Trustee will reserve Pro Rata distributions for such Disputed Claims based upon the
4 full amount of the Disputed Claims or, in the case of a Disputed Claim that is an Administrative
5 Expense, Cash in the full amount of such Disputed Claim. No reserve shall be required for any
6 Disputed Claim to the extent of any effective insurance coverage therefore. Such Cash so reserved
7 shall be distributed by the Liquidating Trustee to the Holder of a Disputed Claim to the extent that
8 such Disputed Claim becomes an Allowed Claim pursuant to a Final Order.

9 To the extent that a Disputed Claim ultimately is disallowed or allowed in an amount less
10 than the amount of Cash that has been reserved, the resulting surplus Cash shall be allocated
11 among Holders of Allowed Claims in the Class in which the Disputed Claim was classified as
12 provided in the Plan.

13 Prior to or on the Final Distribution Date, the Liquidating Trustee shall make all
14 distributions on account of any Disputed Claim that has become an Allowed Claim and remains
15 unpaid as of the Final Distribution Date. To the extent that any portion of a Disputed Claim is not
16 disputed, the Liquidating Trustee may establish a reserve in the Disputed Claims Reserve only on
17 account of that portion of the Disputed Claim that is in dispute and may make one or more Interim
18 Distributions on account of the portion of such Disputed Claim that is not in dispute.

19 The Liquidating Trustee may, at the Liquidating Trustee's sole discretion, file a tax election
20 to treat the Disputed Claims Reserve as a Disputed Ownership Fund ("DOF") within the meaning
21 of Treasury Income Tax Regulation Section 1.468B-9 for federal income tax purposes, rather than
22 tax such reserve as a part of the grantor liquidating trust. If the election is made, the Liquidating
23 Trustee shall comply with all federal and state tax reporting and tax compliance requirements of
24 the DOF, including but not limited to the filing of a separate federal income tax return for the DOF
25 and the payment of federal and/or state income tax due.

26 **V. IMPLEMENTATION OF THE PLAN**

27 **A. Vesting Of Assets.**

1 Unless otherwise expressly provided for under this Plan, on the Effective Date, all of the
2 Debtor's Assets, including, without limitation, all of the Estate Causes of Action, will vest in the
3 Liquidating Trust free and clear of all claims, liens, encumbrances, charges and other interests,
4 subject to the provisions of the Plan. On and after the Effective Date, the transfer of the Debtor's
5 Assets from the Estate to the Liquidating Trust will be deemed final and irrevocable and
6 distributions may be made from the Liquidating Trust.

7 **B. Establishment of the Liquidating Trust.**

8 On the Effective Date, the Debtor, on behalf of the Estate, and the Liquidating Trustee, on
9 behalf of the Liquidating Trust, will be authorized and directed to, and will execute the Liquidating
10 Trust Agreement in substantially the form attached as Exhibit "3" hereto, and take all such actions
11 as required to transfer all Assets from the Debtor and its Estate (except as specifically set forth
12 herein) to the Liquidating Trust. The Liquidating Trust is organized and established as a trust for
13 the benefit of the Beneficiaries and is intended to qualify as a liquidating trust within the meaning
14 of Treasury Regulation Section 301.7701-4(d).

15 **1. Beneficiaries.**

16 In accordance with Treasury Regulation Section 301.7701-4(d), the Beneficiaries of the
17 Liquidating Trust will be the Holders of all Allowed Claims against the Debtor. The Holders of
18 Allowed Claims will receive an allocation of the Liquidating Trust Assets as provided for in the
19 Plan and the Liquidating Trust Agreement. The Beneficiaries of the Liquidating Trust shall be
20 treated as the grantors and owners of such Beneficiaries' respective portion of the Liquidating
21 Trust.

22 **2. Implementation of the Liquidating Trust.**

23 From and after the Effective Date, the Liquidating Trustee will be authorized to, and will
24 take all such actions as required to implement the Liquidating Trust Agreement and the provisions
25 of the Plan as are contemplated to be implemented by the Liquidating Trustee, including, without
26 limitation, directing Distributions to Holders of Allowed Claims, objecting to Claims, prosecuting
27 or otherwise resolving Estate Causes of Action, and causing Distributions from the Liquidating
28

1 Trust to be made to the Beneficiaries. Pursuant to the terms of the Liquidating Trust Agreement
2 and the Plan, the Liquidating Trustee may use, acquire and dispose of property of the Liquidating
3 Trust free of any restrictions imposed under the Bankruptcy Code.

4 **3. Transfer of Debtor's Assets.**

5 On the Effective Date, pursuant to the Plan and sections 1123, 1141 and 1146(a) of the
6 Bankruptcy Code, the Debtor is authorized and directed to transfer, grant, assign, convey, set over,
7 and deliver to the Liquidating Trustee all of the Debtor's and its Estate's right, title and interest in
8 and to its Assets, including, without limitation, all Estate Causes of Action, free and clear of all
9 liens, Claims, encumbrances or interests of any kind in such property, except as otherwise
10 expressly provided in the Plan. To the extent required to implement the transfer of the Debtor's
11 Assets from the Debtor and its Estate to the Liquidating Trust, all Persons will cooperate with the
12 Debtor and its Estate to assist the Debtor and the Estate to implement said transfers.

13 **4. Representative of the Estate.**

14 The Liquidating Trustee will be appointed as the representative of the Estate pursuant to
15 sections 1123(a)(5), (a)(7) and (b)(3)(B) of the Bankruptcy Code and as such will be vested with
16 the authority and power (subject to the Liquidating Trust Agreement) to *inter alia*: (i) object to
17 Claims against and Equity Interests in the Debtor; (ii) administer, investigate, prosecute, settle and
18 abandon all Estate Causes of Action assigned to the Liquidating Trust; (iii) make Distributions
19 provided for in the Plan, including, but not limited to, on account of Allowed Claims; and (iv) take
20 such action as required to administer, wind-down, and close the Chapter 11 Case. As the
21 representative of the Estate, the Liquidating Trustee will be vested with all of the rights and powers
22 of the Debtor and the Estate with respect to all Estate Causes of Action assigned and transferred to
23 the Liquidating Trust, and the Liquidating Trustee will be substituted in place of the Debtor and its
24 Estate, as applicable, as the party in interest in all such litigation pending as of the Effective Date.

25 **5. No Liability of Liquidating Trustee.**

26 To the maximum extent permitted by law, the Liquidating Trustee, its employees, officers,
27 directors, agents, members, or representatives, or professionals employed or retained by the
28

1 Liquidating Trustee (the "Liquidating Trustee's Agents") will not have or incur liability to any
2 Person for an act taken or omission made in good faith in connection with or related to the
3 administration of the Liquidating Trust Assets, the implementation of the Plan and the
4 Distributions made thereunder or Distributions made under the Liquidating Trust Agreement. The
5 Liquidating Trustee, the Liquidating Trustee's Agents, and their employees, officers, directors,
6 agents, members, or representatives, or professionals employed or retained will in all respects be
7 entitled to reasonably rely on the advice of counsel with respect to their duties and responsibilities
8 under the Plan and the Liquidating Trust Agreement. Entry of the Confirmation Order constitutes a
9 judicial determination that the exculpation provision contained in Section X.A of the Plan is
10 necessary to, *inter alia*, facilitate confirmation and feasibility and to minimize potential claims
11 arising after the Effective Date for indemnity, reimbursement or contribution from the Debtor, its
12 Estate, or the Liquidating Trust, or their respective property. The Confirmation Order's approval
13 of the Plan also constitutes a res judicata determination of the matters included in the exculpation
14 provisions of the Plan. Notwithstanding the foregoing, nothing herein or in Section X.A of the
15 Plan will alter any provision in the Liquidating Trust Agreement that provides for the potential
16 liability of the Liquidating Trustee to any Person.

17 **6. Provisions Relating to Federal Income Tax Compliance.**

18 A transfer to the Liquidating Trust shall be treated for all purposes of the Internal Revenue
19 Code of 1986, as amended (the "Internal Revenue Code"), as a transfer to creditors to the extent
20 creditors are Beneficiaries. For example, such treatment shall apply for purposes of Internal
21 Revenue Code sections 61(a)(12), 483, 1001, 1012 and 1274. Any such transfer shall be treated for
22 federal income tax purposes as a deemed transfer to the Beneficiary-creditors followed by a
23 deemed transfer by the Beneficiary-creditors to the Liquidating Trust. The Beneficiaries of the
24 Liquidating Trust shall be treated for federal income tax purposes as the grantors and deemed
25 owners of the Liquidating Trust.

26
27 **C. Prosecution Of Estate Causes Of Action By The Liquidating Trustee.**

28 Pursuant to the Confirmation Order, on the Effective Date, the Debtor irrevocably assigns,

1 transfers and conveys to the Liquidating Trustee, the right to manage and control all property of the
2 Estate, including, but not limited to, all Estate Causes of Action. Subject to the provisions of
3 Section V.B.4 of this Plan and Section I.F of the Liquidating Trust Agreement, the Liquidating
4 Trustee shall have the power and authority to prosecute, compromise or otherwise resolve any and
5 all such Estate Causes of Action, with all recoveries derived therefrom to be included within the
6 Liquidating Trust Assets.

7 **D. Issuance And Execution Of Plan Related Documents.**

8 In connection with the transactions contemplated to implement the Plan, the Debtor and the
9 Liquidating Trustee will execute certain documents. As of the Effective Date, the Debtor and/or
10 the Liquidating Trustee will execute such amendments, modifications, supplements, and other
11 documents as provided for in the Plan. The Debtor and/or the Liquidating Trustee are authorized
12 to execute such amendments, modifications, supplements and other documents as provided for in
13 the Plan without any further corporate action, and upon such execution, such amendments,
14 modifications, supplements and other documents as provided for in the Plan shall be deemed
15 binding upon the Debtor and/or the Liquidating Trustee and such other parties as applicable.

16 **E. Cancellation/Surrender of the Debentures And Related Agreements.**

17 As of the Effective Date the Indentures, Debentures, Declaration of Trusts, Guarantee
18 Agreements, Debenture Subscription Agreements, Capital Securities Agreement, Purchase
19 Agreement, and Common Securities Agreements (collectively, the "Trust Related Agreements")
20 shall be terminated. Notwithstanding the foregoing, the Trust Related Agreements shall continue
21 in effect solely for purposes of (i) allowing the Indenture Trustees to receive Distributions under
22 the Plan on behalf of the Holders of Allowed Class 4 Claims; (ii) thereafter, allowing the Indenture
23 Trustees to make distributions to Holders of Allowed Class 4 Claims; and (iii) permitting the
24 Indenture Trustees to maintain any rights and charging liens they may have against property held
25 or collected by the Indenture Trustees for reasonable fees, costs and expenses pursuant to the
26 Indentures, or for indemnification as provided for under the Indentures. The Trust Related
27 Agreements shall terminate completely upon completion of all distributions by the Indenture
28

1 Trustees to the Holders of Allowed Class 4 Claims.

2 Following the Effective Date, Holders of Allowed Class 4 Claims will receive from the
3 Indenture Trustee or its designee(s) specific instructions regarding the time and manner in which
4 the Debentures are to be surrendered. Pending such surrender, such Debentures will be deemed
5 cancelled and shall represent only the right to receive the Distributions to which the Holder is
6 entitled under this Plan. Any such Holder who fails to surrender or cause to be surrendered such
7 Debenture or fails to execute and deliver an affidavit of loss and indemnity reasonably satisfactory
8 to the Disbursing Agent or the respective Indenture Trustee, agent or servicer, as the case may be,
9 within six (6) months after the Effective Date, shall be deemed to have forfeited all rights and
10 claims in respect of such Debenture and shall not participate in any distribution hereunder, and all
11 cash in respect of such forfeited distribution, including interest accrued thereon, shall revert to
12 Distributions to be made to other Holders of Debentures.

13
14 **F. Dissolution of the Debtor and Termination of Current Officers, Directors,
Employees and Counsel.**

15 From and after the Effective Date, the Debtor shall be dissolved and the Liquidating
16 Trustee shall be authorized to take all action necessary to dissolve the Debtor. On the Effective
17 Date, the employment, retention, appointment and authority of all Officers, Directors, Employees
18 and Professionals of the Debtor shall be deemed to terminate.

19 **VI. DISTRIBUTIONS UNDER THE PLAN.**

20 **A. In General.**

21 Except as otherwise provided herein, or as may be ordered by the Bankruptcy Court,
22 Distributions to be made on account of Allowed Claims, other than Allowed Class 3 Claims and
23 Allowed Class 4 Claims, shall be made on the Effective Date. The dates for Distributions by the
24 Liquidating Trust on account of Allowed Class 3 Claims and Allowed Class 4 Claims shall be
25 selected by the Liquidating Trustee. Such Distributions shall be made as soon as practicable after
26 the Effective Date.

B. Manner Of Payment Under The Plan.

Any payment of Cash made by the Liquidating Trustee pursuant to the Plan may be made either by check drawn on a domestic bank or by wire transfer from a domestic bank, at the option of the Liquidating Trustee.

C. Manner Of Distribution Of Other Property.

Any distribution under the Plan of property other than Cash shall be made by the Liquidating Trustee in accordance with the terms of the Plan.

D. Setoffs.

The Liquidating Trustee may setoff against any Claim and the payments to be made pursuant to the Plan in respect of such Claim, any claims of any nature whatsoever that the Debtor's Estate or Liquidating Trust may have against the Holder of such Claim; provided that neither the failure to effect such setoff nor the allowance of any Claim that otherwise would be subject to setoff, shall constitute a waiver or release by the Debtor's Estate or Liquidating Trust of any such claim the Debtor's Estate or Liquidating Trust may have against such Holder.

E. Distribution Of Unclaimed Property.

Except as otherwise provided in the Plan, any distribution of property (Cash or otherwise) under the Plan which is unclaimed after the later of (i) one year following the Effective Date or (ii) ninety (90) days after such distribution has been remitted to the Holder of the Allowed Claim, shall be deemed Available Cash and distributed as provided for under the Plan.

F. De Minimis Distributions.

No Cash payment of less than fifty dollars (\$50.00) shall be made by the Liquidating Trustee to any Holder of a Claim unless a request therefor is made in writing to the Liquidating Trustee.

G. Record Date.

On the Record Date, as defined in Section IV.A above, the transfer ledgers for the Debentures and the Equity Interests shall be closed, and there shall be no further changes in the Holders of record of such securities. The Liquidating Trustee shall not recognize any transfer of

such securities occurring after the Record Date, but shall instead be entitled to recognize and deal for all purposes with only those Holders of record stated on the applicable transfer ledgers as of the Record Date. Additionally, with respect to Allowed Class 4 Claims, only the TRUP holders owning TRUPs as of the Record Date will be allowed to vote on the Plan.

H. Saturday, Sunday, Or Legal Holiday.

If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

I. Delivery Of Distributions, Address Of Holder.

For purposes of all notices and distributions under this Plan, the Liquidating Trustee shall be entitled to rely on the name and address of the Holder of each Claim as shown on, and distributions to Holders of Allowed Claims shall be made by regular U.S. first class mail to, the following addresses: (a) the address set forth on the proofs of Claim Filed by such Holders; (b) the address set forth in any written notice of address change delivered by the Holder to the Debtor or Liquidating Trustee after the date on which any related proof of Claim was Filed, or (c) the address reflected on the Schedules if no proof of Claim or proof of Equity Interest is Filed and the Debtor or Liquidating Trustee has not received a written notice of a change of address. The Liquidating Trustee shall be under no duty to attempt to locate Holders of Allowed Claims who are entitled to unclaimed distributions.

VII. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption.

Effective upon the Effective Date, the Debtor hereby assumes those executory contracts and unexpired leases which are listed in Exhibit "1" hereto. Pursuant to this Plan, the Debtor will also assume the executory contracts and unexpired leases that are the subject of any specific order of the Bankruptcy Court. The Debtor reserves the right to delete any contract or lease from Exhibit "1" hereto, thereby rejecting the contract or lease, up until the Confirmation Hearing by filing with the

1 Bankruptcy Court an amended Exhibit "1" to the Plan and by giving notice to the non-debtor party
2 to the contract or lease.

3 **B. Assumption And Cure Payment Objection.**

4 Exhibit "1" hereto specifies the amount (the "Cure Payment"), if any, that the Debtor
5 believes must be tendered on the Effective Date, in order to provide cure and compensation in
6 accordance with sections 365(b)(1)(A) & (B) of the Bankruptcy Code. The deadline for any
7 objections to the Cure Payment amounts set forth in Exhibit "1" shall be the date for filing
8 objections to the Plan, and no other objections to such Cure Payment will be timely. In the event
9 that any party to a listed contract or lease on Exhibit "1" contends that the Cure Payment amount so
10 listed is incorrect, such party must file with the Bankruptcy Court and serve upon counsel for the
11 Debtor a written statement and an accompanying declaration in support thereof specifying the
12 amounts allegedly owing under sections 365(b)(1)(A) & (B) of the Bankruptcy Code no later than
13 the date fixed for filing objections to the confirmation of the Plan. Failure to timely file and serve
14 such statement shall result in the determination that the Debtor's tender of the Cure Payment, as
15 specified in Exhibit "1", on the Effective Date, shall provide cure and compensation for any and all
16 defaults and unpaid obligations under such assumed executory contract or unexpired lease.

