

Robert D. Albergotti
State Bar No. 009790800
Ian T. Peck
State Bar No. 24013306
Jarom J. Yates
State Bar No. 24071134
HAYNES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: robert.albergotti@haynesboone.com
Email: ian.peck@haynesboone.com
Email: jarom.yates@haynesboone.com

ATTORNEYS FOR DEBTOR

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: § Chapter 11
§
TPP ACQUISITION, INC. d/b/a The § Case No. 16-33437-hdh-11
Picture People, §
§ Hearing Date and Time:
Debtor. § March 16, 2017 @ 1:30 p.m.

NOTICE OF FILING OF PROPOSED CONFIRMATION ORDER

Pursuant to paragraph 35 of the *Order Approving Debtor’s Expedited Motion for Entry of an Order (I) Scheduling Combined Hearing on Approval of Disclosure Statement and Confirmation of Plan of Liquidation, (II) Conditionally Approving Disclosure Statement, (III) Establishing Procedures for Solicitation and Tabulation of Votes on Plan and (IV) Approving Related Matters* [Docket No. 474], attached hereto as Exhibit “A” is the proposed Order (I) Finally Approving Second Amended Disclosure Statement and (II) Confirming Second Amended Joint Chapter 11 Plan of Liquidation of the Debtor and the Committee Under Chapter 11 of the Bankruptcy Code.



RESPECTFULLY SUBMITTED this 14th day of March, 2017.

HAYNES AND BOONE, LLP

By: /s/ Robert D. Albergotti

Robert D. Albergotti

State Bar No. 00969800

Ian T. Peck

State Bar No. 24013306

Jarom J. Yates

State Bar No. 24071134

2323 Victory Avenue, Suite 700

Dallas, TX 75219

Telephone: 214.651.5000

Facsimile: 214.651.5940

Email: robert.albergotti@haynesboone.com

Email: ian.peck@haynesboone.com

Email: jarom.yates@haynesboone.com

ATTORNEYS FOR DEBTOR

EXHIBIT “A”

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
	§	
TPP ACQUISITION, INC. d/b/a The	§	Case No. 16-33437-hdh-11
Picture People,	§	
	§	
Debtor.	§	

**ORDER (I) FINALLY APPROVING SECOND AMENDED DISCLOSURE
STATEMENT AND (II) CONFIRMING SECOND AMENDED JOINT
CHAPTER 11 PLAN OF LIQUIDATION OF THE DEBTOR AND THE
COMMITTEE UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**
[DOCKET NOS. 468 & 469]

On March 16, 2017, the Court conducted a combined hearing to consider confirmation of the *Debtor's and Official Committee of Unsecured Creditor' Second Amended Joint Plan of Liquidation for TPP Acquisition, Inc. d/b/a The Picture People Under Chapter 11 of the United States Bankruptcy Code* (as modified, amended, or supplemented from time to time, the "Plan")¹

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Plan.

[Docket No. 468], attached hereto as **Exhibit A**, and final approval of the *Second Amended Disclosure Statement Under 11 U.S.C. § 1125 in Support of the Debtor's and Official Committee of Unsecured Creditors' Second Amended Joint Plan of Liquidation for TPP Acquisition, Inc. d/b/a The Picture People Under Chapter 11 of the United States Bankruptcy Code* (as modified, amended, or supplemented from time to time, the "**Disclosure Statement**") [Docket No. 469] filed by TPP Acquisition, Inc. d/b/a The Picture People ("**TPP**" or "**Debtor**") and the Official Committee of Unsecured Creditors (the "**Committee**"). Based on the evidence presented, including the Declaration of Stuart Noyes, the Debtor's Chief Restructuring Officer, the Debtor's Memorandum in Support of Confirmation, the Tabulation Affidavit, _____, the arguments and representations of counsel, and the entire record in this Chapter 11 Case, the Court makes the following Findings of Fact and Conclusions of Law in accordance with Federal Rule of Bankruptcy Procedure 7052.²

FINDINGS OF FACT

A. To preserve the value of its assets and restructure its financial affairs, on September 2, 2016 (the "**Petition Date**"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") commencing the above captioned case (the "**Chapter 11 Case**").

