

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re: ) Case No. 06-00932  
)  
GLAZED INVESTMENTS, LLC, ) Chapter 11  
)  
Debtor. ) Hon. Pamela S. Hollis  
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**DISCLOSURE STATEMENT FOR THE DEBTOR'S LIQUIDATING PLAN  
OF REORGANIZATION PURSUANT TO CHAPTER 11 OF THE UNITED  
STATES BANKRUPTCY CODE**

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*Daniel A. Zazove  
Jason D. Horwitz  
**Perkins Coie LLP**  
131 South Dearborn Street  
Suite 1700  
Chicago, Illinois 60603  
312/324-8400*

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## SUMMARY OF THE PLAN

**THIS IS ONLY A SUMMARY OF THE INFORMATION CONTAINED IN THE PLAN AND THE DISCLOSURE STATEMENT. ALL CREDITORS AND OTHER PARTIES IN INTEREST ARE URGED TO REVIEW THOSE DOCUMENTS IN THEIR ENTIRETY BEFORE VOTING ON THE PLAN.**

**Plan:** Debtor's Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code Dated April 12, 2006.

**Debtor:** Glazed Investments, LLC.

**General Purpose:** The Debtor was the exclusive area developer of Krispy Kreme products for a geographic region encompassing parts of Minnesota, Wisconsin and Colorado. Prior to its bankruptcy filing, the Debtor operated twenty franchise locations and supplied approximately 1,340 wholesale locations in its covered territory. On March 16, 2006, the Bankruptcy Court authorized the Debtor to consummate the sale of substantially all of its operating Assets to Westward Dough for \$10 million. The sale closed on March 30, 2006. The Plan contemplates monetizing the Assets of the Debtor and distributing the proceeds thereof to fund the Plan. To the extent the Debtor's Assets are insufficient to make the Plan distributions to holders of Allowed Claims, Krispy Kreme will advance funds to the Debtor sufficient for such payments to be made.

**Unclassified Claims:** Unclassified Claims consist of all Administrative Claims and Tax Claims. The Debtor estimates that the Allowed Administrative Claims and Allowed Tax Claims will be approximately \$1,500,000 and \$295,000, respectively.

Allowed Administrative Claims and Allowed Tax Claims will be paid in full in cash generally as soon as reasonably practicable (a) after the Effective Date, or (b) if such Claim is Allowed after the Effective Date, when such Claim is Allowed. United States Trustee and other bankruptcy fees required to be paid pursuant to 28 U.S.C. § 1930 will be paid in full on or before the Effective Date. *The expected recovery of holders of Allowed Unclassified Claims is 100%.*

**Classes of Claims:** 1. Class 1: Allowed Claims of ANB, GE and US Bank, pursuant to the ANB Loans, the GE Notes and the US Bank Loan Documents, respectively. *The expected recovery of each of the holders of Allowed Class 1 Claims is 100%.*

(a) *Class 1A.* The Allowed Claim of ANB (\$645,724.36). The sum of \$322,862.18 was paid to ANB on the closing date of the Westward Dough sale, and the balance of the Allowed Claim of ANB will be paid in full in cash on the Effective Date.

(b) *Class 1B.* The Allowed Claim of GE (\$4,589,181.00). The sum of \$2,294,590.50 was paid to GE on the closing date of the Westward Dough sale, and the balance of the Allowed Claim of GE will be paid in full in cash on the Effective Date.

(c) *Class 1C.* The Allowed Claim of US Bank (\$5,331,113.11 as of April 4, 2006, plus postpetition interest payable under the US Bank Loan Documents at the non-default rate accruing through the date of final payment to US Bank pursuant to Section 4.1.3 of the Plan, plus reasonable fees and cost provided in the US Bank Loan Documents, less scheduled principal amortization payments made by the Debtor to US Bank after April 4, 2006 under the US Bank Loan Documents). The sum of \$2,713,426.34 was paid to US Bank on the closing date of the Westward Dough sale, and the balance of the Allowed Claim of US Bank will be paid in full in cash on the Effective Date.

2. Class 2: All Allowed Secured Claims against the Debtor other than the Class 1A, 1B or 1C Claims. The Debtor estimates that the amount of Allowed Class 2 Claims will be approximately \$14,000.

Each holder of an Allowed Class 2 Claim will receive, at the Debtor's election, either (a) the full amount of its Allowed Claim in cash as soon as reasonably practicable after the later of (i) the Effective Date, and (ii) when such Claim becomes an Allowed Claim, or (b) possession of the collateral securing such Claim. ***The expected recovery of holders of Allowed Class 2 Claims is 100%.***

3. Class 3: All Allowed Other Priority Claims against the Debtor. The Debtor estimates that the amount of Allowed Class 3 Claims will be approximately \$465,000.