17 In the event that any party to a listed contract or lease specified in Exhibit "1" objects to the
18 proposed assumption by the Debtor, such party must file with the Bankruptcy Court and serve upon
19 counsel for the Debtor a written statement and an accompanying declaration in support thereof no
20 later than the date fixed for filing objections to the confirmation of the Plan. Failure timely to file
21 and serve such statement shall result in the determination that the assumption is appropriate.

22 The Debtor reserves the right to respond to any objection filed by any party to an executory
23 contract or unexpired lease under this paragraph and/or to reject any executory contract or
24 unexpired lease or assume such contract or unexpired lease by complying with section 365(b) of
25 the Bankruptcy Code. To the extent the Debtor disagrees with any objection filed by any party to
26 an executory contract or unexpired lease under this paragraph, the Debtor will request that the
27 Bankruptcy Court declare that the Cure Payment is as stated by the Debtor, and that the proposed
28

1 assumption is appropriate, and any disputes shall be resolved by the Bankruptcy Court.

2 Entry of the Confirmation Order shall constitute approval of the assumptions under the Plan
3 pursuant to section 365 of the Bankruptcy Code. All Cure Payments which may be required by
4 section 365(b)(1) of the Bankruptcy Code shall be made on the Effective Date or as soon thereafter
5 as is practicable or as may otherwise be agreed by the parties to any particular contracts or leases.

6 **C. Rejection.**

7 With the exception of those executory contracts and unexpired leases that have been
8 previously assumed, assumed pursuant to Section VII.A, above, or rejected by order of the
9 Bankruptcy Court pursuant section 365 of the Bankruptcy Code, as of the Effective Date, the
10 Debtor shall reject, pursuant to section 365 of the Bankruptcy Code, all other executory contracts
11 and unexpired leases. Exhibit "2" hereto is a non-exclusive list of rejected contracts.

12 **D. General.**

13 Inclusion of a matter in Exhibits "1" or "2" does not constitute an admission by the Debtor
14 that an executory contract or unexpired lease exists, is valid or is an executory contract or
15 unexpired lease. As a matter of prudence, Exhibits "1" and "2" include contracts and leases which
16 may have previously been rejected or canceled or assigned or which may have expired. Entry of
17 the Confirmation Order shall constitute approval of the rejections under the Plan pursuant to
18 section 365(a) of the Bankruptcy Code.

19 All Allowed Claims arising from the rejection of executory contracts or unexpired leases,
20 whether under the Plan or by separate proceeding, shall be treated as Allowed Class 3 Claims
21 under the Plan.

22 All Claims arising from the rejection of executory contracts or unexpired leases, whether
23 under the Plan or by separate proceeding, must be filed with the Bankruptcy Court on or before
24 such date as the Bankruptcy Court has fixed pursuant to the Bar Date Order with respect to Claims
25 arising from the rejection of specified executory contracts and unexpired leases, or, if rejected
26 pursuant to the Plan, on or before the day that is 30 days after the Effective Date or, if such day is
27 not a Business Day, the first Business Day occurring thereafter. Any such Claims which are not
28

1 Filed within such time will be forever barred from assertion against the Debtor, its Estate, the
2 Liquidating Trustee, and the Liquidating Trust.

3 **E. Insurance Policies**

4 For the avoidance of doubt, the Debtor's rights with respect to all insurance policies under
5 which the Debtor may be a beneficiary (including all insurance policies that may have expired
6 prior to the Petition Date, all insurance policies in existence on the Petition Date, all insurance
7 policies entered into by the Debtor after the Petition Date, and all insurance policies under which
8 the Debtor holds rights to make, amend, prosecute and benefit from claims), are retained and will
9 be transferred or assigned to the Liquidating Trust pursuant to this Plan.

10 **VIII. EFFECTIVENESS OF THE PLAN**

11 **A. Conditions Precedent.**

12 The Effective Date shall not occur until the Confirmation Order has been entered on the
13 docket of the Bankruptcy Court and no stay of the Confirmation Order is in effect, unless this
14 condition has been waived in writing by the Debtor.

15 **B. Notice Of Effective Date.**

16 As soon as practicable after the Effective Date has occurred, the Debtor shall file with the
17 Bankruptcy Court an informational notice specifying the Effective Date, as a matter of record.

18 **IX. RETENTION OF JURISDICTION**

19 This Plan shall not in any way limit the Bankruptcy Court's post-confirmation jurisdiction
20 as provided under the Bankruptcy Code. The Bankruptcy Court will retain and have exclusive
21 jurisdiction to the fullest extent permissible over any proceeding (i) arising under the Bankruptcy
22 Code or (ii) arising in or related to the Chapter 11 Case or the Plan, including but not limited to the
23 following:

24 A. To hear and determine pending motions for the assumption, assumption and
25 assignment, or rejection of executory contracts or unexpired leases, if any are pending as of the
26 Effective Date, the determination of any cure payments related thereto, and the allowance or
27 disallowance of Claims resulting therefrom;
28

1 B. To hear and determine pending motions for sale of assets outside the ordinary
2 course of business pursuant to section 363 of the Bankruptcy Code, if any are pending as of the
3 Effective Date;

4 C. To determine any and all adversary proceedings, applications, motions, and
5 contested matters instituted prior to the closing of the Chapter 11 Case;

6 D. To ensure that distributions to Holders of Allowed Claims are accomplished as
7 provided herein;

8 E. To hear and determine any objections to Administrative Expenses and to Proofs of
9 Claim Filed both before and after the Effective Date, and to allow or disallow any Disputed Claim
10 in whole or in part;

11 F. To enter and implement such orders as may be appropriate in the event the
12 Confirmation Order is for any reason stayed, revoked, modified, or vacated;

13 G. To issue orders in aid of execution of the Plan and to issue injunctions or take such
14 other actions or make such other orders as may be necessary or appropriate to restrain interference
15 with this Plan or its execution or implementation by any entity;

16 H. To consider any modifications of the Plan, to cure any defect or omission, or to
17 reconcile any inconsistency in the Plan or any order of the Bankruptcy Court, including, without
18 limitation, the Confirmation Order;

19 I. To hear and determine all applications for compensation and reimbursement of
20 expenses of professionals under sections 330, 331, and 503(b) of the Bankruptcy Code;

21 J. To hear and determine any disputes arising in connection with the interpretation,
22 implementation, execution, or enforcement of the Plan, the Confirmation Order or any other order
23 of the Bankruptcy Court;

24 K. To hear or determine any action to recover assets of the Estate, wherever located,
25 including any and all Estate Causes of Action;

26 L. To hear and determine any actions or matters related to Estate Causes of Action,
27 whether or not such actions or matters are pending on the Effective Date;
28

1 M. To hear and determine any matters concerning state, local, and federal Taxes in
2 accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

3 N. To hear any other matter not inconsistent with the Bankruptcy Code;

4 O. To hear any other matter deemed relevant by the Bankruptcy Court; and

5 P. To enter a Final Decree closing the Chapter 11 Case.

6 **X. LIMITATION OF LIABILITY, RELEASES AND INJUNCTION**

7 **A. Exculpation.**

8 Except as otherwise provided by the Plan or the Confirmation Order, on the Effective Date,
9 the Debtor, the Indenture Trustees and their respective officers, directors, employees,
10 representatives, counsel, financial advisors or other agents and their successors or assigns shall be
11 deemed released by each of them against the other, and by all Holders of Claims or Equity
12 Interests, of and from any Claims, obligations, rights, causes of action and liabilities for any act or
13 omission in connection with, or arising out of, the Chapter 11 Case, including, without limiting the
14 generality of the foregoing, all sales of assets of the Debtor's Estate, the Disclosure Statement, the
15 pursuit of approval of the Disclosure Statement, the pursuit of confirmation of the Plan, the
16 consummation of the Plan or the administration of the Plan or the property to be distributed under
17 the Plan, except for acts or omissions which constitute willful misconduct or gross negligence, and
18 all such Persons, in all respects shall be entitled to rely upon the advice of counsel with respect to
19 their duties and responsibilities under the Plan and under the Bankruptcy Code. Notwithstanding
20 the foregoing, this provision of the Plan is not intended to waive, release, or provide exculpation
21 for, any cause of action based on prepetition actions or conduct, including but not limited to any
22 Estate Causes of Action.

23 **B. Injunction Enjoining Holders of Claims against Debtor.**

24 The Plan is the sole means for resolving, paying or otherwise dealing with Claims and
25 Equity Interests. To that end, except as expressly provided in the Plan, at all times on and after the
26 Effective Date, all Persons who have been, are, or may be Holders of Claims against or Equity
27 Interests in the Debtor arising prior to the Effective Date, will be permanently enjoined from taking
28

1 any of the following actions, on account of any such Claim or Equity Interest, against the Debtor,
2 its Estate, the Liquidating Trust or its property (other than actions brought to enforce any rights or
3 obligations under the Plan):

4 1. Commencing, conducting or continuing in any manner, directly or indirectly
5 any suit, action, or other proceeding of any kind against the Debtor, its Estate, the Liquidating
6 Trust, or the Liquidating Trustee, their successors, or their respective property or assets (including,
7 without limitation, all suits, actions, and proceedings that are pending as of the Effective Date
8 which will be deemed to be withdrawn or dismissed with prejudice);

9 2. Enforcing, levying, attaching, executing, collecting, or otherwise recovering
10 by any manner or means whether directly or indirectly any judgment, award, decree, or order
11 against the Debtor, its Estate, the Liquidating Trust, or the Liquidating Trustee, their successors, or
12 their respective property or assets;

13 3. Creating, perfecting, or otherwise enforcing in any manner, directly or
14 indirectly, any lien, security interest or encumbrance against the Debtor, its Estate, the Liquidating
15 Trust, or the Liquidating Trustee, their successors, or their respective property or assets; and

16 4. Proceeding in any manner in any place whatsoever against the Debtor, its
17 Estate, the Liquidating Trust, or the Liquidating Trustee, their successors, or their respective
18 property or assets, that does not conform to or comply with the provisions of the Plan.

19 **C. Nondischarge of the Debtor.**

20 In accordance with Bankruptcy Code section 1141(d)(3), the Confirmation Order will not
21 discharge Claims. However, no Holder of a Claim may receive any payment from, or seek
22 recourse against, any Assets that are to be distributed under the Plan other than Assets required to
23 be distributed to that Holder pursuant to the Plan. As of the Confirmation Date, all Persons are
24 enjoined from asserting against any property that is to be distributed under the Plan, any Claims,
25 rights, causes of action, liabilities, or Equity Interests based upon any act, omission, transaction, or
26 other activity that occurred before the Confirmation Date except as expressly provided in the Plan
27 or the Confirmation Order.
28

XI. MISCELLANEOUS PROVISIONS

A. Payment Of Statutory Fees.

All quarterly fees due and payable to the Office of the United States Trustee pursuant to section 1930(a)(6) of Title 28 of the United States Code shall be duly paid in full on or before the Effective Date, as required by section 1129(a)(12) of the Bankruptcy Code. The Liquidating Trust shall be responsible for timely payment of such quarterly fees due and payable after the Effective Date and until the Chapter 11 Case is closed, pursuant to section 1930(a)(6) of Title 28 of the United States Code, with respect to cash disbursements made by the Disbursing Agent under the Plan. After the Effective Date and until the Chapter 11 Case is closed, the Liquidating Trustee shall file with the Office of the United States Trustee monthly financial reports specifying all disbursements made pursuant to the Plan and shall make all payments based upon such disbursements as required by applicable law.

B. Preservation Of Rights Of Action.

Except to the extent any rights, claims, causes of action, defenses, and counterclaims are expressly and specifically released in connection with this Plan or in any settlement agreement approved during the Chapter 11 Case: (i) any and all Estate Causes of Action accruing to the Debtor's Estate shall vest in the Liquidating Trust on the Effective Date, whether or not litigation relating thereto is pending on the Effective Date, and whether or not any such Estate Causes of Action have been listed or referred to in this Plan, the Disclosure Statement, or any other document filed with the Bankruptcy Court, and (ii) the Debtor's Estate does not waive, release, relinquish, forfeit, or abandon (nor shall it be estopped or otherwise precluded or impaired from asserting) any Estate Cause of Action that constitutes property of the Debtor's Estate: (a) whether or not such Estate Cause of Action has been listed or referred to in this Plan, the Disclosure Statement, or any other document filed with the Bankruptcy Court, (b) whether or not such Estate Cause of Action is currently known to the Debtor or the Liquidating Trustee, and (c) whether or not a defendant in any litigation relating to such Estate Cause of Action filed a proof of Claim in the Chapter 11 Case, filed a notice of appearance or any other pleading or notice in the Chapter 11 Case, voted for or

1 against this Plan, or received or retained any consideration under this Plan.

2 **C. Headings.**

3 Headings are used in the Plan for convenience and reference only, and shall not constitute a
4 part of the Plan for any other purpose.

5 **D. Binding Effect.**

6 The Plan shall be binding upon and inure to the benefit of the Debtor's Estate, Holders of
7 Claims, Holders of Equity Interests, and their respective successors or assigns.

8 **E. Revocation Or Withdrawal.**

9 **1. Right To Revoke.**

10 The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation
11 Date.

12 **2. Effect Of Withdrawal Or Revocation.**

13 If the Debtor revokes the Plan prior to the Confirmation Date or if the Confirmation Date or
14 the Effective Date does not occur, then the Plan shall be deemed null and void. In such event,
15 nothing contained herein shall be deemed to constitute a waiver or release of any claims by or
16 against the Debtor or its Estate or any other person or to prejudice in any manner the rights of the
17 Debtor or its Estate or any person in any further proceedings involving the Debtor.

18 **F. Governing Law.**

19 Unless a rule of law or procedure is supplied by (i) federal law (including the Bankruptcy
20 Code and Bankruptcy Rules), or (ii) an express choice of law provision in any agreement, contract,
21 instrument or document provided for, or executed in connection with, this Plan, the rights and
22 obligations arising under the Plan and any agreements, contracts, documents and instruments
23 executed in connection with this Plan shall be governed by, and construed and enforced in
24 accordance with, the laws of the State of California without giving effect to the principles of
25 conflict of laws thereof.

26 **G. Withholding, Reporting, And Payment Of Taxes.**

27 In connection with the Plan and all instruments issued in connection therewith and
28

distributions thereon, the Liquidating Trustee shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority and all Distributions hereunder shall be subject to any such withholding and reporting requirements. The Liquidating Trustee shall report and pay Taxes on the income of the Liquidating Trust Assets, if any, as required by applicable law. In addition, to the extent required by applicable law, reported distributions from such reserves shall include all interest and investment income, if any, attributable to the Cash or property being distributed net of taxes which are, or are estimated to be, due and payable thereon.

H. Other Documents And Actions.

The Debtor on and prior to the Effective Date and the Liquidating Trustee after the Effective Date may execute such other documents and take such other actions as may be necessary or appropriate to effectuate the transactions contemplated under this Plan.

I. Modification Of The Plan.

Prior to the Effective Date, the Plan may be altered, amended, or modified by the Debtor pursuant to section 1127 of the Bankruptcy Code. After the Effective Date, the Liquidating Trustee shall have the sole authority and power to alter, amend, or modify the Plan pursuant to section 1127 of the Bankruptcy Code.

J. Notices.

Any notice to the Debtor, Liquidating Trustee or United States Trustee required or permitted to be provided under the Plan shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery, or (c) reputable overnight delivery service, freight prepaid, to be addressed as follows:

<u>Debtor:</u> Harrington West Financial Group, Inc. PO Box 442 Solvang, CA 93464 Attention: William W. Phillips, Jr.	<u>With a copy to Debtor's Counsel:</u> Landau Gottfried & Berger LLP 1801 Century Park East Suite 1460 Los Angeles, CA 90067 Attention: Sharon M. Kopman, Esq.
--	---

Liquidating Trustee:
[TO BE INSERTED]

Office of the United States Trustee:
United States Trustee
21051 Warner Center Lane, Suite 115
Woodland Hills, CA 91367

Attention: Brian Fittapaldi, Esq.

K. Severability of Plan Provisions.

If, prior to the Confirmation Date, any term or provision of the Plan does not govern the treatment of Claims or Equity Interests, or is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term(s) or provision(s) to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

L. Successors And Assigns.

The rights, benefits, and obligations of any entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors, and assigns of such entity.