B. On September 13, 2016, the official committee of unsecured creditors (the "**Committee**") was appointed in this Chapter 11 Case.

C. On November 2, 2016 the Court held a hearing on the sale of substantially all of the Debtor's assets and on November 3, 2016 entered its *Order Granting the Debtor's Motion*,

² Each finding of fact set forth or incorporated herein, to the extent it is or may be deemed a conclusion of law, shall also constitute a conclusion of law. Each conclusion of law set forth or incorporated herein, to the extent it is or may be deemed a finding of fact, shall also constitute a finding of fact.

Pursuant to Bankruptcy Code Sections 105(a), 363, and 365, and Bankruptcy Rules 2002, 6004, and 6006, for Entry of an Order Authorizing the Sale of Assets Free and Clear of All Liens, Claims, Encumbrances, and Other Interests and Granting Related Relief [Docket No. 355] (the “Sale Order”). On November 8, 2016, the sale closed.

D. Following the sale of its assets, on January 17, 2017, the Debtor filed its *Debtor’s and Official Committee of Unsecured Creditors’ Joint Plan of Liquidation for TPP Acquisition, Inc. d/b/a the Picture People Under Chapter 11 of the United States Bankruptcy Code* [Docket No. 435] as amended by the Plan, and the *Disclosure Statement Under 11 U.S.C. § 1125 in Support of the Debtor’s and Official Committee of Unsecured Creditors’ Joint Plan of Liquidation for TPP Acquisition, Inc. d/b/a the Picture People Under Chapter 11 of the United States Bankruptcy Code* [Docket No. 435] as amended by the Disclosure Statement.

E. On February 15, 2017, pursuant to the *Order Approving Debtor’s Expedited Motion for Entry of an Order (I) Scheduling Combined Hearing on Approval of Disclosure Statement and Confirmation of Plan of Liquidation, (II) Conditionally Approving Disclosure Statement, (III) Establishing Procedures for Solicitation and Tabulation of Votes on Plan and (IV) Approving Related Matters* (the “Solicitation Procedures Order”) [Docket No. 474], the Court conditionally approved the Disclosure Statement and approved the Debtor’s proposed solicitation and voting procedures for soliciting votes on the Plan.

F. On February 17, 2017, the Debtor began soliciting votes on the Plan (the “Solicitation”). The Debtor, through Kurtzman Carson Consultants LLC (“KCC”), the Debtor’s solicitation and voting agent, provided Holders of Claims in Class 2 (Allowed Other Secured Claims), Class 3 (Allowed Secured Tax Claims), Class 4 (Allowed Priority Non-Tax Claims) and Class 5 (Allowed General Unsecured Claims), the only Classes entitled to vote on the Plan (the “Voting Classes”), with a copy of the Disclosure Statement (with the Plan and other exhibits

to the Disclosure Statement), a ballot in the form approved by the Court, and the other documents identified in the Solicitation Procedures Order (the “Solicitation Package”).

G. The Solicitation Procedures Order established March 9, 2017, at 4:00 p.m. (CDT) as the deadline for submitting ballots to accept or reject the Plan (the “Voting Deadline”). Each ballot stated in clear and conspicuous language that in order to be counted the ballot must have been properly executed, completed, and delivered to KCC so as to be received no later than the Voting Deadline. The *Declaration of Michael J. Paque on Behalf of Kurtzman Carson Consultants LLC Regarding Voting and Tabulation of Ballots Accepting and Rejecting Debtor’s and Official Committee of Unsecured Creditor’s Second Amended Joint Plan of Liquidation for TPP Acquisition, Inc. d/b/a The Picture People Under Chapter 11 of the United States Bankruptcy Code* (the “Tabulation Affidavit”) [Docket No. ____] describes the ballots and a class-by-class tabulation of votes received by KCC.

H. The Debtor did not, and was not required to, solicit the votes of Holders of Claims in Class 1 (Senior Secured Lender Allowed Claims) (the “Unimpaired Non-Voting Class”) because the Holders of Claims in Class 1 are not impaired under the Plan and Class 1 is therefore conclusively presumed to accept the Plan pursuant to Bankruptcy Code § 1126(f).