Each holder of an Allowed Class 3 Claim will receive the full amount of its Allowed Claim in cash on or as soon as reasonably practicable after the later of (a) the Effective Date, and (b) when such Claim becomes an Allowed Claim. ***The expected recovery of holders of Allowed Class 3 Claims is 100%.***

4. Class 4: All Allowed General Unsecured Claims against the Debtor. The Debtor estimates that the aggregate amount of Allowed Class 4 Claims will be approximately \$4,300,000.

Each holder of an Allowed Class 4 Claim will receive its pro-rata share of the Class 4 Distribution Pool. ***The Debtor expects that the Class 4 general unsecured creditors will receive between approximately 13.6% and 20% of their Allowed Claims, depending on the aggregate Allowed General Unsecured Claims.***

There will be two (2) distributions from the Class 4 Distribution Pool to holders of Class 4 Claims: (a) an initial distribution thirty-five (35) days after the Effective Date to all holders of Class 4 Claims that have been Allowed by the date that is thirty (30) days after the Effective Date in an amount equal to the number that is obtained by dividing the amount of the individual Allowed Claim by the maximum amount of potential Allowed Class 4 Claims, and multiplying that fraction by \$520,000; and (b) a final distribution to holders of Allowed Class 4 Claims upon conclusion of the claims reconciliation process in an amount such that (taking into account any payments already made) each holder of an Allowed Class 4 Claim receives a pro-rata share of the Class 4 Distribution Pool.

Holders of Class 4 Claims that received payments prior to the Petition Date that the Debtor asserts constitute avoidable preferences under section 547 of the Bankruptcy Code will have an opportunity, to be exercised on their ballot to accept the Plan, to waive their Claims against the Debtor in exchange for a release from the Debtor.

On the Effective Date, Krispy Kreme will waive its rights to receive any distribution from the Class 4 Distribution Pool; provided that, on account of its Class 4 Claims against the Debtor, Krispy Kreme will receive all funds of the Debtor's estate remaining (if any) after payment in full of all Allowed Claims as set forth in the Plan.

5. Class 5: Equity Interests in the Debtor of whatever nature or description and however held. The holders of Class 5 Interests will retain their Interests in the Debtor, but will not receive any distributions on account of such Interests. ***Holders of Equity Interests will not receive a distribution.***

**Funding:**

Estate Assets: On March 16, 2005, the Bankruptcy Court approved the sale of the Assets to Westward Dough for approximately \$10 million. The sale closed on March 30, 2006. A portion of the Net Proceeds of the sale were paid to US Bank, ANB and GE on the closing date of the sale on account of their Allowed Claims. The Remaining Net Proceeds of the sale to Westward Dough, the proceeds from the collection or sale of any remaining estate Assets and any cash on hand will fund the Plan and distributions to holders of Allowed Claims in accordance with the Plan. To the extent the estate Assets are insufficient to make payment to holders of Allowed Claims under the Plan, Krispy Kreme will advance funds to the Debtor sufficient for such payments to be made.

**Effective Date:**

The Effective Date will be a date selected by the Debtor which is a business day after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect, and (b) all conditions specified in Section 11.1 of the Plan have been (i) satisfied, or (ii) waived pursuant to Section

11.2 of the Plan; provided however, that the Effective Date shall occur no later than thirty (30) days after the Confirmation Date as long as the Confirmation Order is not stayed pending appeal.

**Classes:** Holders of unimpaired Administrative Claims, Tax Claims, Class 3 Claims and the Class 5 Interests are deemed to have accepted the Plan and are not entitled to vote. Classes 1A, 1B, 1C, 2 and 4 are entitled to vote on the Plan.

**Voting:** Those creditors entitled to vote on the Plan should complete the enclosed ballot and return it to the Debtor's notice and claims agent, BMC Group, Inc. ("BMC"), *if by U.S. Mail* to Glazed Investments, LLC, c/o BMC Group, P.O. Box 906, El Segundo, California 90245-0906 or if by hand or overnight delivery to Glazed Investments, LLC, c/o BMC Group, 1330 East Franklin Avenue, El Segundo, California 90245. Ballots must be received on or before \_\_\_\_\_, 2006 at \_\_\_\_\_. Only those ballots returned in a timely manner and in accordance with the accompanying notice and instructions will be counted in determining whether a particular Class of creditors has accepted or rejected the Plan. Acceptance of the Plan by a Class of Claims requires accepting votes by (1) more than one-half of the voting creditors of such Class, and (2) holders of Claims totaling at least two-thirds of the total amount of Claims held by voting creditors of such Class.