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1 **M. Post-Confirmation Notice.**

2 From and after the Effective Date, any person who desires notice of any pleading or
3 document Filed in the Bankruptcy Court, or any hearing in the Bankruptcy Court, or other matter
4 as to which the Bankruptcy Code requires notice to be provided, shall file a request for post-
5 confirmation notice and shall serve the request on the Liquidating Trustee; provided, however, the
6 Office of the United States Trustee shall be deemed to have requested post-confirmation notice.

7
8 DATED: March 24, 2011

Respectfully submitted,
HARRINGTON WEST FINANCIAL
GROUP, INC.

9
10
11 By: /s/ William W. Phillips, Jr.
12 William W. Phillips, Jr.
13 President of Debtor Harrington West
14 Financial Group, Inc.

15 Presented By:

16 LANDAU GOTTFRIED & BERGER, LLP

17
18 By: /s/ Sharon M. Kopman
19 Sharon M. Kopman
20 Attorneys for Harrington West Financial Group, Inc.
21
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LIST OF EXHIBITS

Exhibit "1" List of Executory Contracts Assumed
Exhibit "2" List of Executory Contracts Rejected
Exhibit "3" Liquidating Trust Agreement

EXHIBIT "1" TO PLAN

LIST OF ASSUMED CONTRACTS

Effective upon the Effective Date, the Debtor hereby assumes the following executory contracts and unexpired leases, and will make the Cure Payments so specified. Inclusion herein does not constitute an admission by the Debtor that an executory contract or unexpired lease exists, is valid or that it is an executory contract or lease. As a matter of prudence, the following list includes contracts and leases which may have previously been rejected or canceled or assigned or which may have expired:

NONE

EXHIBIT "2" TO PLAN

LIST OF REJECTED CONTRACTS

Effective upon the Effective Date, the Debtor hereby rejects the following executory contracts and unexpired leases. Inclusion herein does not constitute an admission by the Debtor that an executory contract or unexpired lease exists, is valid or that it is an executory contract or lease. Notwithstanding any failure to list an executory contract or unexpired lease on this Exhibit "2", the provisions of section VII.C of the Plan operate to reject all executory contracts and unexpired leases that have not been previously assumed, assumed pursuant to Section VII.A of the Plan, or rejected by order of the Bankruptcy Court pursuant to Bankruptcy Code section 365. As a matter of prudence, the following list includes contracts and leases which may have previously been rejected or canceled or assigned or which may have expired:

Los Padres Savings Bank, FSB 610 Alamo Pintado Road Solvang, CA 93463 And Valley Oaks Financial Corporation 610 Alamo Pintado Road Solvang, CA 93463 And Harrington Wealth Management, Inc. 10150 Lantern Road Suite 150 Fishers, IN 46038	Tax Sharing Agreement, as amended
Los Padres Savings Bank, FSB 610 Alamo Pintado Road Solvang, CA 93463	Administrative Services Agreement

EXHIBIT "3" TO PLAN
LIQUIDATING TRUST AGREEMENT

EXHIBIT 3
41

EXHIBIT A
106

**LIQUIDATING TRUST AGREEMENT
OF
HARRINGTON WEST FINANCIAL GROUP, INC.**

By and Between

**Harrington West Financial Group, Inc.,
as Debtor and Debtor in Possession**

and

**[TO BE INSERTED],
as Trustee**

Dated: _____, __, 2011

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LIQUIDATING TRUST AGREEMENT

THIS AGREEMENT is made this ____ day of _____ 2011, by and between Harrington West Financial Group, Inc. (the "Debtor") and (ii) [To Be Inserted] (together with any successors, the "Trustee")¹ under the Plan (as defined below)(the "Agreement").²

RECITALS:

A. On September 10, 2010, the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1330, *et seq.* (the "Bankruptcy Code") in the United States Bankruptcy Court for the Central District of California, Northern Division, Case No. 9:10-bk-14677-RR (the "Bankruptcy Case").

B. By Order, dated _____, 2011 (the "Confirmation Order"), the Bankruptcy Court confirmed the Debtor's Plan of Liquidation (as same may have been, or may be, amended, the "Plan").

C. Pursuant to the terms of the Plan, on the Effective Date the Liquidating Trust of Harrington West Financial Group, Inc. ("Liquidating Trust") is created on behalf of, and for the benefit of, the Holders of Allowed Claims of the Debtor entitled to receive a distribution on account of their Allowed Claims pursuant to the Plan. The Holders of Allowed Claims are the beneficiaries of the Liquidating Trust (collectively, the "Beneficiaries"). Upon payment by the Liquidating Trust of amounts due pursuant to the Plan, if any, to a Beneficiary, any interest such Beneficiary may have as a Beneficiary of the Liquidating Trust shall terminate and be of no further force and effect.

D. The Liquidating Trust is created pursuant to, and to effectuate, the Plan for the primary purpose of liquidating the Debtor's Assets transferred to it (the "Liquidating Trust Assets") and otherwise administering the post-confirmation Estate of the Debtor for the benefit of the Beneficiaries as a liquidating trust, in accordance with Treasury Regulation Section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust. The Trustee shall act as the liquidator of the Liquidating Trust Assets under this Agreement.

E. The Liquidating Trust provides that the Beneficiaries of the Liquidating Trust will be treated as the grantors of the Liquidating Trust and deemed owners of the Liquidating Trust Assets. This Liquidating Trust requires the Trustee to file returns for the Liquidating Trust as a grantor trust pursuant to Treasury Regulation §1.671-4(a).

¹ As used in this Agreement, the term "Trustee" shall have the same meaning as the term "Liquidating Trustee" used in the Plan.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Debtor's Plan.

F. The Liquidating Trust is intended to qualify as a "grantor trust" for federal income tax purposes with the Beneficiaries treated as the grantors and owners of the trust.

G. This Liquidating Trust provides for consistent valuations of the transferred property by the Debtor, Trustee and Beneficiaries, and those valuations must be used for all federal income tax purposes.

H. All of the Liquidating Trust's income and/or recoveries are to be treated as subject to tax on a current basis to the Beneficiaries who will be responsible for payment of any tax due.

I. Subject to Section II (E) hereof, this Liquidating Trust contains a fixed determinable termination date that is not more than five (5) years from the date of creation of the Liquidating Trust and that is reasonable based on all of the facts and circumstances.

J. The investment powers of the Trustee are subject to section 345 of the Bankruptcy Code, except as may otherwise be ordered by the Bankruptcy Court.

K. Unless otherwise ordered by the Bankruptcy Court, the Trustee is required to distribute at least annually to the Beneficiaries the net income plus net proceeds from the sale of Liquidating Trust Assets, except that the Liquidating Trust may retain an amount of net proceeds or net income reasonably necessary to maintain the value of the Liquidating Trust Assets or to satisfy claims and contingent liabilities (including Disputed Claims) and to fund the operations of and pay the expenses of administration of the Liquidating Trust.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein and in the Plan, the Debtor and the Trustee agree as follows:

SECTION I TRUSTEE

A. Appointment

Under the Plan, [To Be Inserted] has been selected to serve as the Trustee of the Liquidating Trust, and hereby accepts such appointment and agrees to serve in such capacity, effective upon the Effective Date of the Plan. A successor Trustee shall be appointed by the Bankruptcy Court in the event that the Trustee is removed or resigns pursuant to this Agreement or the Trustee becomes incapacitated or otherwise vacates the position.

B. Generally

The Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of the Liquidating Trust and not otherwise. The Trustee may deal with the Liquidating Trust Assets as permitted by the provisions hereof, including as set forth in Section I.D hereof. The Trustee shall have the authority to bind the Liquidating Trust and for all purposes hereunder shall be acting in the capacity as Trustee and not individually.

C. Scope of Authority

The responsibilities and authority of the Trustee shall include: (a) recovering and liquidating the Liquidating Trust Assets, including, but not limited to, any tax attributes belonging to the Debtor's Estate, (b) prosecuting and resolving Estate Causes of Action on behalf of or against the Debtor's Estate, (c) facilitating the prosecution or settlement of objections to and estimations of Disputed Claims, (d) calculating and implementing all distributions in accordance with the Plan, (e) filing all required tax returns and paying taxes and all other obligations on behalf of the Liquidating Trust from funds held by the Liquidating Trust, (f) periodic reporting to the Bankruptcy Court and parties in interest of the status of the Disputed Claims resolution process, distributions on Allowed Claims, and prosecution of Estate Causes of Action, (g) managing the wind-down of the Debtor's Estate and (h) such other responsibilities and powers as may be vested in the Trustee pursuant to the Plan or Bankruptcy Court order or not inconsistent therewith or as may be necessary and proper to carry out the provisions of the Plan.

D. Powers

The powers of the Trustee shall, without any further Bankruptcy Court approval (except as specifically required herein) and subject in all respects to the other terms and conditions of this Agreement, include (i) the power to invest funds in, and withdraw, make distributions and pay taxes and other obligations owed by the Liquidating Trust from funds held by the Trustee in accordance with the Plan, (ii) the power to handle the Liquidating Trust Assets, (iii) the power to engage employees and professional persons to assist the Trustee with respect to his responsibilities, (iv) the power to litigate, compromise and settle claims and Estate Causes of Action on behalf of or against the Liquidating Trust, (v) the power to file pleadings and papers and seek relief before the Bankruptcy Court or other courts of competent jurisdiction, where appropriate, (vi) the power to file returns, make elections and otherwise to do all things and take all steps that the Liquidating Trustee shall deem necessary or appropriate with respect to the tax attributes and/or obligations (if any) of the Liquidating Trust, and (vii) such other powers as may be vested in or assumed by the Liquidating Trust or the Trustee pursuant to the Plan, Bankruptcy Court Order or not inconsistent therewith or as may be necessary and proper to carry out the provisions of the Plan. Except as expressly set forth in this Agreement, the Trustee shall have absolute discretion to pursue or not to pursue any and all Disputed Claims, claims of the Estate, and Estate Causes of Action or other matters, activities or things as he determines is in the best interests of the Beneficiaries and consistent with the purposes of the Liquidating Trust, and shall have no liability for the outcome of his decision, except as such decision may constitute an act of gross negligence, willful misconduct, or fraud. The Trustee may incur reasonable and necessary expenses in liquidating and converting the Liquidating Trust Assets to cash, which shall be payable from the corpus of the Liquidating Trust.

In connection with the administration of the Liquidating Trust, except as otherwise set forth in this Agreement or the Plan, the Trustee is authorized to perform any and all acts necessary and reasonable to accomplish the purposes of the Liquidating Trust. Without limiting the foregoing, and subject in all respects to the other terms and conditions of this Agreement, the Trustee shall be expressly authorized, but shall not be required, to:

1. Hold legal title to the Liquidating Trust Assets, any and all rights of the Beneficiaries in or arising from the Liquidating Trust Assets, including, but not limited to, the right to vote any claim or interest held by the Liquidating Trust Assets in a case under the Bankruptcy Code and receive any distribution therein;
2. Protect and enforce the rights to the Liquidating Trust Assets vested in the Trustee by this Agreement by any method deemed appropriate including, without limitation, by judicial proceedings or pursuant to any applicable law and general principles of equity;
3. File objections, contest, settle, compromise, withdraw, litigate to judgment, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with the Estate Causes of Action and Disputed Claims and any other claims in favor of or against the Liquidating Trust as the Trustee shall deem advisable;
4. Establish and maintain accounts at banks and other financial institutions, in a clearly specified fiduciary capacity, in which the Liquidating Trust Assets or other cash and property of the Liquidating Trust may be deposited, and draw checks or make withdrawals from such accounts;
5. Determine and satisfy any and all liabilities created, incurred or assumed by the Liquidating Trust;
6. Pay all fees and expenses and make all other payments relating to the administration, management, maintenance, operation, preservation or liquidation of the Liquidating Trust Assets or pursuit of Estate Causes of Action and claims in favor of or against the Liquidating Trust in accordance with the provisions of Section I.I hereof;
7. File, if necessary, any and all tax and information returns with respect to the Liquidating Trust and pay taxes properly payable by the Liquidating Trust, if any;
8. Obtain insurance coverage with respect to the liabilities and obligations of the Trustee and the Liquidating Trust (in the form of an errors and omissions policy, fiduciary policy or otherwise); provided, however, the Liquidating Trust is a successor of the Debtor for the purposes of continuing to receive benefits under insurance policies entered into by the Debtor;

9. Obtain insurance coverage with respect to real and personal property which may be or may become Liquidating Trust Assets, if any;
10. Retain and compensate professionals, as necessary, to aid the Trustee in the prosecution of any Estate Causes of Action and claims that constitute the Liquidating Trust Assets, and to perform such other functions as may be appropriate, including advising or assisting the Trustee in the discharge of his duty as Trustee. The Trustee may commit the Liquidating Trust to and shall pay such professionals' compensation for services rendered and expenses incurred;
11. Retain and compensate a public accounting firm to perform such reviews and/or audits of the financial books and records of the Liquidating Trust and to prepare and file any tax returns or informational returns for the Liquidating Trust as may be required. The Trustee may commit the Liquidating Trust to and shall pay such accounting firm reasonable compensation for services rendered and expenses incurred;
12. Retain and pay such third parties as necessary or appropriate to assist the Trustee in carrying out his powers and duties under this Agreement. The Trustee may commit the Liquidating Trust to and shall pay all such persons or entities compensation for services rendered and expenses incurred, as well as commit the Liquidating Trust to indemnify any such parties in connection with the performance of services on market terms, including an exception for such parties' losses occasioned or based upon such parties' gross negligence, willful misconduct, or fraud;
13. Invest any moneys held as part of the Liquidating Trust Assets in accordance with the terms of Section I.F.2 hereof;
14. Represent the interests of the Beneficiaries with respect to any matters relating to the Plan, this Agreement or the Liquidating Trust affecting the rights of such Beneficiaries;
15. Take any and all actions necessary to dissolve the Debtor; and
16. Engage in any transaction necessary or appropriate to the foregoing or to facilitate implementation of the Plan, including but not limited to, entering into, performing and exercising rights under contracts and leases on behalf of the Liquidating Trust.

E. Additional Powers

Except as otherwise set forth in this Agreement or in the Plan, and subject to the retained jurisdiction of the Bankruptcy Court as provided for in the Plan, but without prior or further authorization, the Trustee may control and exercise authority over the Liquidating Trust Assets and over the protection, conservation and disposition thereof. No person dealing with the

Liquidating Trust shall be obligated to inquire into the authority of the Trustee in connection with the protection, conservation or disposition of Liquidating Trust Assets. It is intended that a signed copy of this Agreement serve as adequate proof of the Trustee's authority to act if such proof is required for any reason by any third party.

F. Limitation of Trustee's Authority

1. No Trade or Business

The Trustee shall not and shall not be authorized to engage in any trade or business with respect to the Liquidating Trust Assets or any proceeds therefrom except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust and shall take such actions consistent with the prompt and orderly liquidation of the Liquidating Trust Assets as required by applicable law and consistent with the treatment of the Liquidating Trust as a liquidating trust under Treasury Regulation Section 301.7701-4(d).

2. Investment and Safekeeping of Liquidating Trust Assets

All moneys and other assets received by the Liquidating Trust shall, until distributed or paid over as herein provided, be held in trust for the benefit of the Beneficiaries, but need not be segregated from other Liquidating Trust Assets, unless and to the extent required by law or by the Plan. The Trustee shall be under no liability for interest or producing income on any moneys received by the Liquidating Trust hereunder and held for distribution or payment to the Beneficiaries, except as such interest shall actually be received by the Trustee. Investments of any moneys held by the Liquidating Trust shall be administered in view of the manner in which individuals of ordinary prudence, discretion and judgment would act in the management of their own affairs; provided, however, that the right and power of the Trustee to invest the Liquidating Trust Assets, the proceeds thereof, or any income earned by the Liquidating Trust, shall be limited to the right and power to invest such assets (pending periodic distributions in accordance with Section IV.E hereof) in demand and time deposits, such as short-term certificates of deposit, in banks or other savings institutions, or other temporary liquid investments, such as Treasury bills and, provided, further, that the scope of any such permissible investments shall be limited to include only those investments (a) that are consistent with the provisions of section 345 of the Bankruptcy Code unless ordered otherwise by Bankruptcy Court and (b) that a liquidating trust, within the meaning of Treasury Regulation Section 301.7701-4(d), may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the Internal Revenue Service ("IRS") guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise.

G. Liability of Trustee

In no event shall the Trustee, the Trustee's employees, or any of the Trustee's professionals or representatives be held personally liable for any claim asserted against the Liquidating Trust, the Trustee, the Trustee's employees, or any of the Trustee's professionals or representatives, except to the extent occasioned by or based upon willful misconduct, gross negligence or fraud by the same. Specifically, the Trustee, the Trustee's employees, and any of the Trustee's professionals or representatives shall not be liable for any negligence or any error of judgment in either case made in good faith, or with respect to any action taken or omitted to

be taken in good faith, except to the extent that the action taken or omitted to be taken by the Trustee, the Trustee's employees, or any of the Trustee's professionals or representatives are determined by a Final Order to be due to their own respective gross negligence, willful misconduct, or fraud.

H. Reliance by Trustee

Except as otherwise provided in Section I.F hereof:

1. The Trustee may rely upon, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;
2. The Trustee may consult with legal counsel, financial or accounting advisors and other professionals to be selected by it, and the Trustee shall not be liable for any action taken or omitted to be taken by it in accordance with the advice thereof; and
3. Persons dealing with the Trustee shall look only to the Liquidating Trust Assets to satisfy any liability incurred by the Trustee to such person in carrying out the terms of this Agreement, and the Trustee shall have no personal obligation to satisfy any such liability, except to the extent such liability or obligation arises as a result of the gross negligence, willful misconduct, or fraud of the Trustee in which case the Liquidating Trust Assets shall not be subject to such claims or liabilities.

I. Authorization to Expend Liquidating Trust Assets

The Trustee may expend the assets of the Liquidating Trust (i) to pay expenses of administration of the Liquidating Trust (including, but not limited to, the fees and expenses of the Trustee, any taxes imposed on the Liquidating Trust or in respect of the assets of the Liquidating Trust, and fees and expenses in connection with litigation), and (ii) to satisfy other liabilities incurred or assumed by the Liquidating Trust (or to which the Liquidating Trust Assets are otherwise subject) in accordance with this Agreement or the Plan.

J. Compensation of the Trustee

1. The Liquidating Trust shall reimburse the Trustee for the actual reasonable out-of-pocket expenses incurred by the Trustee, including, without limitation, necessary travel, lodging, postage, telephone and facsimile charges upon receipt of periodic billings.
2. The Trustee and employees of the Trustee shall be entitled to receive compensation pursuant to that certain engagement letter attached hereto as Exhibit A for services rendered on behalf of Liquidating Trust. Any

change in compensation must be pursuant to an Order of the Bankruptcy Court following notice and opportunity to be heard.

3. The Liquidating Trust Assets shall be subject to the claims of the Trustee, and the Trustee shall be entitled to reimburse itself out of any available cash in the Liquidating Trust, for his actual out-of-pocket expenses and against and from any and all loss, liability, expense, or damage which the Trustee may sustain in good faith and without willful misconduct, gross negligence, or fraud in the exercise and performance of any of the powers and duties of the Trustee.
4. All compensation and other amounts payable to the Trustee shall be paid from the Liquidating Trust Assets. If the cash in the Liquidating Trust shall be insufficient to compensate and reimburse the Trustee, as the case may be, for any amounts to which it is entitled hereunder, then the Trustee is hereby authorized to reduce to cash in a commercially reasonable manner that portion of the Liquidating Trust Assets necessary so as to effect such compensation and reimbursement.

K. Exculpation; Indemnification

From and after the Effective Date, the Trustee, the Trustee's employees and each of their professionals and representatives (or their designees) shall be and hereby are exculpated by all Persons, including, without limitation, Beneficiaries, Holders of Claims and other parties in interest, from any and all claims, causes of action and other assertions of liability arising out of the discharge of the powers and duties conferred upon such Trustee by the Plan or any order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan, or applicable law or otherwise, except only for actions or omissions to act only to the extent determined by a Final Order to be due to their own respective gross negligence, willful misconduct, or fraud after the Effective Date. No Beneficiary, Holder of a Claim or other party in interest will have or be permitted to pursue any claim or cause of action against the Trustee, the Liquidating Trust or the employees, professionals or representatives of the Trustee for making payments in accordance with the Plan or for implementing the provisions of the Plan except in cases of gross negligence, willful misconduct, or fraud. The Liquidating Trust shall indemnify, defend and hold harmless the Trustee, the Trustee's employees and any of their professionals or representatives from and against any and all claims, causes of action, liabilities, obligations, losses, damages or expenses (including attorneys' fees) (other than only to the extent determined by a Final Order to be due to their own respective gross negligence, willful misconduct, or fraud after the Effective Date) to the fullest extent permitted by applicable law and any obligations, liabilities or expenses incurred by any such persons or entities shall be payable from the Liquidating Trust Assets. Any action taken or omitted to be taken with the approval of the Bankruptcy Court will conclusively be deemed not to constitute gross negligence, willful misconduct, or fraud.

L. Bond

If the Bankruptcy Court so orders, the Trustee shall serve with a bond.

M. Confidentiality

The Trustee shall, and shall cause his agents and representatives to, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any entity or matter to which any of the Liquidating Trust Assets relates or of which he has become aware in his capacity as Trustee.

N. Final Decree

It shall be the duty of the Trustee to seek and obtain a final decree or decrees from the Bankruptcy Court upon full administration of the Liquidating Trust.

O. Termination

The duties, responsibilities and powers of the Trustee will terminate on the date the Liquidating Trust is dissolved under applicable law in accordance with the Plan and Section II.E hereof, or by an Order of the Bankruptcy Court or by entry of a final decree closing the Chapter 11 Case.

**SECTION II
THE LIQUIDATING TRUST**

A. Transfer of Assets to Liquidating Trust

Pursuant to the Plan, the Debtor and the Trustee hereby establish, on behalf of the Beneficiaries, and the Debtor hereby transfers, assigns, and delivers to the Liquidating Trust, on behalf of the Beneficiaries, all right, title and interest in the Debtor's Assets, including but not limited to (a) all Available Cash, and (b) all claims and Estate Causes of Action of the Estate. The Trustee agrees to accept and hold the Liquidating Trust Assets for the Beneficiaries, subject to the terms of the Plan and this Agreement.

B. Title to Assets

1. The transfer of the Debtor's Assets to the Liquidating Trust (after taking into account any payment by the Debtor on the Effective Date to and/or full funding of the Allowed and projected (a) Administrative Expense Claims, (b) Priority Tax Claims, (c) Secured Claims, and (d) Other Priority Claims as well as postpetition fees and expenses) shall be made for the benefit of the Beneficiaries in accordance with the Plan. The Payment of Distributions and the utilization of all Liquidating Trust Assets shall be made in accordance with the Plan.
2. For all federal income tax purposes, all parties (including, without limitation, the Debtor, the Trustee, and the Beneficiaries) shall treat the transfer of the Debtor's Assets to the Liquidating Trust, as set forth in this Section II.B, as a transfer of such Assets to the Beneficiaries followed by a transfer of such Assets by the Beneficiaries to the Liquidating Trust.

Thus, the Beneficiaries shall be treated as the grantors and owners of a grantor trust for federal income tax purposes.

C. Funding of Liquidating Trust

The Debtor shall, on the Effective Date, transfer to the Liquidating Trust on behalf of the Beneficiaries (in accordance with Section II.B hereof) any and all of the Debtor's real and personal property to form the Liquidating Trust Assets. The Debtor shall have no further obligation to provide any funding with respect to the Liquidating Trust.

D. Valuation of Assets

As soon as practicable after the Effective Date, the Trustee shall apprise each of the Beneficiaries in writing of the value of the Liquidating Trust Assets by filing such valuation with the Bankruptcy Court. The valuation shall be used consistently by all parties (including the Debtors, the Trustee and the Beneficiaries) for all federal income tax purposes.

E. Termination of Liquidating Trust

The Liquidating Trust will terminate no later than the fifth (5th) anniversary of the Effective Date; provided, however, the Bankruptcy Court, upon motion by a party in interest, may by order entered before the expiration of the then current term, extend the term of the Liquidating Trust for a finite period if it is necessary to the liquidating purpose thereof. Multiple extensions can be obtained. The Trustee shall not unduly prolong the duration of the Liquidating Trust and shall at all times endeavor to resolve, settle or otherwise dispose of all claims and Estate Causes of Action that constitute Liquidating Trust Assets and to effect the distribution of the Liquidating Trust Assets to the Beneficiaries in accordance with the terms hereof and terminate the Liquidating Trust in such time as calculated to maximize recoveries. Prior to and upon termination of the Liquidating Trust, the Liquidating Trust Assets will be distributed to the Beneficiaries in accordance with their distribution rights under the Plan, subject to the provisions set forth herein. If any distributions of the Liquidating Trust are not duly claimed then such distributions will be disposed of in accordance with the Plan. Notwithstanding anything contained herein to the contrary, if the value of the Liquidating Trust Assets is less than the cost of postage and mailing for a distribution, the expense associated with seeking Court authority for a distribution and the expense of holding the estates open, the Trustee may contribute such assets to the charity of his choosing.

**SECTION III
BENEFICIARIES**

A. Identification of Beneficiaries

In order to determine the actual names, addresses and tax identification numbers of the Beneficiaries, the Trustee shall be entitled to conclusively rely on the names, addresses and tax identification numbers set forth in (1) the Debtor's Schedules, (2) proofs of claim filed by creditors in the Debtor's Chapter 11 Case, or (3) the Debtor's books and records. Each Beneficiary's right to distribution from the Liquidating Trust shall be that accorded to such

Beneficiary under the Plan. Each distribution by the Trustee to the Beneficiaries shall be made in accordance with the terms set forth herein.

B. Withholding

Unless otherwise permitted to be paid directly to a Beneficiary, the Trustee shall withhold from the amounts distributable to the Beneficiaries from the Liquidating Trust Assets at any time such sum or sums as may be required to be withheld under the income tax laws of the United States or of any state or political subdivision thereof.

C. Tax Identification Numbers

The Trustee shall require any Beneficiary to furnish to the Trustee its Employer or Taxpayer Identification Number as assigned by the IRS and the Trustee may condition any distribution to any Beneficiary upon receipt of such identification number. For the avoidance of doubt, the Trustee may request Bankruptcy Court authority to release funds set aside for distribution to Beneficiaries who have not provided proper tax identification numbers and make those funds available to remaining Beneficiaries.

**SECTION IV
PURPOSE, AUTHORITY, LIMITATIONS, AND DISTRIBUTIONS**

A. Purpose of the Liquidating Trust

The Liquidating Trust shall be established for the primary purpose of liquidating its assets, in accordance with Treasury Regulation Section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust. Accordingly, the Liquidating Trust shall, in an expeditious but orderly manner, liquidate and convert to cash the Liquidating Trust Assets, make timely distributions and not unduly prolong the duration of the Liquidating Trust. The liquidation of the Liquidating Trust Assets may be accomplished either through the prosecution, compromise and settlement, abandonment or dismissal of any or all claims, rights or causes of action, or otherwise.

B. Resolution of Liquidating Trust Assets by the Trustee

1. The Trustee shall be empowered to and, in his discretion (subject to the provisions hereof), may take all appropriate action with respect to the prosecution, settlement or other resolution of claims and Estate Causes of Action constituting the Liquidating Trust Assets. The Trustee shall deal with all collections and settlements within the normal course of his duties.
2. Notwithstanding anything contained in this Agreement to the contrary, the Liquidating Trust may, but is not required to, submit a proposed settlement of claims or Estate Causes of Action to the Bankruptcy Court or such other court of competent jurisdiction for its approval.

C. Books and Records

On behalf of the Liquidating Trust, the Trustee shall maintain, in respect of the Liquidating Trust and the Beneficiaries, books and records relating to the Liquidating Trust Assets and income of the Liquidating Trust and the payment of expenses of, and liabilities of, claims against or assumed by, the Liquidating Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof in accordance with Section VI hereof and to comply with applicable provisions of law. Except as provided in Section VI.A hereof, nothing in this Agreement requires the Liquidating Trust or the Trustee to file any accounting or seek approval of any court with respect to the administration of the Liquidating Trust, or as a condition for making any payment or distribution out of the Liquidating Trust Assets. Beneficiaries shall have the right upon thirty (30) days' prior written notice delivered to the Trustee to inspect such books and records, provided that, if so requested, such Beneficiary shall have entered into a confidentiality agreement satisfactory in form and substance to the Trustee.

D. Disputed Claim Reserve

The Trustee shall maintain, in accordance with the Trustee's powers and responsibilities under the Plan and this Agreement, a reserve for any distributable amounts to be set aside on account of Disputed Claims. Such amounts (net of any expenses, including any taxes, of the escrow relating thereto) shall be distributed, as provided herein and in the Plan, as such Disputed Claims are resolved. If a Holder's Disputed Claim is resolved and becomes an Allowed Claim, the Holder shall become a Beneficiary, the amounts previously reserved on account of the Holder's Disputed Claims shall be distributed as provided herein and in the Plan, and the Holder shall receive the same percentage recovery as Holders of Allowed Claims in the same Class as if the Holder's Allowed Claim was an Allowed Claim as of the Effective Date of the Plan.

E. Application of Liquidating Trust Assets

Assuming Holders of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Secured Claims, and Allowed Other Priority Claims have been paid (or, if not paid, after the Trustee has established adequate reserves to pay such claims), the Trustee shall apply all Liquidating Trust Assets, other than such reserve, and any proceeds therefrom, as follows:

1. Following the Effective Date, subject in all respects to the terms of the Plan, the Liquidating Trust shall apply all cash constituting Liquidating Trust Assets and any proceeds therefrom in the order and reflecting the priorities set forth below:

FIRST, to pay all the costs and expenses of the Liquidating Trust including, without limitation, the post-confirmation fees and expenses and any and all costs, expenses and liabilities incurred by the Trustee (including his professionals and advisors) in connection with the performance of duties under this Liquidating Trust Agreement as permitted herein.

SECOND, to the Beneficiaries in accordance with the Plan.

Notwithstanding anything to the contrary in this Section IV, prior to making any distribution pursuant to Paragraph SECOND hereof, the Trustee may retain such amounts (i) to pay estimated expenses of administration (including, but not limited to, any taxes imposed on the Liquidating Trust or in respect of the Liquidating Trust Assets, and fees and expenses in connection with litigation), (ii) to satisfy other liabilities incurred or assumed by the Liquidating Trust (or to which the Liquidating Trust Assets are otherwise subject), all for the term of the Liquidating Trust and in accordance with this Agreement or the Plan, and (iii) to satisfy the post-confirmation fees and expenses detailed in the Plan; provided, however, that, from the net amount distributable, the Trustee may reserve, in accordance with the provisions of Section IV.E hereof, such amounts as would be distributable in respect of Disputed Claims (treating such Claims for this purpose, as if they were Allowed Claims).

2. Distribution. Subject to the provisions of Section IV.D hereof, the Liquidating Trust shall distribute to the holders of Allowed Claims all net cash recoveries plus all net cash proceeds from the liquidation of the Liquidating Trust Assets (including as cash for this purpose, all cash equivalents) at such time intervals as decided by the Liquidating Trust in accordance with the terms of the Plan, provided that the Liquidating Trust shall make distributions no less frequently than on an annual basis unless otherwise ordered by the Bankruptcy Court.

F. Compliance with Laws

Any and all distributions of Liquidating Trust Assets shall be in compliance with applicable laws, including, but not limited to, applicable federal and state securities laws.

**SECTION V
SUCCESSOR TRUSTEE**

A. Removal

The Trustee may be removed by Final Order of the Bankruptcy Court.

B. Resignation

The Trustee may resign by giving not less than thirty (30) days' prior written notice thereof to the Bankruptcy Court. Such resignation shall become effective on the later to occur of (i) the date specified in such notice and (ii) the selection of a successor and the acceptance by such successor of such appointment.

C. Acceptance of Appointment by Successor Trustee

Any successor Trustee shall be chosen by the Bankruptcy Court. Any successor Trustee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall file such acceptance with the Liquidating Trust records. If required, a successor should post a bond or provide evidence of insurance adequate to ensure the performance of the obligations of the successor hereunder. Thereupon, such successor Trustee shall, without any further act,

become vested with all the properties, rights, powers, trusts and duties of his predecessor in the Liquidating Trust with like effect as if originally named herein; provided, however, that a removed or resigning Trustee shall, nevertheless, when requested in writing by the successor Trustee, execute and deliver an instrument or instruments conveying and transferring to such successor Trustee under the Liquidating Trust all the properties, rights, powers, and trusts of such predecessor Trustee.

SECTION VI REPORTING

A. Tax and Other Reports

As soon as practicable after the end of each calendar year, and as soon as practicable upon termination of the Liquidating Trust, the Trustee shall submit to the Bankruptcy Court a written report including: (i) financial statements of the Liquidating Trust at the end of such calendar year or period and the receipts and disbursements of the Liquidating Trust for such period; and (ii) subject to Section VI.B, a separate statement for each Beneficiary setting forth the holder's share of items of income, gain, loss, deduction or credit (collectively, the "Tax Items") and will instruct all such holders to report such items on their federal income tax returns. The Trustee shall promptly submit additional reports to the Bankruptcy Court whenever an adverse material event or change occurs which materially affects either the Liquidating Trust or the rights of the Beneficiaries hereunder.