**Confirmation Hearing:** The hearing on Confirmation of the Plan will be held before Judge Pamela S. Hollis in Courtroom 644, 219 South Dearborn Street, Chicago, Illinois on \_\_\_\_\_ 2006 at \_\_\_\_\_. Objections to confirmation of the Plan are due on or before \_\_\_\_\_, 2006 at \_\_\_\_\_.

**Additional Information:** Requests for additional information regarding the Plan or this Disclosure Statement should be directed to Debtor's counsel:

Daniel A. Zazove  
Jason D. Horwitz  
**Perkins Coie LLP**  
131 South Dearborn Street  
Suite 1700  
Chicago, Illinois 60603

**UNITED STATES BANKRUPTCY COURT  
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Debtor.	)	Hon. Pamela S. Hollis
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**DISCLOSURE STATEMENT FOR THE DEBTOR'S LIQUIDATING  
PLAN OF REORGANIZATION PURSUANT TO CHAPTER 11 OF  
THE UNITED STATES BANKRUPTCY CODE**

**I. INTRODUCTION**

**A. General.**

On February 3, 2006, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. No trustee or examiner has been requested or appointed in this case, and the Debtor continues to manage its affairs pursuant to sections 1107 and 1108 of the Bankruptcy Code. The Debtor commenced this chapter 11 case to facilitate the sale of substantially all of its Assets. On March 16, 2006, the Bankruptcy Court authorized the Debtor to consummate the sale of substantially all of its Assets to Westward Dough for \$10 million. The sale closed on March 30, 2006.

On April 12, 2006, the Debtor filed the Debtor's Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code Dated April 12, 2006 (the "Plan") and this Disclosure Statement. A copy of the Plan is attached to this Disclosure Statement as Exhibit A. On \_\_\_\_\_, 2006, the Bankruptcy Court approved this Disclosure Statement as containing "adequate information" to enable a hypothetical, reasonable investor in each of the relevant classes to make an informed judgment to vote to accept or reject the Plan.

**B. Purpose of Disclosure Statement.**

The purpose of this Disclosure Statement is to provide holders of Claims with such information as would enable a hypothetical, reasonable holder of a Claim or Interest to make an informed judgment when voting on the Plan. This Disclosure Statement does not purport to be a complete description of the Plan, the financial status of the Debtor, the applicable provisions of the Bankruptcy Code or other matters that may be deemed significant by creditors or other parties in interest.

THIS DISCLOSURE STATEMENT CONTAINS ONLY A SUMMARY OF THE PLAN, AND IS NOT INTENDED TO REPLACE A CAREFUL AND DETAILED REVIEW AND ANALYSIS OF THE PLAN. IT IS INTENDED TO AID AND SUPPLEMENT SUCH REVIEW. IN THE EVENT OF A CONFLICT BETWEEN THE PLAN AND THE DISCLOSURE STATEMENT, THE PROVISIONS OF THE PLAN WILL GOVERN. ALL HOLDERS OF CLAIMS ARE ENCOURAGED TO REVIEW THE FULL TEXT OF THE PLAN AND TO CAREFULLY READ THIS ENTIRE DISCLOSURE STATEMENT BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF APRIL 12, 2006. THE DEBTOR BELIEVES THAT THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT IS ACCURATE AS OF THAT DATE.

NO PERSON SHOULD CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH PERSON SHOULD CONSULT WITH THEIR OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE SOLICITATION AND THE PLAN. THIS DISCLOSURE STATEMENT MAY NOT BE

RELIED UPON FOR ANY PURPOSE OTHER THAN DETERMINING WHETHER TO ACCEPT OR REJECT THE PLAN.

**C. Defined Terms.**

Unless otherwise defined, all capitalized terms contained in this Disclosure Statement shall have the meanings ascribed to them in the Plan. The rules of construction and definitions contained in the Bankruptcy Code and the Bankruptcy Rules are applicable to this Disclosure Statement.

**II. CONFIRMATION PROCEDURES**

**A. Classes Entitled to Vote.**

There are seven (7) classes of Claims and Interests under the Plan. Classes 3 and 5 are unimpaired and are presumed to have accepted the Plan. Impaired Classes 1A, 1B, 1C, 2 and 4 are entitled to vote on the Plan.