B. Federal Income Tax.

1. Grantor Trust Status. Except as set forth in Section VI.B.2, below, and subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the issuance of applicable Treasury Regulations, the receipt by the Trustee of a private letter ruling if the Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Trustee), the Trustee shall file returns for the Liquidating Trust as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a).
2. Disputed Ownership Fund Election. The Liquidating Trustee may, at the Liquidating Trustee's sole discretion, file a tax election to treat the Disputed Claims Reserve as a Disputed Ownership Fund ("DOF") within the meaning of Treasury Income Tax Regulation Section 1.468B-9 for federal income tax purposes, rather than tax such reserve as a part of the grantor liquidating trust. If the election is made, the Liquidating Trustee shall comply with all federal and state tax reporting and tax compliance requirements of the DOF, including but not limited to the filing of a separate federal income tax return for the DOF and the payment of federal and/or state income tax due.

C. Other

The Trustee shall also file (or cause to be filed) any other statements, returns or disclosures relating to the Liquidating Trust, that are required to be filed by any governmental unit or under applicable law, guidelines, rules and regulations.

**SECTION VII
TRANSFER OF BENEFICIARY'S INTERESTS**

A. Transfer of Beneficial Interests

The interests of the Beneficiaries in the Liquidating Trust, which are reflected only in the records of the Liquidating Trust maintained by the Trustee shall be transferable after written notice to the Trustee only: (a) pursuant to applicable laws of descent and distribution (in the case of a deceased individual Beneficiary); (b) by operation of law; or (c) by any other method that complies with applicable securities and tax laws and does not result in an adverse consequence to the Liquidating Trust. The Trustee shall not be required to record any transfer in favor of any transferee which, in the sole discretion of the Trustee, is or might be construed to be ambiguous or to create uncertainty as to the holder of the interest in the Liquidating Trust. Until a transfer is in fact recorded in the books and records maintained by the Trustee for the purpose of identifying Beneficiaries, the Trustee, whether or not in receipt of documents of transfer or other documents relating to the transfer, may nevertheless make distributions and send communications to Beneficiaries, as though it has no notice of any such transfer, and in so doing the Trustee shall be fully protected and incur no liability to any purported transferee or any other Person.

**SECTION VIII
MISCELLANEOUS PROVISIONS**

A. Amendment; Waiver

This Agreement cannot be amended or waived in a material manner without an order of the Bankruptcy Court approving such material amendment or waiver, provided, however, that no change shall be made to this Agreement that would adversely affect the federal income tax status of the Liquidating Trust as a "grantor trust" in accordance with Section VI.B.

B. Intention of Parties to Establish Grantor Trust

This Agreement is intended to create a grantor trust for United States federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as a grantor trust.

C. Preservation of Privilege

In connection with the rights, claims, and Estate Causes of Action that constitute the Liquidating Trust Assets, any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Liquidating Trust shall vest in the Liquidating Trust and its representatives, and the Debtor and the Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges.

D. Cooperation

The Debtor shall provide the Trustee with copies of such of its books and records as are reasonably available to it and that the Trustee shall reasonably require for the purpose of performing the Trustee's duties and exercising his powers hereunder.

E. Laws as to Construction

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without giving effect to rules governing the conflict of law. In the case of a conflict between the Plan and this Agreement, the Plan shall control.

F. Severability

If any provision of this Agreement or the application thereof to any person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law unless the Agreement, as modified, will no longer effectuate the intent of the parties hereto in all material respects.

G. Notices

Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the person for whom such notice is intended at such address as set forth below or such other address as filed with the Bankruptcy Court:

If to the Debtor:

Harrington West Financial Group, Inc.
PO Box 442
Solvang, CA 93464
Attn: William W. Phillips, Jr.

With a copy to:

Landau Gottfried & Berger LLP
1801 Century Park East
Suite 1460
Los Angeles, California 90067
Attn: Sharon M. Kopman, Esq.

If to the Liquidating Trust or Trustee:

With a copy to:

[To Be Inserted]

H. Notices if to a Beneficiary and to the Indenture Trustee

Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the person for whom such notice is intended to the name and address set forth on the Debtor's Schedules or such Beneficiary's proof of claim, such other notice filed with the Bankruptcy Court and the Liquidating Trust or such other means reasonably calculated to apprise the Beneficiary, provided, however, that a copy of any notice or communication to the Debtor or the Liquidating Trust or Trustee hereunder shall be sent to counsel for the Indenture Trustees, as follows: (i) counsel for Wilmington Trust, Kilpatrick Townsend & Stockton LLP, Attn: Todd Meyers, Esq., 1100 Peachtree Street, Suite 2800, Atlanta, Georgia, 30309-4528 and (ii) counsel for Wells Fargo, Reed Smith, LLP, Attn: Eric a. Schaffer, Esq., 225 Fifth Avenue, Pittsburgh, Pennsylvania 15222-2716

I. Third-Party Beneficiary

There shall be no third-party beneficiaries of this Liquidating Trust except as expressly set forth herein.

J. Headings

The section headings contained in this Liquidating Trust Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or of any term or provision hereof.

K. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. A facsimile copy of a signature page is the equivalent of an original signature page.

IN WITNESS WHEREOF, the parties hereto have either executed and acknowledged this Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized officers all as of the date first above written.

DEBTOR: HARRINGTON WEST FINANCIAL GROUP,
INC.

By: _____
William W. Phillips, Jr.
President

TRUSTEE: [TO BE INSERTED]

By: _____
Trustee of the Liquidating Trust

EXHIBIT "B"
PROJECTED AVAILABLE CASH ANALYSIS

(See attached)

Income

[illegible]

Income

	Preference Recoveries	2				Unknown
	Estate Cause of Action	3				Unknown
	IRS refund for 2004, 2005, 2006 and 2007 NOL carryback	4				Unknown
	Insurance Policy cancellation refund	5	\$	3,478		3,478
	Silverleaf Country Club refund	6				Unknown
	OTS Assessment Fee refund	7				Unknown

Total Income

Expenses		3,478	-	3,478	-	3,478	3,478	3,478
	Total Income							
8	United States Trustee Fees	975						2,600
9	Legal-Bankruptcy Counsel (debtor)	15,000	71,459	18,000	25,000	28,000	25,000	182,459
10	Solicitation and Notice Fees (BMC)					6,342		6,342
11	Indenture Trustee Fees (post-petition)						65,330	65,330
12	Accounting and Tax-Services-Crowe Horwath	21,667	26,543	21,667	20,123			90,000
13	Stock Transfer Agent and related fees	788	788	788	788	788	788	4,728
14	Salaries & Employer Taxes	16,645	16,954	8,323	8,323	8,323	8,323	66,891
15	Rent and Utilities, Telephone	450	450	450	450	450	450	2,700
15	Payroll and Bank charges	200	200	200	200	200	200	1,200
15	Office Supplies	13	13	13	13	13	13	78
15	Postage	12	12	12	12	12	12	72
	Total Expense	55,750	116,418	49,453	54,909	45,753	100,116	449,941
	Net Cash Flow	(52,272)	(116,418)	(49,453)	(54,909)	(45,753)	(100,116)	(446,463)
	Ending Cash Balance	\$ 307,462	\$ 359,734	\$ 258,009	\$ 203,100	\$ 157,348	\$ 57,232	\$ 29,690

Note #	Description
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Note #	Description
1	Beginning cash balance for March 2011 is based on the ending cash balance in the February 2011 monthly Trustee Report.
2	The amount of preference recoveries, if any, are unknown. See Exhibit E to the Disclosure Statement for more information.
3	The value of potential claims are unknown. They include Estate Causes of Action (as defined in the Plan).
4	Pursuant to Revenue Ruling 2009-52, the Debtor may be able to carry back Net Operating Losses for a period of 5 years resulting in a tax refund that is estimated to exceed \$9 million. Any such refund may be subject to allocation between the FDIC (as Receiver for Los Padres Bank) and the Debtor. See Article III, Section (D)(7) of the Disclosure Statement for more information.
5	Certain policies of the Debtor have been cancelled and an approximate refund of \$3,478 is expected to be received directly from the insurance agent in April. Additionally, the Debtor has requested that a \$52,528 refund erroneously forwarded to the FDIC by the Debtor's insurance broker be refunded by the FDIC to the Debtor. It is unknown whether the receipt of the refund from the FDIC will happen during the time period of this schedule.
6	In September 2010 the Debtor resigned its membership in the Silverleaf Country Club in Scottsdale, AZ. A membership equity fee paid by the Debtor will be refunded once a certain amount of new memberships are sold according to the membership contract. The monthly fees associated with the membership will be offset to any amounts owing to Silverleaf. It is not anticipated that sufficient new contracts will be sold during this scheduled time period to effectuate the refund. An estimate of the net refund is approximately \$20 thousand.
7	The Debtor pre-paid the regulatory holding company an assessment fee and approximately \$37,000 could be refunded to the Debtor.
8	Based on estimated 1st Qtr 2011 disbursements of \$123,000, including actual disbursements for January and February and estimated disbursements per this schedule for March and applying the Guide to Quarterly Fees for the \$75,000 to \$149,999.99 bracket of disbursements. The remaining fees are based on the Guide to Quarterly Fees for the \$150,000 to \$224,999.99 for the second quarter of disbursements of approximately \$178,000 projected on this schedule.
9	The March 2011 figure includes the 16,860.50 balance remaining on LGB's January invoice after the retainer was exhausted and \$19,598 for fees and costs for services rendered by LGB in February 2011. LGB provided the Debtor with an estimate of \$35,000 for fees and costs for March 2011.
10	BMC Group, Inc. has been retained as noticing and solicitation agent and the above is an estimate they provided for their services.
11	Aggregate amount of indenture trustee fees estimated by Wilmington Trust (\$10,330) and its counsel (\$35,000) and Wells Fargo (\$10,000). The amount is listed in August 2011 as the Debtor has no information as to when the estimates were or will actually be incurred.
12	Estimates were provided by Crowe Horwath for the accounting, audit and tax work. The March estimate includes actual billings through February 2011.
13	Includes the cost for the stock transfer agent and related items.
14	Based on two employees through April 2011 and one employee thereafter. Insider Compensation forms were filed and no objections received.
15	Rent and miscellaneous operating expenses are estimated based on recent past history.

EXHIBIT "C"

HYPOTHETICAL CHAPTER 7 LIQUIDATION ANALYSIS

(See attached)

	Note	Low Expenses		High Expenses	
		Amount	Ratio	Amount	Ratio
Income					
Ending Cash August 31, 2011	1	\$ 57,232		\$ 29,690	
Preference Recoveries	2	Unknown		Unknown	
Estate Cause of Action	3	Unknown		Unknown	
IRS refund for 2004, 2005, 2006 and 2007 NOL carryback	4	Unknown		Unknown	
Insurance Policy cancellation refund	5	Unknown		Unknown	
Silverleaf Country Club refund	6	Unknown		Unknown	
OTS Assessment Fee refund	7	Unknown		Unknown	
Total Income		\$ -		\$ -	

Expenses					
United States Trustee Fees	8	\$ 650		\$ 650	
Chapter 7 Trustee Fees; pursuant to 11 U.S.C. Section 326(a)	9	\$ 6,112		\$ 3,719	
Chapter 7 Trustee Counsel	10	\$ 180,000		\$ 200,000	
Chapter 7 Trustee Costs of Administration	10	\$ 30,000		\$ 30,000	
Sub total Chapter 7 Administration Expenses		\$ 216,762		\$ 234,369	
Net Cash Flow		\$ (216,762)		\$ (234,369)	
Available for Distribution		\$ (159,530)		\$ (204,679)	

	Note	Low Expenses		High Expenses	
		Amount	Ratio	Amount	Ratio
Distribution Analysis - Chapter 7					
Class 1 - Other Priority Claims	11		0.00%		0.00%
Class 2 - Secured Claims	12		0.00%		0.00%
Classes 3 and 4 - General Unsecured Claims and Indenture Trustee Claims	13	\$ 26,004,000	-0.61%	\$ 26,004,000	-0.79%
Class 4 - Preferred Stock Interests	14		0.00%		0.00%
Class 5 - Common Stock Interests	15		0.00%		0.00%

- Note
- Assumes ending cash as of August 31, 2011. See "Ending Cash Balance" on Exhibit "B".
 - The amount of preference recoveries, if any, are unknown. See Exhibit E to the Disclosure Statement for more information.
 - The value of potential claims are unknown. They include any Estate Cause of Action as defined in the Plan.
 - Pursuant to Revenue Ruling 2009-52, the Debtor may be able to carry back Net Operating Losses for a period of 5 years resulting in a tax refund that is estimated to exceed \$9 million. Any such refund may be subject to allocation between the FDIC (as Receiver for Los Padres Bank) and the Debtor. See Article III, Section (D)(7) of the Disclosure Statement for more information.
 - The Debtor has requested that a \$52,528 refund erroneously forwarded to the FDIC by the Debtor's insurance broker be refunded by the FDIC to the Debtor. (see footnote 5 of exhibit "B" for more information)
 - In September 2010 the Debtor resigned its membership in the Silverleaf Country Club in Scottsdale, AZ. A membership equity fee paid by the Debtor will be refunded once a certain amount of new memberships are sold according to the membership contract. The monthly fees associated with the membership will be offset to any amounts owing to Silverleaf. It is not anticipated that sufficient new contracts will be sold during this scheduled time period to effectuate the refund. An estimate of the net refund is approximately \$20 thousand.
 - The Debtor pre-paid the regulatory holding company an assessment fee and approximately \$37 thousand could be refunded to the Debtor.
 - Based on the estimated available amounts to be disbursed and applying the Guide to Quarterly Fees schedule for the \$15,000 to \$74,999.99 bracket.
 - Statutory fees pursuant to 11 U.S.C. 326(a)
 - Estimates provided by Landau Gottfried & Berger LLP
 - Assumes no priority claims.
 - As described in the Plan, there are no secured claims.
 - As of the Petition Date (see Schedule F), there is approximately \$26 million of unsecured claims, the majority of which liabilities arise under the Indentures.
 - Holders of preferred stock interests will not receive a distribution.
 - Holders of common stock interests will not receive a distribution.

EXHIBIT "D"
LIST OF PENDING LITIGATION

None

EXHIBIT "E"

POTENTIAL PREFERENCE PAYMENTS

(See attached)

Name and Address of Creditor	Dates of Transfers	Amount Paid/Value of Transfers
Corbin Fitzgerald & Athey 601 West Fifth Street, Suite 1150 Los Angeles, CA 90071-2004	8/19/10	\$20,000.00
Landau Gottfried & Berger LLP 1801 Century Park East, Suite 1460 Los Angeles, CA 90067	8/19/10	\$100,000.00
American Stock Transfer 59 Maiden Lane New York, NY 10038	6/8/10 – 9/7/10	\$5,742.93
Business Wire Department 34182 P.O. Box 39000 San Francisco, CA 94139	6/8/10	\$9,345.00
Reitner, Stuart, Moore 1319 Marsh Street San Luis Obispo, CA 93401	6/8/10 – 7/28/10	\$35,733.69
Broadridge Investor Communication P.O. Box 23487 Newark, NJ 07189	7/28/10 – 8/31/10	\$5,666.57
Central Coast Image P.O. Box 139 2030 Viborg, No. 10 Solvang, CA 93464	7/28/10	\$727.05
Los Padres Bank 610 Alamo Pintado Rd. Solvang, CA 93463	7/30/10 – 8/19/10	\$244,068.44
Mediant Communications LLC P.O. Box 542 Saddle Brook, NJ 07663	8/20/10	\$45.66
American Express P.O. Box 0001 Los Angeles, CA 90096	8/26/10	\$959.75
The Sovlang Bakery 460 Alisal Road Solvang, CA 93463	8/31/10	\$1,500.00
CDW P.O. Box 75723 Chicago, IL 60675	8/31/10	\$271.82
Sprint P.O. Box 219100 Kansas City, MO 64121	8/31/10	\$69.99
Robert King 220 Via Promesa Nipomo, CA 93444	9/2/10	\$125.00
Paul O. Halme (Director) 1285 Fredensborg Canyon Rd. Solvang, CA 93463	9/10/09-9/10/10	\$19,992.00
Timothy S. Hatlestad (Director) 12253 N. 78 th Place Sottsdale, AZ 85260	9/10/09-9/10/10	\$19,992.00

1	John J. McConnell (Director) 725 Northridge Drive	9/10/09-9/10/10	\$19,992.00
2	West Lafayette, IN 47906		
3	William D. Ross (Director) 2623 Mathers Avenue	9/10/09-9/10/10	\$19,992.00
4	West Vancouver, V7V2J3, BC		
5	Craig J. Cerny (Director) 9701 East Happy Valley Road	9/09/10	\$4,393.78
6	Lot 33		
7	Scottsdale, AZ 85255		
8	William W. Phillips, Jr.(Director) 1888 Ringstead Drive	8/31/10 – 9/07/10	\$4,503.99
9	Solvang, CA 93463		

EXHIBIT "F"

POTENTIAL THIRD PARTY ESTATE CAUSES OF ACTION

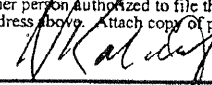
1. Any and all claims causes of action and/or defenses, whether known or unknown, liquidated or unliquidated, disputed or undisputed, fixed or contingent, against the Office of Thrift Supervision and/or any person acting in its name or on its behalf, including, without limitation, its agents, attorneys, officers, directors and employees.
2. Any and all claims causes of action and/or defenses, whether known or unknown, liquidated or unliquidated, disputed or undisputed, fixed or contingent, against the Federal Deposit Insurance Corporation, whether in its corporate capacity or in its capacity as receiver for Los Padres Bank, FSB and/or any person acting in its name or on its behalf, including, without limitation, its agents, attorneys, officers, directors and employees.

EXHIBIT "G"

FDIC POC

See Attached

B10 (Official Form 10) (04/10)

UNITED STATES BANKRUPTCY COURT <u>Central</u> DISTRICT OF <u>California</u>		PROOF OF CLAIM
Name of Debtor: Harrington West Financial Group, Inc.		Case Number: 9:10-bk-14677-RR
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Federal Deposit Insurance Corporation as Receiver for Los Padres Bank, FSB		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.
Name and address where notices should be sent: c/o Allan H. Ickowitz, Esq., John W. Kim, Esq. Nossaman LLP 445 S. Figueroa Street, 31st Floor Los Angeles, CA 90071-1602 Telephone number: (213) 612-7800		Court Claim Number: _____ (if known) Filed on: _____
Name and address where payment should be sent (if different from above): Telephone number: _____		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
1. Amount of Claim as of Date Case Filed: <u>\$ See Attachment</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(5). <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507 (a)(8). <input checked="" type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507 (a)(<u>9</u>). Amount entitled to priority: <u>\$ See Attachment</u> *Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
2. Basis for Claim: <u>See Attachment</u> (See instruction #2 on reverse side.)		
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
Date: 3/4/2011	Signatures: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.  Nicholas Katsonis, Counsel, FDIC 703-562-2089	
		FOR COURT USE ONLY

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

B10

Attachment to Proof of Claim of the Federal Deposit Insurance Corporation

Harrington West Financial Group Inc., a Delaware Corporation
Case No.: 9:10-bk-14677-RR

The Claimant

1. The Federal Deposit Insurance Corporation ("**FDIC**") was created under the Federal Deposit Insurance Act (12 U.S.C. § 1811 *et seq.*) to achieve the government's goals of promoting a safe and sound banking system to foster a healthy economic environment. The FDIC files this Attachment and Exhibits hereto in support of the Proof of Claim. The FDIC submits this Proof of Claim in its capacity as Receiver ("**FDIC-Receiver**") of Los Padres Bank, FSB (the "**Bank**"). The holding company of the Bank, Harrington West Financial Group Inc. ("**Debtor**") is the debtor herein. This Proof of Claim is submitted pursuant to 11 U.S.C. § 501 and Rule 3001 of the Federal Rules of Bankruptcy Procedure.

Summary of FDIC Claims and Background

2. Among other things, the FDIC-Receiver has a claim against the Bank in an unliquidated amount, but which the FDIC-Receiver believes at this time will be in excess of \$5 million subject to adjustment based upon the actual amounts realized from the disposition of available assets (the "**Claim**"). Furthermore, the FDIC-Receiver is entitled to a superpriority with respect to a portion of the Claim relating to the avoidance and recovery of fraudulent transfers that are subject to 12 U.S.C. § 1821(d)(17) which rights are superior to even administrative claim expenses against the Debtor's estate as provided under Title 11. The basis for the FDIC-Receiver's Claim are set forth in the summary chart below and detailed herein.
3. Pursuant to 12 U.S.C. §1821(d)(2) the FDIC-Receiver, succeeds by operation of the law to the rights, titles, powers, and privileges, including legal claims, of the Bank, and any stockholder, member, accountholder, depositor, officer, or director of the Bank. Further, pursuant to 12 U.S.C. §1821(g), and notwithstanding any other provision of federal law, the FDIC-Receiver is subrogated to all rights of any payment to any depositors upon either payment to depositors or the making of provisions for payment to the depositors of the Bank. This Claim is based in part on the FDIC-Receiver's subrogated rights against Debtor for Debtor's failure to comply with regulatory requirements and applicable law. The FDIC-Receiver's claim against Debtor is based in part on Debtor's failure to adequately maintain the capitalization of the Bank, which failure has damaged the FDIC-Receiver in an unliquidated amount which the FDIC-Receiver believes is in excess of \$5 million resulting from the FDIC-Receiver's payment of insured deposit obligations and uninsured deposit obligations of the Bank to depositors as well as administrative expenses. The FDIC as Receiver acts to protect insured depositors and creditors of the Bank. The claims set forth herein in large part arise out of and relate to the Debtor's actions by and through its agents, to direct the Bank for the benefit of the Debtor at the expense of the Bank. In addition to the specific bases for the claims discussed below, the

Debtor is liable to the Bank under various theories at law and in equity, including, without limitation, quantum meruit, quantum valebant, assumpsit for money lent, assumpsit for money had and received to the use of the Debtor, unjust enrichment, and mutual mistake of fact, because, in all instances, the Bank provided money, goods, and/or valuable services to the Debtor for which the Bank, under the foregoing principles, is entitled to be re-paid. Further, some of all of the claims set forth herein may be entitled to priority under 11 U.S.C. § 507.

Summary of FDIC-Receiver Claims

Tax Related Entitlements	Entitlement and ownership of all rights to refunds of taxes and tax overpayments as against the Debtor stemming from consolidated Federal and State tax returns filed by the Debtor on behalf of, among others, the Bank. The FDIC-Receiver asserts 100% ownership interest in the tax receivables and refunds under applicable law as opposed to a mere claim for payment as a general unsecured creditor. On information and belief such tax receivables and refunds are expected to total in excess of \$9.5 million. FDIC-Receiver reserves all rights to assert an administrative expense priority or alternatively a general unsecured claim for such amounts to the extent that the FDIC-R does not prevail in its dispute regarding ownership and entitlement to such tax refunds and entitlements.
Capital Maintenance Obligations	Amounts undetermined at present relating to the Debtor's failure to maintain adequate capitalization of the Bank as required by the October 14, 2009 Cease and Desist Order consented to by the Debtor and the Bank and issued by the Office of Thrift Supervision (Order No. WN-09-032), including, but not limited to, Debtor's failure to comply with requirements with respect to the Bank's Capital Plan and capitalization of the Bank, as well as applicable law and regulatory requirements respecting capitalization of the Bank, which claims are entitled to priority under 11 U.S.C. § 507(a)(9).
Claims Based on Avoidance and/or Recovery of Fraudulent Transfers	Claims based on the FDIC-Receiver's right to avoid and recover direct or indirect transfers of funds and property from the Bank to Debtor and the shareholders or transferees of Debtor which constitute constructive or actual fraudulent transfers, obligations, or payments to Debtor. General unsecured claims to the extent not deemed to have arisen after the filing of Debtor's Chapter 11 petition. These claims may be entitled to

	"superpriority" to the extent such claims fall under § 1821 (d) (17) (D) and are in an amount to be ascertained subject to the FDIC-Receiver's continuing investigation and analysis. On information and belief, such amounts could include in excess of \$1 million in dividends paid since January 1, 2008.
Bond Premium Based Claims	Entitlement to remittance of all amounts previously and hereafter paid upon the refund of pre-paid insurance policies, including, but not limited to, Bond insurance policies to which FDIC-Receiver is entitled as the owner thereof, not as a general unsecured creditor, in an amount in excess of \$70,000. FDIC-Receiver reserves its right to a general unsecured claim for such amounts to the extent that the FDIC-Receiver does not prevail in its dispute regarding ownership and entitlement to such refunds.
Tort Based Claims	Amounts undetermined at present relating to breaches of Debtor's legal duties owed to the Bank prior to the Bank's closure, as well as actions of the directors and officers of Debtor for which Debtor is liable, and actions of Debtor itself in breach of its fiduciary duties to the Bank and which caused the Bank to suffer damages including claims for indemnity and contribution relating to any actions in which the Bank is or may be named as a defendant.
Expense Reimbursement/Receivables Obligations.	Claim for payment of intercompany receivable in the sum of at least \$595,159.09 representing obligations of the Debtor to the Bank for expenses/reimbursement plus additional amounts which the FDIC-Receiver may determine in ongoing investigation/analysis.

4. On August 20, 2010, the Bank was closed by the Federal Office of Thrift Supervision ("**OTS**"). The FDIC was duly appointed as the Receiver of the Bank. The Bank was a wholly owned subsidiary of the Debtor. The Debtor was the Bank's holding company for purposes of applicable laws and regulations governing such holding companies.
5. On September 10, 2010, the Debtor filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. §§ 101 et seq.). This Proof of Claim is submitted in Case No. 9:10-bk-14677-RR, currently pending in the United States Bankruptcy Court of the Central District of California, Northern Division (the "**Bankruptcy Case**"). No trustee or examiner has been appointed in the above

referenced bankruptcy case, and the United States Trustee has not appointed an Official Committee on Unsecured Creditors in the Bankruptcy Case.

FDIC-Receiver Claims

6. TAX RELATED CLAIMS.

- a. The FDIC-Receiver asserts claims and rights against the Debtor stemming from tax related issues arising from consolidated tax returns filed by Debtor on behalf of, among others, the Bank ("**Tax Claims**"). All Federal and State tax related refunds and overpayments that are outstanding based on consolidated tax returns, are due and owing to the Bank only, and not the Debtor and do not constitute property of the Debtor or its bankruptcy estate. A tax refund resulting from offsetting losses of one member of a consolidated filing group against the income of that same member in a prior or subsequent year inures to the benefit of that member, namely the Bank. Allowing Debtor to retain any refunds arising from a subsidiary's losses simply because the parent and subsidiary chose a procedural device to facilitate their income tax reporting unjustly enriches the parent and is a breach of Debtor's contractual and fiduciary duties to the Bank. Any amounts received by the Debtor in connection therewith will be held in trust for the Bank and would not constitute property of the Debtor or its bankruptcy estate.
- b. Prior to the closure of the Bank and appointment of the FDIC-Receiver of the Bank, Debtor filed consolidated tax returns on behalf of, among other affiliated entities, the Bank. In addition, the Bank and Debtor entered into an Amended Tax Sharing Agreement effective as of January 1, 1997, as may have been amended from time to time (**Exhibit 1**) (the "**Tax Agreement**").¹ Pursuant to the Internal Revenue Code ("**IRC**"), federal regulations including Treasury Regulations, and regulatory policies and requirements applicable to federal savings bank such as the Bank herein, or state tax laws, as applicable, the Bank has an independent right to pursue, contest, compromise, or settle any tax related adjustment or deficiency relating to the Bank.
- c. The Bank was the principal operating entity for the Debtor's enterprise and it was the Bank that incurred significant losses which are the basis of pending tax refunds owed by the Internal Revenue Service ("**IRS**") and State tax authorities. All such refunds are property of the Bank and not the Debtor's estate by operation of the law, including the IRC, federal regulations including Treasury Regulations, and regulatory policies and requirements applicable to federal savings bank such as the Bank herein, or state tax laws and notwithstanding anything to the contrary in the Tax Agreement except to the extent consistent

¹ / Pursuant to the FDIC-Receiver's motion for a 2004 order, the Debtor provided what appears to be copy of at least one amendment to the Tax Agreement" effective November 2, 2001. (**Exhibit 2**). The FDIC-Receiver's investigation of further amendments to the Tax Agreement is continuing and the FDIC-Receiver reserves all rights related hereto.

therewith. The tax refunds are attributable solely to the income and loss of the Bank, and not the Debtor, and the refunds belong entirely to the FDIC-Receiver. Such tax refunds would include refunds resulting from the enactment of the Worker, Homeownership and Business Assistance Act of 2009, which act allows certain entities to carry back a net operating loss sustained by a corporate taxpayer for up to five years. The Debtor is required by law and the Tax Agreement to immediately turn over to the FDIC-Receiver any and all tax refunds that the Debtor previously received or hereafter may receive, and the FDIC-Receiver reserves all rights relating to its claim for turnover of such tax refunds. The FDIC-Receiver's rights and entitlements to the tax refunds also are consistent with the Tax Agreement, to the extent that the Tax Agreement is determined to be applicable to the rights of the parties with respect to tax refunds, which provides, among other things, that any tax refunds received by the Debtor are to be held as agent for the Bank in trust. Moreover, to the extent the Tax Agreement may be determined to provide otherwise, the Tax Agreement would be contrary to applicable law. Further, and to the extent not remitted to the Bank by order or otherwise and/or the FDIC-Receiver is not determined to be the sole owner of the tax refunds, any claim against the Debtor for tax related refunds owed to the Bank will give rise to an FDIC-Receiver claim for an administrative expense pursuant to 11 U.S.C. § 503. If the FDIC-Receiver is not deemed to be the sole owner of all or any part of the tax refunds contrary to the FDIC-Receiver's contention, the Debtor would have an obligation to remit the share thereof to the FDIC-Receiver and the FDIC-Receiver would have an administrative expense priority claim insofar as the failure to remit occurred post-petition or, alternatively, a pre-petition claim.

- d. By way of example, and without limiting the foregoing, the FDIC-Receiver is the owner of, and is entitled to, recover the tax refunds in connection with any consolidated tax return and any amended tax returns as well as any tax refund claims or elections to carry back net operating losses to prior tax years. On information and belief, such Federal and State tax refunds could total in excess of \$9.5 million.
- e. The FDIC-Receiver specifically reserves the right to litigate, prosecute, dispute, contest, compromise, or settle any purported right of set off or offset claimed by the Debtor, relating to tax refunds and the FDIC-Receiver's entitlement to any tax refunds in the proper venue or court under Title 12. Such claims and defenses are not subject to the jurisdiction of the Bankruptcy Court, but rather independent property rights and claims that are subject to the exclusive jurisdiction under Title 12 and administrative hearings pursuant to 12 U.S.C. § 1821(d).

7. THE DEBTOR'S CAPITAL MAINTENANCE OBLIGATIONS TO SUBSIDIARY BANK.

- a. FDIC-Receiver's Claim arises in part from the Debtor's obligation to maintain and guarantee the appropriate capital levels of the Bank pursuant to applicable capital and liquidity requirements including, but not limited to, the statutory and

regulatory provisions set forth in 12 U.S.C. 1831o, 12 U.S.C. 1464(s) and 12 C.F.R. Section 225.4 (collectively, "**Capital Maintenance Claims**"). The Capital Maintenance Claims may be subject to priority under 11 U.S.C. § 507(9), if applicable. Among other things, the Debtor failed to comply with the "prompt corrective action" provision as codified under the statutory and regulatory scheme set forth under 12 U.S.C. 1831o, which imposes a capital maintenance obligation and mandates cash infusions to the Bank subsidiary. The Debtor also was obligated to maintain appropriate capital levels under enforceable and implied capital maintenance agreements and to submit a Capital Plan and Operations Plan as per the October 14, 2009 Cease and Desist Order (Order No. WN-09-032), entered into by the Debtor and the Bank with OTS. The Debtor's duties and obligations under the applicable law and regulations and Cease and Desist Order included, but were not limited to, capital monitoring and forecasting, capital deployment/allocation and capital raising activities.

- b. The Debtor's failure to, among other things, sufficiently maintain the appropriate capitalization of the Bank damaged the Bank in an unliquidated amount in excess of \$5 million based on the FDIC-Receiver's actual payment of insured deposit and uninsured deposit obligations to depositors as well as administrative expenses.
- c. The FDIC-Receiver's claims based upon the Bank's insufficient capitalization may be entitled to priority pursuant to 11 U.S.C. § 507(a)(9).

8. AVOIDANCE OF FRAUDULENT TRANSFERS FROM BANK.

- a. Discovery and investigations have only recently been commenced with respect to the FDIC-Receiver's Claim which may arise from the FDIC-Receiver's authority as Receiver of the Bank, to avoid and recover a transfer of any interest of an institution-affiliated party or any "persons" that the FDIC-Receiver determines are debtors of the Bank, any transfer of any interest or obligation in property that may have been made with the intent to hinder, delay, or defraud the Bank, the FDIC-Receiver, or any other appropriate Federal Banking agency, within five years of the date of appointment of the FDIC as Receiver of the Bank pursuant to 12 U.S.C. § 1821(d)(17). Certain allegations may be subject to revision upon completion of discovery and investigation. Subject to the FDIC-Receiver's ongoing investigations, the FDIC-Receiver may be entitled to avoid and recover property fraudulently transferred including any interests of the Debtor as either an "institution affiliated party" or a "debtor". In this respect, the FDIC-Receiver's rights under Section 1821(d)(17) are superior to any rights of any other party (other than any party which is a Federal agency) under Title 11. As such, the FDIC-Receiver may have a statutory "superpriority" to recover all fraudulently conveyed transfers subject to that statute over all other creditors of the Debtor. The FDIC-Receiver reserves all rights to recover the property transferred, or, if a court so orders, the value of such property at the time of such transfer from the initial transferee, the institution-affiliated party, or the person for whose benefit

the transfer was made, or from any immediate or mediate transferee of any such initial transferee. 12 U.S.C. S 1821(d)(17)(B).