**B. Voting on the Plan.**

Any Claim holder whose legal, contractual or equitable rights are altered, modified or changed by the proposed treatment under the Plan or whose treatment under the Plan is not provided for in section 1124 of the Bankruptcy Code is considered "impaired." Allowed Claims in Class 3 (Other Priority Claims) and Class 5 (Interests) are unimpaired under the Plan and deemed to have accepted the Plan. Under the Plan, holders of Allowed Claims in Class 1A (Allowed Claim of ANB), Class 1B (Allowed Claim of GE), Class 1C (Allowed Claim of US Bank), Class 2 (other Secured Claims) and Class 4 (General Unsecured Claims) are impaired and entitled to vote on the Plan by submitting the ballot enclosed with this Disclosure Statement.

In order to vote to accept or reject the Plan, holders of Claims in classes 1A, 1B, 1C, 2 and 4 must complete and sign the enclosed ballot and return it to one of the following addresses



so that it is received by \_\_\_\_\_ p.m. on or before \_\_\_\_\_, 2006 (the "Voting Deadline"):

***If by U.S. Mail***

Glazed Investments, LLC  
c/o BMC Group  
P.O. Box 906  
El Segundo, California 90245-0906

***If by hand or overnight delivery***

Glazed Investments, LLC  
c/o BMC Group  
1330 East Franklin Avenue  
El Segundo, California 90245

Any ballot that is validly executed, but does not clearly indicate rejection of the Plan shall be deemed to constitute a vote for acceptance of the Plan.

**ONLY THOSE BALLOTS RETURNED BEFORE THE VOTING DEADLINE AND IN ACCORDANCE WITH THE ACCOMPANYING NOTICE AND INSTRUCTIONS WILL BE COUNTED IN DETERMINING WHETHER A PARTICULAR CLASS OF CREDITORS HAS ACCEPTED OR REJECTED THE PLAN.**

**C. Confirmation Hearing.**

The Confirmation hearing will be held before The Honorable Pamela S. Hollis, Bankruptcy Judge, in Courtroom 644, United States Courthouse, 219 South Dearborn Street, Chicago, Illinois on \_\_\_\_\_, 2006 at \_\_\_\_\_. The Bankruptcy Court has ordered that objections, if any, to Confirmation of the Plan shall be filed with the Bankruptcy Court and served on the below parties or before \_\_\_\_\_, 2006. The Confirmation hearing may be adjourned from time to time by the Bankruptcy Court without further notice other than by announcement of the next adjourned date at the Confirmation hearing. **All objections to the Confirmation of the Plan must be served on (a) counsel to the Debtor, Daniel A. Zazove, Esq., Perkins Coie LLP, 131 South Dearborn Street, Suite 1700, Chicago,**

**Illinois 60603, (b) counsel to the Creditors' Committee, Jeffrey N. Pomerantz, Esq., Pachulski Stang Ziehl Young Jones & Weintraub LLP, 10100 Santa Monica Blvd., #1100, Los Angeles, California 90067, and (c) the Office of the United States Trustee, 225 West Monroe Street, Suite 3350, Chicago, Illinois 60606, Attn: Steve G. Wolfe, Esq.**

At the Confirmation hearing, the Bankruptcy Court will (1) determine whether the requisite vote has been obtained for each impaired class of creditors; (2) hear and determine objections to the Plan and to Confirmation of the Plan that have not been previously disposed of; (3) determine whether the Plan meets the confirmation requirements of the Bankruptcy Code; and (4) determine whether to confirm the Plan.

**D. Acceptances Necessary for Confirmation.**

An impaired class of holders of Claims accepts the Plan if the Plan is accepted by at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims of such Class that have voted to accept or reject the Plan. All Claims are allowed for voting purposes only unless objected to prior to the hearing on Confirmation of the Plan.

Unless there is unanimous acceptance of the Plan by an impaired Class of Claims, the Bankruptcy Court, as an additional requirement for Confirmation, must determine that under the Plan the members of each such Class will receive property of a value, as of the Effective Date of the Plan, that is not less than the value that each such Class member would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code on the Effective Date of the Plan.

**E. Confirmation Without Unanimous Acceptances.**

The Bankruptcy Code does not require every Class of Claims and Interests to accept the Plan in order that the Plan be confirmed. If the Plan is not accepted by every Class, the Bankruptcy Court may nonetheless confirm the Plan so long as (1) at least one impaired Class of Claims has voted to accept the Plan, and (2) the Bankruptcy Court finds that the Plan does not

“discriminate unfairly” and is “fair and equitable” as to each impaired Class that has not accepted the Plan. In general, this means that a non-accepting secured creditor must retain its lien on the property securing its Claim and receive deferred cash payments totalling at least the allowed amount of its Claim. For unsecured creditors of a non-accepting impaired Class, this means that they must either receive property equal to the allowed amount of their Claims, or, if they receive less than such value, no Class of Claims or Interests with a lower priority may receive or retain any property under the Plan on account of such Claims or Interest.

**IN THE EVENT AT LEAST ONE IMPAIRED CLASS OF CREDITORS VOTES TO ACCEPT THE PLAN, IT IS THE DEBTOR’S INTENTION TO INVOKE THE PROVISIONS OF SECTION 1129(b) OF THE BANKRUPTCY CODE.**

**F. Recommendations.**

The Debtor recommends that all holders of Claims vote to accept the Plan.

**III. DESCRIPTION OF THE DEBTOR AND ITS BUSINESS**

**A. Organization and Ownership.**

Founded in 2000, the Debtor is a Delaware limited liability company whose membership interests are 97% owned by KKDC and 3% owned by Adrienne Livengood, the former spouse of A. Scott Livengood, the former Chief Executive Officer of Krispy Kreme. The Debtor’s corporate headquarters are located at 1211 West 22<sup>nd</sup> Street, Suite 700, Oak Brook, Illinois 60523.

**B. Overview of the Debtor’s Business.**

Pursuant to a February 28, 2000 area development agreement with KKDC (as amended, the “Development Agreement”) and prior to the sale of substantially all of its Assets to Westward Dough, the Debtor was KKDC’s exclusive area developer of Krispy Kreme products for a geographic region encompassing parts of Minnesota, Wisconsin and Colorado (the “Covered Territory”). The Development Agreement authorized the Debtor to develop and

operate up to forty-three Krispy Kreme franchises in the Covered Territory. In addition, the Development Agreement conferred the right and obligation to supply wholesale customers of Krispy Kreme products in the Covered Territory from the “back-door” of the Debtor’s retail stores.

Prior to the Petition Date, the Debtor operated twenty franchise locations: Aurora, CO; Colorado Springs, CO; Grand Junction, CO; Littleton, CO; Lone Tree, CO; Thornton, CO; Apple Valley, MN; Coon Rapids, MN; Eden Prairie, MN; the Mall of America, MN; Maple Grove, MN; Rochester, MN; St. Cloud, MN; St. Paul, MN; Ashwaubenon, WI; Brookfield, WI; Grand Chute, WI; Onalaska, WI; Wausau, WI; and West Allis, WI and supplied approximately 1,340 wholesale locations in the Covered Territory. The Debtor was party to a ground lease at each of the twenty franchise locations, and leased both the ground and the leasehold improvements in Lone Tree, CO; Apple Valley, MN; Eden Prairie, MN; the Mall of America, MN; Maple Grove, MN; Brookfield, WI; Grand Chute, WI; Onalaska, WI; and Wausau, WI.

**C. Capital Structure.**

**1. Prepetition Debt.**

(a) US Bank Loan Documents. As of the Petition Date, the Debtor was obligated to US Bank in the amount of \$5,662,992.24 under the US Bank Loan Documents. The Debtor’s obligations under the US Bank Loan Documents are secured by first priority, senior liens on a significant portion of the Debtor’s assets including the Debtor’s (a) bank accounts and accounts receivable, (b) inventory, and (c) leasehold improvements and equipment at certain of

the Debtor's store locations.<sup>1</sup> Krispy Kreme guarantees 74.72% of the Debtor's obligation under the US Bank Loan Documents.

(b) GE Notes. As of the Petition Date, the Debtor was obligated to GE under the GE Notes in the aggregate amount of \$4,670,617.19. The Debtor's obligations to GE are secured by liens on the leases, the leasehold improvements and/or the equipment at the following store locations: Aurora, CO; Thornton, CO; Coon Rapids, MN; Wasau, WI; and West Allis, WI, as well as inactive commissaries located in Commerce City, CO; Pewaukee, WI; and New Brighton, MN. GE's liens are senior to the liens on such assets held by US Bank. Based upon the amounts outstanding as of the Petition Date, KKDC guarantees 49.7% of the Debtor's obligation under the GE Notes.

(c) ANB Loans. As of the Petition Date, the Debtor was obligated to ANB under the ANB Loans in the amount of \$645,724.36. The Debtor's obligations to ANB are secured by a lien on the Debtor's lease, leasehold improvements and equipment at the Colorado Springs, CO store. ANB's liens are senior to the liens granted on such assets to US Bank. KKDC guarantees 97% of the Debtor's obligations under the ANB Loans.