- b. Further, and subject to the on-going discovery and FDIC-Receiver investigations related hereto, the FDIC-Receiver's Claim may also include and be based on its authority under applicable state law enactments of the Uniform Fraudulent Transfer Act, successor statute to the Uniform Fraudulent Conveyance Act including California's Uniform Transfer Act, to avoid and recover (among other things) transfers or obligations within the statutory reachback period set forth in California Civil Code § 3439 et seq. ("**CUFTA**"). The FDIC as Receiver and/or conservator has standing to assert a claim against the Debtor under CUFTA since it succeeds to the rights of the Bank as a creditor under state law pursuant to 12 U.S.C. § 1821(d)(2)(A). More specifically, and without limitation, to the extent the FDIC-Receiver's Claim includes transfers subject to CUFTA, the FDIC-Receiver has standing to avoid and recover transfers pursuant to 12 U.S.C. 1821(g), which provides that, notwithstanding any other federal or state law provision, the FDIC-Receiver is subrogated to all rights of the depositors of the Bank -- to the extent the FDIC-Receiver pays or assumes a deposit of the Bank under Title 12. In the case of the Bank, the FDIC-Receiver has the right to assert and liquidate claims based on the statutory obligation to pay all insured deposits. Accordingly, the FDIC-Receiver is a "creditor" and is subrogated to the rights of the depositors against various "debtors" including the Debtor as those terms are defined in California Civil Code section 3439.01, subs. (c), (e).
- c. Actual Fraud: the Debtor may have engaged in actual fraud with respect to transfers that were made from the Bank directly to the Debtor when the Debtor was, or was rendered, insolvent as a result of such transfer and obligations. The interests and the assets in the transfers subject to CUFTA were retained and controlled by the Debtor with respect to such transfers as the controlling holding company and parent of the Bank. The transfers were not fully or adequately disclosed and involved significant and substantial assets of the Bank, especially in calendar years 2008 and 2009. The Bank did not receive fair or reasonably equivalent consideration for the subject transfers to the Debtor including, but not limited to, the capital dividends and distributions upstreamed from the Bank to the Debtor.
- d. Constructive Fraud: Under CUFTA, the Bank may also have a claim against the Debtor for "constructive fraud" because the Bank incurred obligations without receiving "reasonably equivalent value" and the Bank was insolvent at the time, or was rendered insolvent by the subject obligations and transfers. (Civ. Code § 3439.05.) Reasonably equivalent value may not have been received by the Bank as to the transfers subject to CUFTA as further described in this Claim. As to insolvency, a debtor is insolvent if, at fair valuations, the sum of the debtor's debts is greater than all of the debtor's assets. (Civ. Code § 3439.02(a).) Additionally, a debtor who is generally not paying his debts as they become due is presumed insolvent. (See Civ. Code § 3439.02(c).) Here, the subject transfers and obligations may have caused the Bank to be rendered insolvent based on

the true value of the Bank's assets and insufficient capital which ultimately led to the Bank's closure and appointment of the FDIC as Receiver of the Bank.

- e. Based on the foregoing statutes, the FDIC-Receiver may be entitled to avoid and recover an as yet undetermined amount but which, on information and belief, is in excess of \$2 million of assets transferred from the Bank to the Debtor during 2007 and 2008 as upstreamed funds or dividends. Some or all of these transfers appear to have contributed to the inadequate capitalization and insolvency of the Bank. The FDIC-Receiver is entitled, pursuant to Title 12 and CUFTA, to recover these amounts in an amount to be ascertained.

9. BOND PREMIUM REFUNDS

The Bank paid for or were the source of funds used to purchase insurance policies including Bond insurance policies and other policies described in the Debtor's schedules filed herein. Any amounts previously and hereafter paid upon the refund of pre-paid insurance policies including, but not limited to, Bond insurance policies which total in excess of \$70,000, constitute property of the FDIC-Receiver which the FDIC-Receiver is entitled to retain to the exclusion of the Debtor. FDIC-Receiver reserves its right to a general unsecured claim for such amounts to the extent that the FDIC-R does not prevail in its dispute regarding ownership and entitlement to such refunds.

10. EXPENSE REIMBURSEMENTS AND OTHER CHARGES

- a. As of August 20, 2010, the books and records of the Bank disclose that the Bank holds a receivable payable by the Debtor to the Bank in the sum of at least \$595,159.09. Such entry constitutes an account stated as between the Bank and the Debtor, represents charges which the Debtor had undertaken to pay to the Bank for goods and/or services or other agreed upon charges. Upon information and belief, this portion of the claim is based on intercompany charges between the Debtor and the Bank, as reflected in the Bank's general ledger accounts .
- b. The Bank and Debtor entered into an Administrative Services Agreement, dated as of September 20, 1996, Exhibit 3 which provides, as more fully set forth therein, for the payment by the Debtor to the Bank of charges for administrative services provided by the Bank to the Debtor and for which the Debtor was obligated to pay the Bank the fair market value thereof determined in accordance with such agreement. On information and belief, FDIC-Receiver asserts that all or some of the \$595,159.09 in receivables payable by the Debtor arose pursuant to such Administrative Services Agreement or similar agreements.

11. TORT CLAIMS.

The Bank's claims also include claims, if any, based upon breaches of fiduciary duties owed by the Debtor or the directors and officers of the Debtor to the Bank and the liability of the Debtor in connection therewith. Such directors and officers may have failed to meet their lawful obligations and act in the best interests of the Bank including, but not limited to: directing and/or authorizing the various upstream dividend and/or

other avoidable transfers; failing to adequately maintain the capitalization of the Bank; failing to engage in suitable risk management; implementing substandard practices for loan underwriting, asset purchases, and sales for the Bank; and, repeatedly taking or omitting to take actions that would serve the Bank's interests during the Bank's financial crisis. The FDIC-Receiver also has succeeded to rights, claims and causes of action by the Bank against directors, officers, professionals, and others who provided services to the failed institution. FDIC-Receiver reserves all of its rights and remedies in and to any insurance policies potentially covering the FDIC-Receiver's claims against such persons and entities including policies pursuant to which the Debtor and/or the Bank are insureds or additional insureds. Further, the Bank may have claims for undetermined amounts based on indemnity or contribution rights that the Bank is entitled to assert against the Debtor due to the Debtor's unlawful conduct relating to any actions or claims in which the Bank is or may be a named defendant.

RESERVATION OF RIGHTS

12. Neither this Proof of Claim, nor any subsequent appearance, pleading, claim, document, suit, motion nor any other writing or conduct, shall constitute a waiver or consent by the FDIC-Receiver of any (a) rights to Sovereign Immunity; (b) right to have any and all final orders in any and all non-core matters entered only after de novo review by a United States District Court Judge; (c) right to trial by jury in any proceeding as to any and all matters so triable therein, whether or not the same be designated legal or private rights, or, in any case, controversy or proceeding related hereto, whether or not such jury trial right is pursuant to statute or the United States Constitution; (d) right to have the reference of this matter or any proceedings respecting the subject matter hereof or any other proceedings in the within bankruptcy case withdrawn by the United States District Court in any matter or proceeding subject to mandatory or discretionary withdrawal; or (e) other rights, claims, actions, defenses, setoffs, recoupments or other matters to which this party is entitled under any agreements or at law or in equity or under the United States Constitution. All of the above rights are expressly reserved and preserved without exception and with no purpose of conceding jurisdiction in any way by this filing or by any other participation in this matter. The FDIC-Receiver expressly reserves all rights at law and equity to assert that the preemption of the Bankruptcy Court's jurisdiction and the exclusive jurisdiction provided under Title 12 and applicable with respect to the FDIC-Receiver.
13. The FDIC-Receiver reserves the right to amend, modify, and supplement this Proof of Claim in any manner whatsoever including, without limitation, the right to assert administrative claims and priority claims under Sections 503 and 507 of the Bankruptcy Code, to assert the FDIC-Receiver's pre-petition expenses (including legal costs and expenses) and fees not previously reimbursed or paid, to assert indemnity or contribution claims, to assert post-petition claims (including legal costs and expenses) to file additional Proofs of Claim for additional claims, and to assert, without limitation, any claim to which the FDIC-Receiver might be entitled at law or in equity. The FDIC-Receiver specifically reserves all rights to setoff against the Debtor any interests that are subject to setoff under Section 553 of the Bankruptcy

Code. Accordingly, the FDIC-Receiver asserts and reserves all of its rights, if any, to setoff any sums due to the Debtor against sums due the FDIC-Receiver by the Debtor.

14. The FDIC, in the capacity in which this Claim is submitted, is a governmental unit as defined in 11 U.S.C. § 101(27) and, as a result, the bar date applicable to the FDIC-Receiver is March 9, 2011. 11 U.S.C. § 502(b)(9).
15. The FDIC-Receiver's investigations and review of the Bank's and the Debtor's books and records (most of which were neither created nor maintained by the FDIC-Receiver) are ongoing and the FDIC-Receiver and its professional advisers have not yet had a sufficient opportunity to evaluate and determine all claims that the FDIC-Receiver may have against the Debtor including those relating to the FDIC's tax entitlements and damages caused by the undercapitalization of the Bank and breaches of the Debtor's obligations and duties in connection therewith.
16. The FDIC-Receiver specifically reserves any rights at law or equity that the FDIC-Receiver has or may have against the Debtor or any other entity, person, or persons including, inter alia, the insiders, directors or officers of the Debtor.
17. This Proof of Claim is not intended to be, and shall not be construed as (a) an election of remedies; (b) waiver of any right to the determination of any issue or matter by a jury; (c) a waiver of any defaults; or (d) a waiver or limitation of any rights at law or equity, remedies, claims or interests of the FDIC-Receiver.

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NOTICES AND REQUESTS FOR DOCUMENTS AND FDIC REPRESENTATION

All notices and requests for documents to this Claim shall be served upon:

Kathryn R. Norcross, Senior Counsel Nicholas Katsonis, Counsel Federal Deposit Insurance Corporation, Legal Division 3501 Fairfax Drive Room D-7092 Arlington, Virginia 22226-3500 Telephone: 703-562-2089	Allan H. Ickowitz, Esq. John W. Kim, Esq. Valerie A. Strumwasser, Esq. c/o Nossaman LLP 445 S. Figueroa St., Suite 3100 Los Angeles, CA 90071 Telephone: (213) 612-7800 Facsimile: (213) 612-7801 aickowitz@nossaman.com jkim@nossaman.com vstrumwasser@nossaman.com
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Exhibit 1

AMENDED
TAX SHARING AGREEMENT
among
HARRINGTON WEST FINANCIAL GROUP, INC.,
and
LOS PADRES SAVINGS BANK, FSB,
and
VALLEY OAKS FINANCIAL CORPORATION

Harrington West Financial Group, Inc. ("Harrington West"), Los Padres Savings Bank, FSB ("Los Padres"), and Valley Oaks Financial Corporation ("Valley Oaks") hereby enter into this Amended Agreement effective as of the 1st day of January, 1997, pursuant to which tax liabilities or refunds will be allocated properly among Harrington West, Los Padres and Valley Oaks.

Harrington West is a holding company for Los Padres. Los Padres is the wholly-owned subsidiary of Harrington West. Valley Oaks is a wholly-owned subsidiary of Los Padres.

By entering into this Amended Agreement, Harrington West, Los Padres and Valley Oaks intend to clarify certain provisions of that certain Tax Sharing Agreement previously entered into by them as of January 1, 1997.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

AGREEMENT

Article I

DEFINITIONS

Unless otherwise indicated, the following terms shall, for the purposes of this Agreement, be defined as follows:

- 1.1 Code shall mean the Internal Revenue Code of 1986, as amended.
- 1.2 Independent Public Accountant shall mean the firm of certified independent public accountants as may from time to time be retained by Harrington West.

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Article II

TAX SHARING

2.1 Federal Income Tax.

a. It is the desire and intent of the parties to this Agreement to establish a method for allocating the consolidated tax liability of each member among the Affiliated Group (hereinafter defined), for reimbursing Harrington West for payment of such tax liability, for compensating members of the Affiliated Group for use of their losses or tax credits, and to provide for the allocation and payment of any refund arising from a carryback of losses or tax credits from subsequent taxable years.

b. For purposes of this Article II, the term "Affiliated Group" shall have the meaning assigned to it in Code Section 1504(a) and shall include all members of the group included in the filing of Harrington West's consolidated tax return for federal income tax purposes. Harrington West, which is the common parent corporation, Los Padres, which is a wholly-owned subsidiary of Harrington West, and Valley Oaks which is a wholly-owned subsidiary of Los Padres, are members of the Affiliated Group. In the event additional corporations become members of the Affiliated Group, the parties to this Agreement shall use their best efforts to include such corporations as parties to this Agreement.

c. A U.S. consolidated income tax return will be filed by Harrington West for each taxable year for which this Agreement is in effect and for which members of the Affiliated Group are required or permitted to file a consolidated tax return. The members of the Affiliated Group shall execute and file such consents, elections and other documents that may be required or appropriate for the proper filing of such returns.

d. For each taxable period, members of the Affiliated Group shall compute their separate tax liability as if they had filed a separate tax return. The separate return tax liability of the members of the Affiliated Group shall be computed in a manner consistent with the provisions of Treasury Regulation Section 1.1552-1(a)(2)(ii), provided that the carryover of any tax attribute from a prior taxable year, which is not available in determining the consolidated tax liability of the Affiliated Group for such taxable period, shall be disregarded. Moreover, the parties agree to reimburse any member which has tax losses or credits in an amount equal to 100% of the tax benefits realized by the other members of the Affiliated Group as a result of the utilization by them of such member's tax losses or credits. It is the intent of the members of the Affiliated Group that the tax liability will be allocated in accordance with the "percentage method" of Section 1.1502-33(d)(3) of the Treasury Regulations and that the percentage referred to in Section 1.1502-33(d)(3)(i) shall be 100%. Harrington West is authorized to elect the "percentage method" in accordance with the procedures specified in Section 1.1502-33(d)(5) of the Treasury Regulations. Notwithstanding any other provision in this paragraph 2.1d, Los Padres shall in no instance pay more in taxes or receive less benefit under this paragraph 2.1d than would occur if Los Padres had filed its federal income tax return on a separate entity basis.

e. Payment of the consolidated tax liability for a taxable period shall include the payment of estimated tax installments due for such taxable period and members of the Affiliated Group shall pay to Harrington West their estimated tax payments as computed in paragraph 2.1d within seven (7) business days of receiving notice of such payments from Harrington West, but in no event later than the due date for each estimated tax payment nor more than seven (7) business days prior to the date on which the tax is due to the taxing authority. Overpayments of estimated tax by members of the Affiliated Group shall be refunded within seven (7) business days to the appropriate members of the Affiliated Group. In no event will Los Padres receive less in a refund of overpaid estimated tax payments than Los Padres would have received if Los Padres computed its estimated tax payments on a separate entity basis.

f. If part or all of an unused loss or tax credit is allocated to a member of the Affiliated Group pursuant to Treasury Regulation Section 1.1502-79, and is carried back or forward to a year in which the Affiliated Group member filed a separate return or a consolidated return with another affiliated group, any refund or reduction in tax liability arising from the carryback or carry forward shall be retained by the subject Affiliated Group member. Notwithstanding the above, Harrington West shall determine whether an election shall be made not to carryback part or all of a consolidated net operating loss for any taxable year in accordance with Section 172(b)(3) of the Code, provided that (regardless of such election) Los Padres shall pay no more in taxes nor receive any less refund than if Los Padres had filed its federal income tax return on a separate entity basis.

g. If the consolidated tax liability is adjusted for any taxable period, whether by means of an amended return, claim for refund, or after a tax audit by the Internal Revenue Service, the liability of the Affiliated Group members shall be recomputed by Harrington West to give effect to such adjustments. In the case of a refund, Harrington West shall make payment to each Affiliated Group member for its share of the refund, determined in the same manner as in paragraph (d) above, within seven (7) business days after the refund is received by Harrington West. In the case of an increase in tax liability, each Affiliated Group member shall pay to Harrington West its allocable share of such increased tax liability within seven (7) business days after receiving notice of such liability from Harrington West but in no event later than the due date for tax payment.

h. The parties agree that it is their express intent that this Agreement shall at all times be construed in a manner consistent with any law or regulation applicable to any member as now or hereafter in effect relating to savings and loan associations, the insurance of their accounts, or savings and loan holding companies. Anything to the contrary herein notwithstanding, (1) Los Padres shall not pay to members an amount greater than the tax which Los Padres would have been required to pay had it filed a separate tax return, taking maximum advantage of available reductions in taxable income; (2) any payments made pursuant to paragraphs 2.1e, f and g of this Agreement shall be made only with reference to the time taxes are actually paid or refunds or credits are actually received, it being understood that Los Padres shall at no time make advance payments with respect to the foregoing to any member; and (3) any funds (i) received by Harrington West from any member for the payment by Harrington West of taxes or (ii) received by Harrington West from any taxing authority by reason of any refund, credit

or overpayment and properly allocable to another member, shall at all times be held by Harrington West in a segregated account solely as agent for such member and shall at no time be commingled with any other funds held by Harrington West.