(d) Unsecured Funded Debt. The Debtor is the maker of that certain Line of Credit Promissory Note, dated October 15, 2003 (as subsequently amended and restated, the "KKDC Promissory Note"). As of the Petition Date, the Debtor owed KKDC approximately \$8.843 million under the KKDC Promissory Note. In addition, the Debtor is obligated to KKDC

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<sup>1</sup> More specifically, US Bank has a lien on (a) the leasehold improvements at the Debtor's stores located in Grand Junction, CO; Littleton, CO; St. Cloud, MN; and St. Paul, MN, and (b) the equipment at Lone Tree, CO; Apple Valley, MN; Eden Prairie, MN; Brookfield, WI; St. Paul, MN; Grand Junction, CO; Ashwaubenon, WI; Littleton, CO; St. Cloud, MN; Rochester, MN; Onalaska, WI; Grand Chute, WI; and the Mall of America.

and Adrienne Livengood in the amount of \$4,384,400 and \$135,600, respectively, under subordinated notes due 2010 (the "Subordinated Notes").

**2. Postpetition Debt.**

On March 16, 2006, the Debtor received final Bankruptcy Court approval of a \$3.5 million debtor in possession loan facility provided by KKDC (the "DIP Facility") and the use of cash collateral. Both the DIP Facility and cash collateral were available for working capital to finance the Debtor's postpetition business operations pending the sale to Westward Dough.

The DIP Facility, subject to certain adequate protection liens, (a) has priority, pursuant to section 364(c)(1) of the Bankruptcy Code, over any and all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code; (b) is secured, pursuant to section 364(c)(2) of the Bankruptcy Code, by perfected first priority security interests in and liens upon all unencumbered prepetition and postpetition property of the Debtor; and (c) is secured, pursuant to section 364(c)(3) of the Bankruptcy Code, by perfected junior security interests in and liens upon all prepetition and postpetition property of the Debtor that is subject to the liens of the Prepetition Secured Lenders and any liens permitted by the DIP Facility.

The Debtor did not need to borrow any amounts under the DIP Facility due to unexpectedly robust sales in certain of the stores that the Debtor closed after the Petition Date and reduced expenses on account of such closures.

**D. Events Leading to the Chapter 11 Filing.**

Krispy Kreme experienced exponential growth in its store base and revenues from 2000 through early 2004, garnering favorable coverage in both business and popular media. For example, in a July 7, 2003 cover story, *Fortune* magazine described Krispy Kreme as "the hottest brand in America." The Debtor participated in this early success. The Debtor's retail franchise openings were "events," with customers lining up hours before grand openings that received

substantial local media coverage. The Debtor earned a profit in each of its first three years of operations, primarily on the strength of strong retail sales.

However, the Debtor's sales declined in recent years due at least in part to the increasing popularity of "low carb" diets. In addition to the changing tastes and preferences of the American consumer, sharply escalating distribution costs in connection with the Debtor's wholesale business exacerbated the decline in the Debtor's financial performance. Many of the Debtor's stores were unprofitable, and the Debtor had no source of financing to fund further operating losses.

Accordingly, prior to the Petition Date, the Debtor actively pursued strategic alternatives while at the same time implementing aggressive measures to conserve cash. For example, prior to the Petition Date, the Debtor ceased operations at its now-inactive commissary locations in Commerce City, CO; New Brighton, MN; and Pewaukee, WI, and closed five retail factory stores located in Littleton, CO; Colorado Springs, CO; Rochester, MN; Grand Chute, WI; and Mall of America, MN. The Debtor determined that the best alternative to maximize the value of its assets for its creditors, as well as to preserve as many of its stores and the jobs of the employees that work in those stores as possible, was to sell its Assets to a willing buyer on a going concern basis.

**E. Prepetition Sale Efforts.**

Prior to the Petition Date, KKDC and the Debtor marketed the Assets to existing KKDC area developers and third parties that might be interested in the Assets and would likely be able to consummate a purchase thereof. Westward Dough, an existing KKDC area developer for a territory that includes Nevada, Utah, Idaho, Montana and Wyoming, was the only entity to make an offer for the Assets.

As a result, on February 2, 2006, the Debtor entered into the Asset Purchase Agreement with Westward Dough, who agreed to pay \$10 million for (a) the Debtor's rights as the exclusive area developer for the Covered Territory, (b) all of the Debtor's inventory and equipment, and (c) the Debtor's interest in the leases and improvements at 12 of the Debtor's 20 retail locations.<sup>2</sup> The Asset Purchase Agreement was subject to higher and better offers.

**F. Financial Information.**

The Debtor's schedules of assets and liabilities and statement of financial affairs, which were filed with the Bankruptcy Court on March 7, 2006 and subsequently amended on April 6, 2006 (collectively, the "Schedules and Statements"), enumerate all of the Debtor's assets and liabilities as of the Petition Date. In addition, the Debtor has filed monthly reports of its operations with the Bankruptcy Court summarizing the Debtor's postpetition financial performance. The Schedules and Statements and any monthly operating reports are available for public inspection in the office of the Clerk of the United States Bankruptcy Court, 219 South Dearborn, 6<sup>th</sup> Floor, Chicago, Illinois 60604 during regular business hours or by visiting the United States Bankruptcy Court's website at [www.ilnb.uscourts.gov](http://www.ilnb.uscourts.gov) or BMC's website at [www.bmcgroup.com](http://www.bmcgroup.com). The information contained in the Debtor's schedules of assets and liabilities, as amended, are summarized as follows.

**1. Assets:**

As of the Petition Date, the Debtor's assets at their respective book values were comprised of the following:

**Assets**

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<sup>2</sup> The purchased locations were Aurora, CO; Grand Junction, CO; Lone Tree, CO; Thornton, CO; Apple Valley, MN; Coon Rapids, MN; Eden Prairie, MN; Maple Grove, MN; St. Paul, MN; Ashwaubenon, WI; Brookfield, WI; and West Allis, WI.



Cash on Hand:	\$41,800.00
Financial Accounts:	\$737,719.96
Utility Security Deposits:	\$67,674.96
Accounts Receivable:	\$2,281,614.71
Minnesota Tax Refund:	\$212,108.22
Licenses, Franchises and Intangibles:	\$966,649.87
Automobile:	\$500.00
Office Equipment and Furnishings:	\$237,798.00
Machinery, Fixtures and Equipment:	\$13,573,600.95
Inventory:	\$407,656.26
<u>Improvements to Real Property:</u>	<u>\$10,072,223.92</u>
TOTAL	\$28,599,346.85

2. **Liabilities:**

As of the Petition Date, the Debtor's liabilities were comprised of the following:

Secured Claims:	\$10,992,910.43
Priority Claims	\$456,786.49
<u>General Unsecured Claims:</u>	<u>\$18,506,379.76<sup>3</sup></u>
TOTAL:	\$29,956,076.68

G. **The Chapter 11 Case.**

On February 3, 2006, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor has continued to manage its affairs as a debtor and debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

1. **Summary of Key Motions:**

(a) **Motion to Obtain Postpetition Financing and Authorizing Debtor to Utilize Cash Collateral; Granting Adequate Protection to Prepetition Secured Lenders.** On February 7, 2006, the Bankruptcy Court entered an interim order granting authority for the Debtor to enter into the DIP Facility in an interim principal amount of \$700,000. The Debtor

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<sup>3</sup> This amount includes certain Claims that are listed as contingent, unliquidated and/or disputed, but excludes claims listed as "unknown."

was also authorized to use the cash collateral of US Bank and provide the Prepetition Secured Lenders certain adequate protection liens. On March 16, 2006, the Bankruptcy Court gave final approval of the DIP Facility in the principal amount of \$3.5 million.

(b) Motion for Continued Use of Cash Management System. On February 7, 2006, the Bankruptcy Court entered an order authorizing the Debtor to continue to operate its existing bank accounts, to continue to use its existing business forms and to continue to use its centralized cash management system.

(c) Motion to Pay Prepetition Wages, Salaries and Other Compensation and Employee Benefits. On February 7, 2006, the Bankruptcy Court granted the Debtor's request to pay all compensation and benefits owed to its employees. The Debtor is authorized to compensate its employees for obligations payable as of the Petition Date, as well as obligations that become due after the Petition Date.

(d) Motion to Continue Customer Programs. On February 7, 2006, the Bankruptcy Court authorized the Debtor to continue to (i) process credit card transactions in the ordinary course of business, (ii) honor outstanding gift certificates, and (iii) participate in Krispy Kreme's gift card and coupon programs.

(e) Reject Executory Contracts and Unexpired Leases. On February 7, 2006, February 28, 2006 and April 6, 2006, the Bankruptcy Court approved the rejection of several real property leases and executory contracts that were no longer integral to the Debtor's operations and were not assumed by Westward Dough.

(f) Applications for Retention of Debtor's Professionals. The Debtor received Bankruptcy Court authority to retain Perkins Coie LLP, as counsel for the Debtor, and BMC, as the Debtor's notice and claims agent.

(g) Motion to Establish Bid Procedures and to Sell Substantially All of the Debtor's Assets. On February 7, 2006, the Bankruptcy Court entered the Order, Pursuant to 11 U.S.C. § 363 and Fed. R. Bankr. P. 2002 and 6004, (i) Approving Bid Procedures for the Potential Sale of Substantially All of the Debtor's Assets, (ii) Approving Notice Procedures Regarding the Proposed Sale, and (iii) Scheduling a Hearing Date to Consider the Sale (the "Bid Procedures Order"). The Bid Procedures Order, among other things, approved the Glazed Investments, LLC Bidding Procedures (the "Bidding Procedures") to be employed with respect to the proposed disposition of the Debtor's Assets.