2.2 Certain State Taxes. Affiliated Group members shall file state tax returns as required by state law and pay the appropriate tax; provided, however, that state taxes resulting from combined reporting under unitary tax principles shall be shared by the entities included in the combined report in proportion to their relative contributions to the state tax liability under the combined report. Any required estimated state tax payments will be paid directly by the Affiliated Group members. If the state tax return is reviewed by the state taxing authority and adjustments are made which will either increase or decrease the tax previously reported and paid, the Affiliated Group members affected by such adjustments shall pay all costs or receive all benefits from such adjustment. In the event that such state taxes are increased or decreased because of combined reporting under unitary tax principles, each member of the Affiliated Group shall pay its allocable share (or receive its allocable benefit) resulting from such combined reporting, provided that in no event shall the amount of allocated taxes or benefits to Los Padres be more than Los Padres would have incurred or received if Los Padres had filed its tax returns on a separate entity basis.

2.3 Other Taxes. Either Harrington West or the other Affiliated Group members may from time to time become subject to additional taxes by federal, state or local authorities. In such event the members of the Affiliated Group shall consult with each other to determine a mutually acceptable form of allocation or apportionment of such taxes, provided, however, that the Delaware franchise tax shall be paid by Harrington West, and provided that Los Padres in no event will pay more in such taxes or receive less in refunds of such taxes than if Los Padres had filed the relevant tax returns on a separate entity basis.

2.4 Procedural Matters.

a. Harrington West shall prepare and file consolidated returns, and any other returns, documents or statements required to be filed with the Internal Revenue Service with respect to the determination of the tax liability of Harrington West and the Affiliated Group members for all taxable periods commencing with the tax period applicable as of the date of the execution of this Agreement. Harrington West shall have the right, in its sole discretion: (i) to determine (A) the manner in which such returns shall be prepared and filed, including, without limitation, the manner in which any item of income, gain, loss, deduction or credit shall be reported; provided, however, that Harrington West shall consider in good faith any treatment proposed by the Affiliated Group members, and provided further that without regard to the manner in which Harrington West prepares and files the consolidated returns, Los Padres will in no event pay more in taxes or receive less in refunds than if Los Padres had filed its income tax returns on a separate entity basis, (B) whether any extensions of the statute of limitations may be granted and (C) the elections that will be made pursuant to the Code on behalf of any member of the consolidated group (it being agreed, however, that Harrington West shall not unreasonably withhold its consent to any elections which members of the Affiliated Group desire to make); (ii) to contest, compromise or settle any adjustment or deficiency proposed, asserted or assessed as a result of any audit of any such returns; (iii) to file, prosecute, compromise or settle any claim for

refund; and (iv) to determine whether any refunds to which the consolidated group may be entitled shall be paid by way of refund or credited against the tax liability of the consolidated group.

b. Harrington West, to the extent such information is available, shall promptly notify the members of the Affiliated Group of any tax liability or refund issue, and shall advise and consult in good faith with such members with respect to contest, compromise or settlement thereof.

c. In the event of any disagreement as to the method of, or principles followed in, the computation, or as to the amount of income, deduction, gain, loss or credit, the parties shall submit the dispute to the Independent Public Accountant and the determination of such firm shall be conclusive and binding; provided, however, that in no event shall Los Padres pay more in taxes or receive less in refunds as a result of such determination than if Los Padres had filed its tax returns on a separate entity basis.

2.5 Cooperation.

a. At all times during which this Agreement is in force, the parties shall make available to each other during normal business hours and in a manner which will not interfere with the other party's business, its tax, accounting, and legal staff to the extent reasonably required in connection with the preparation of tax returns and other tax matters.

b. In the event of the termination of this Agreement, the parties will use their best efforts to make available to the others, upon written request, its officers and employees in connection with any tax proceedings.

Article III

MISCELLANEOUS

3.1 Entire Agreement. This Agreement contains the entire understanding of the parties hereto with respect to the subject matter contained herein. No alteration, amendment or modification of any of the terms of this Agreement shall be valid unless made by an instrument signed by an authorized officer of the parties hereto.

3.2 Termination. This Agreement may be terminated by any party hereto upon thirty (30) days prior written notice to the other parties.

3.3 Law Governing. This Agreement has been made in and shall be construed and enforced in accordance with the laws of the State of California, as such laws may from time to time be amended or revised.

3.4 Headings. The headings contained in this Agreement are inserted for convenience only and shall not constitute a part hereof.

3.5 Notices. Any notice, demand, claim or other communication under this Agreement shall be in writing and shall be deemed to have been given upon the delivery or mailing thereof, as the case may be, if delivered personally or sent by certified mail, return receipt requested, postage prepaid, to the parties at the following addresses (or at such other address as a party may specify by notice to the others):

If to Harrington West, to:

Harrington West Financial Group, Inc.
7300 College Boulevard, Suite 430
Overland Park, Kansas 66210
Attention: President

If to Los Padres, to:

Los Padres Savings Bank, FSB
610 Alamo Pintado Road
Solvang, California 93463
Attention: President

If to Valley Oaks, to:

Valley Oaks Financial Corporation
610 Alamo Pintado Road
Solvang, California 93463
Attention: President

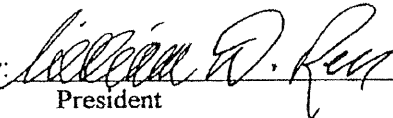
3.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

3.7 Assignments, Third Party Beneficiaries. This Agreement shall be binding upon and shall inure only to the benefit of the parties hereto and their respective successors and assigns. This Agreement is not intended to benefit any person, other than the parties hereto and such successors and assigns, and no such person shall be a third party beneficiary hereof.

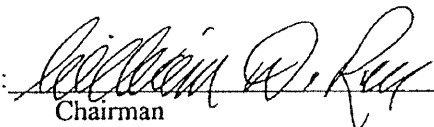
3.8 Successor Corporations. This Agreement is binding upon and shall inure to the benefit of any successor corporations, whether by statutory merger, acquisition of assets or stock, or otherwise, to any of the parties hereto to the same extent as if the successor had been an original party to the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement
as of the day and year first above written.

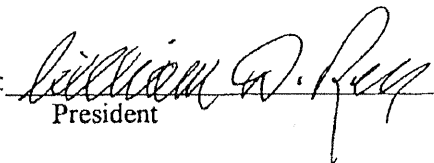
HARRINGTON WEST FINANCIAL GROUP, INC.,
a Delaware corporation

By: 
President

LOS PADRES SAVINGS BANK, FSB

By: 
Chairman

VALLEY OAKS FINANCIAL CORPORATION,
a California corporation

By: 
President

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Exhibit 2

AMENDMENT TO

AMENDED TAX SHARING AGREEMENT

among

HARRINGTON WEST FINANCIAL GROUP, INC., and LOS PADRES BANK,
and VALLEY OAKS FINANCIAL CORPORATION

Dated January 1, 1997

Harrington West Financial Group, Inc. ("Harrington West"), Los Padres Bank, FSB ("Los Padres"), Valley Oaks Financial Corporation ("Valley Oaks") and Harrington Wealth Management Company ("HWMC") hereby enter into this Amendment to Amended Tax Sharing Agreement effective as of the 1st day of November, 2001.

Article 2.1 b. of the Amended Tax Sharing Agreement dated January 1, 1997 is hereby amended to read:

"For purposes of this Article II, the term "Affiliated Group" shall have the meaning assigned to it in Code Section 1504(a) and shall include all members of the group included in the filing of Harrington West's consolidated tax return for federal income tax purposes. Harrington West, which is the common parent corporation; Los Padres, which is a wholly-owned subsidiary of Harrington West; HWMC, which is a wholly-owned subsidiary of Los Padres and Valley Oaks, which is a wholly-owned subsidiary of Los Padres, are members of the Affiliated Group. In the event additional corporations become members of the Affiliated Group, the parties to this Agreement shall use their best efforts to include such corporations as parties to this Agreement."

HWMC will receive the same tax sharing benefits as the "Affiliate Group" as of the agreement date. All tax carry forward benefits or losses received at the time of purchase will be the sole responsibility of HWMC.

Article 3.5 is amended to include:

If to HWMC, to:
Harrington Wealth Management
Attn: Chief Operating Officer
10150 Lantern Road, Suite 150
Fishers, IN 46038"

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Amendment to Amended Tax Sharing Agreement as of the day and year first above written.

HARRINGTON WEST FINANCIAL GROUP, INC.

By: 

HARRINGTON WEALTH MANAGEMENT, INC.

By: 

LOS PADRES BANK

By: 

VALLEY OAKS FINANCIAL CORPORATION

By: 

FDIC_0019

Exhibit 3

ADMINISTRATIVE SERVICES AGREEMENT

THIS ADMINISTRATIVE SERVICES AGREEMENT (the "Agreement") is entered into effective as of September 20, 1996 (the "Effective Date") by and between Los Padres Savings Bank, FSB (the "Bank") and Harrington West Financial Group, Inc. (the "Company") with respect to the following:

A. The Company desires that the Bank provide certain administrative services to the Company and possibly to certain subsidiaries or sister companies of the Company (collectively, the "Subsidiaries").

B. The Bank is a wholly owned subsidiary of the Company. The Company and the Subsidiaries therefore are "affiliates" and "affiliated persons" of the Bank, as those terms are defined in Sections 563.41 and 561.5 of the OTS Regulations, respectively. Accordingly, any service arrangements between the Bank on the one hand and the Company and/or the Subsidiaries on the other hand must satisfy, among other things, Section 23B of the Federal Reserve Act ("Section 23B"). Section 23B requires that the terms of the service arrangement be at least as favorable to the Bank as the terms of comparable transactions with unaffiliated companies.

C. The Bank is willing to provide such administrative services to the Company and the Subsidiaries, provided that the arrangement satisfies the requirements of Section 23B and all other rules applicable to service arrangements between a savings bank and its affiliates and affiliated persons (collectively, the "Related Party Rules") and otherwise is acceptable to the Bank.

NOW, THEREFORE, IN CONSIDERATION OF the foregoing recitals, which are incorporated herein by this reference thereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Bank and the Company hereby agree as follows:

1. Services. The Bank will provide certain administrative services to the Company and, at the Company's request, to certain Subsidiaries, including without limitation (a) the preparation of periodic financial statements, (b) shareholder relation activities, including the preparation and filing of proxy materials, periodic reports and related materials required under federal and state securities laws, (c) the processing and payment of the Company's accounts payable items, (d) employee and personnel matters relating to the Company, including without limitation the compensation of officers and other employees of the Bank who perform services on behalf of the Company, and (e) any other administrative or operational functions requested by the Company and agreed to by the Bank.

2. Payment. The Company shall pay to the Bank the market value of all administrative services provided by the Bank to the Company and the Subsidiaries and all

expenses incurred by the Bank in connection therewith. The amount of such payment shall be calculated by (a) first determining the percentage of time spent by each officer and other employee of the Bank performing services on behalf of the Company and Subsidiaries and then multiplying the officer's or employee's monthly salary by that percentage, (b) adding to the preceding amount estimated overhead expenses relating to all such officer and employee activities, and (c) multiplying the result of the foregoing calculations by one hundred ten percent (110%). For purposes of determining the percentage of time that a Bank officer or employee spends on services provided to the Company and the Subsidiaries, each officer and employee of the Bank performing services on behalf of the Company or the Subsidiaries shall complete and deliver Employee Time Reports substantially in the form of Exhibit A hereto for each day on which such work is performed. The payment for each month shall be billed to the Company following the end of the month, and shall be payable within ten (10) days of receipt of the invoice.

3. Miscellaneous.

A. Savings Clause. If any transaction contemplated herein is deemed to violate the Related Party Rules or any other law, regulation, rule or order of any governmental authority that regulates the activities of or has jurisdiction over the Bank, the Company or the Subsidiaries, such transaction shall be reformed or rescinded with the consent of both parties hereto so as to eliminate such violation.

B. Term. This Agreement shall begin on the Effective Date and shall continue thereafter under either party terminates the Agreement by giving the other party at least thirty (30) days' written notice of termination.

C. Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining portions of this Agreement shall continue in full force and effect.

D. Governing Law. This Agreement shall be construed, enforced and otherwise governed by California law.

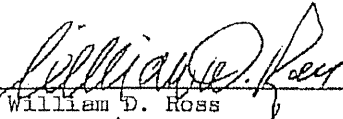
E. Entire Agreement. This Agreement contains all of the terms and conditions agreed upon by the parties hereto relating to the subject matter hereof and supersedes any prior agreements, negotiations or representations, whether oral or written, relating thereto.

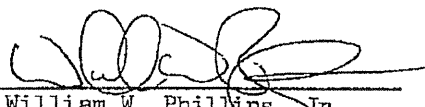
F. Amendments. Any amendment or modification of this Agreement must be in writing and executed by duly authorized representatives of the Company and the Bank.

G. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

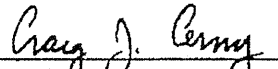
IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on the Effective Date.

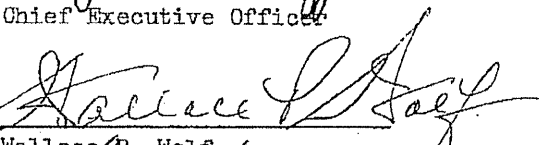
LOS PADRES SAVINGS BANK, FSB

By: 
William D. Ross
Its PRESIDENT
President

By: 
William W. Phillips, Jr.
Its Senior Vice President
Senior Vice President

HARRINGTON WEST FINANCIAL
GROUP, INC.

By: 
Craig J. Cerny
Its Chief Executive Officer
Chief Executive Officer

By: 
Wallace P. Wolf
Its Secretary
Secretary

In re: Harrington West Financial Group, Inc.	CHAPTER 11 CASE NUMBER 9:10-bk-14677
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
Landau Gottfried & Berger LLP
1801 Century Park East, Suite 1460
Los Angeles, CA 90067

A true and correct copy of the foregoing document described **DISCLOSURE STATEMENT IN SUPPORT OF THE DEBTOR'S PLAN OF LIQUIDATION** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On March 24, 2011, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Brian D Fittipaldi brian.fittipaldi@usdoj.gov
Sameer K Kapoor skapoor@kilpatrickstockton.com
John W Kim jkim@nossaman.com
Todd C Meyers tmeyers@kilpatrickstockton.com
Shane G Ramsey sramsey@kilpatrickstockton.com
Christopher O Rivas crivas@reedsmith.com
Valerie Strumwasser vstrumwasser@nossaman.com
United States Trustee (ND) ustpreion16.nd.ecf@usdoj.gov

☐ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL(indicate method for each person or entity served):

On March 24, 2011, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

BY U.S. MAIL

Honorable Robin Riblet
United States Bankruptcy Court
1415 State Street , Courtroom 201
Santa Barbara, California 93101-2511

☒ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____ I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

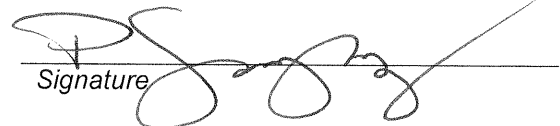
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

March 24, 2011

Date

Patricia Swierszcz

Type Name


Signature

In re: Harrington West Financial Group, Inc.	Debtor(s).	CHAPTER 11 CASE NUMBER 9:10-bk-14677
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II. SERVED BY U.S. MAIL (Continued):

U.S. Trustee

Office of the United States Trustee
Attn: Brian Fittipaldi
21051 Warner Center Lane, Suite 115
Woodland Hills, CA 91367

Debtor

Harrington West Financial Group, Inc.
c/o William W. Phillips, Jr.
PO Box 442
Solvang, CA 93464

Securities Exchange Commission

Securities Exchange Commission
5670 Wilshire Blvd.
11th Floor
Los Angeles, CA 90036-5627

Special Notice

Counsel for Wilmington Trust

Shane Ramsey, Esq. (Served via NEF)
Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4528

Counsel for Wells Fargo

Christopher O Rivas, Esq. (Served via NEF)
REED SMITH LLP
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071

Counsel for FDIC

Los Padres Bank
c/o Federal Deposit Insurance Corp
Allan H. Ickowitz, Esq.
John W. Kim, Esq.
Valerie A. Strumwasser, Esq.
Nossaman LLP
445 S. Figueroa Street, 31st Floor
Los Angeles, CA 90071-1602