Pursuant to Bid Procedures Order, the Debtor solicited bids for the Assets by, among other things, serving notice of the sale on all entities known to have expressed an interest in a transaction with respect to all or part of the Assets at any time and advertising the sale in the *Wall Street Journal (National Edition)*. However, only three entities signed confidentiality agreements seeking additional information on the Debtor's and the Assets, and none submitted a bid on the Assets.

Without any competing offers for the Assets, the Debtor did not hold an auction, and the Court entered the Sale Order on March 16, 2006 approving the sale of substantially all of the Debtor's Assets to Westward Dough pursuant to the Asset Purchase Agreement. The sale closed on March 30, 2006.

**2. Appointment of the Creditors' Committee.**

On February 13, 2006, the Office of the United States Trustee appointed the Creditors' Committee. On February 17, 2006, the Creditors' Committee retained Pachulski Stang Ziehl Young Jones & Weintraub, as its lead counsel, and Robert F. Coleman & Associates, as its local counsel.

**3. First Meeting of Creditors.**

The United States Trustee convened a first meeting of creditors pursuant to section 341 of the Bankruptcy Code on March 9, 2006.

**4. Bar Dates.**

On March 16, 2006, the Bankruptcy Court entered an order establishing May 8, 2006 as the last date for all creditors (other than Governmental Units) to file proofs of claim against the Debtor, and August 2, 2006 as the last date for Governmental Units to file proofs of claim against the Debtor. The Court also authorized the Debtor to provide notice of the bar dates by mail and approved a bar date notice.

**IV. SUMMARY OF THE PLAN**

**A. Plan Settlement Term Sheet.**

Immediately after retaining its counsel, the Creditors' Committee began requesting, and the Debtor and Krispy Kreme provided, numerous documents and information regarding the company, its businesses and history. This information exchange led to extensive and productive negotiations between the parties, through their counsel, over the course of the next several weeks in an effort to reach a consensual plan for the treatment of General Unsecured Claims.

These discussions culminated in the Plan Settlement Term Sheet, dated March 15, 2006, between the Debtor, the Creditors' Committee and Krispy Kreme (the "Term Sheet"), which has been incorporated into the Plan. Under the Plan, holders of Allowed General Unsecured Claims (other than KKDC) will receive their ratable share of the Class 4 Distribution Pool as illustrated on Schedule 1 to the Plan. The Debtor expects that the Class 4 general unsecured creditors will receive between 13.6% and 20% (approximately) of their Allowed Claims. Krispy Kreme agreed to subordinate any distribution it is entitled to receive on account of its Claims against the Debtor to the extent necessary to ensure a distribution to holders of Allowed General Unsecured

Claims equal to Schedule 1. Krispy Kreme also agreed to advance funds to the Debtor, if necessary, to fund the Class 4 Distribution Pool.

The treatment of General Unsecured Claims in the Plan is the product of the negotiation and execution of the Term Sheet.

**B. Overview of the Plan.**

The Plan is a liquidating plan. It contemplates that all of the Debtor's rights, title and interests in all of its Assets, including but not limited to the Net Proceeds of the sale to Westward Dough, will revert in the post-Confirmation Debtor. The Net Proceeds of the sale to Westward Dough, the proceeds from the collection or sale of any remaining estate Assets (including but not limited to the collection of accounts receivable) and any cash on hand will fund the Plan and distributions to holders of Allowed Claims in accordance therewith. To the extent such estate Assets are insufficient to make any payments to holders of Allowed Claims under the Plan, Krispy Kreme will advance the required funds to the Debtor for such payments to be made.

**C. Designation and Treatment of Claims and Interests Under the Plan.**

There are six (6) classes of Claims and one (1) class of Interests under the Plan. Administrative Claims and Tax Claims are not subject to classification pursuant to 11 U.S.C. § 1123(a)(1) and, therefore, are not entitled to vote. Class 5 is unimpaired and, accordingly, is presumed to have accepted the Plan pursuant to 11 U.S.C. § 1126(f). Impaired Classes 1A, 1B, 1C, 2 and 4 are entitled to vote on the Plan. The Plan contemplates distribution of the estate Assets to Allowed Claims in the following Classes of claimants, in order of priority as listed:

**1. Unimpaired Claims and Interests.**

**a. Unclassified Claims.**

Unclassified Claims consisting of all Administrative Claims and Tax Claims will be paid in full in cash generally as soon as reasonably practicable (i) after the Effective Date, or (ii) if