I. The Debtor did not, and was not required to, solicit the votes of Holders of Interests in Class 6 (Interests) (the “Impaired Non-Voting Class”) because the Holders of Interests in Class 6 are not receiving distributions under the Plan and Class 6 is therefore deemed to reject the Plan pursuant to Bankruptcy Code § 1126(g).

J. The Holders of Claims in Class 2 (Allowed Other Secured Claims) and Class 4 (Allowed Priority Non-Tax Claims) did not submit votes to accept or reject the Plan.

K. The Holders of Claims in Class 3 (Allowed Secured Tax Claims) and Class 5 (General Unsecured Claims) voted to accept the Plan.

L. On March 6, 2017, the Debtor filed its *Plan Supplement to the Debtor's and Official Committee of Unsecured Creditor's Second Amended Joint Plan of Liquidation for TPP Acquisition, Inc. d/b/a The Picture People Under Chapter 11 of the United States Bankruptcy Code* (the "Plan Supplement") [Docket No. 492] which contained the Liquidation Trust Agreement.

M. Only two objections to the Plan were filed: (1) *Monroe Capital Management Advisors, LLC's Limited Objections to Confirmation of Second Amended Joint Plan of Liquidation* [Docket No. 495] (the "Monroe Objection") and (2) *Local Texas Tax Authorities' Objection to: Confirmation of Debtor's and Official Committee of Unsecured Creditors' Second Amended Joint Plan of Liquidation for TPP Acquisition, Inc. d/b/a The Picture People Under Chapter 11 of the United States Bankruptcy Code* [Docket No. 494] (the "Taxing Authorities' Objection").

N. Pursuant to the Solicitation Procedures Order, the Court set a combined hearing to consider final approval of the Disclosure Statement and confirmation of the Plan for March 16, 2017 at 1:30 p.m. (CDT) (the "Combined Hearing"). March 9, 2017 at 4:00 p.m. (CDT) was the deadline for parties in interest to object to the Disclosure Statement and/or confirmation of the Plan (the "Objection Deadline").

O. On March 16, 2017, this Court conducted the Combined Hearing, at which it considered final approval of the Disclosure Statement and confirmation of the Plan.

P. The Liquidation Trust Agreement, which was contained in the Plan Supplement, as modified, is attached hereto as **Exhibit B** and complies with the terms of the Plan and is fair, reasonable, in the best interests of the Debtor's Estate and its creditors, and is consistent with the terms of the Plan.

Q. The Court's oral Findings of Fact on the record at the Combined Hearing are

incorporated herein by reference in their entirety.

CONCLUSIONS OF LAW

A. Jurisdiction and Venue

1. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(L). This matter arises under the Bankruptcy Code, and jurisdiction is vested in this Court to enter a final order by virtue of 28 U.S.C. § 1334, 28 U.S.C. §§ 157(a) and (b)(2), and the Standing Order of Reference in this District. Venue is proper under 28 U.S.C. §§ 1408 and 1409. This Court enters these Findings of Fact and Conclusions of Law pursuant to Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) 7052, 9014, and 9019.

B. Approval of the Disclosure Statement

2. The information contained in the Disclosure Statement and presented at the Combined Hearing, along with the record in this Chapter 11 Case provides adequate information as defined in Bankruptcy Code § 1125(a) and required under Bankruptcy Code § 1126(b). The Debtor has complied with the provisions of Bankruptcy Code § 1126(b) in soliciting acceptance of the Plan.

3. The Solicitation was consistent with the Solicitation Procedures Order, and is approved in all respects. Notice and distribution of the Solicitation Packages was appropriate under all the circumstances and complied with the applicable provisions of the Solicitation Procedures Order, the Bankruptcy Code and the Bankruptcy Rules. The opportunity for a hearing on these matters was adequate under the circumstances. Notice of the Combined Hearing (including the Objection Deadline) was appropriate under the circumstances and complied with the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules. All parties required to be given notice of the Combined Hearing (and the Objection Deadline) have been given due, proper, timely, and adequate notice in accordance with the Solicitation

Procedures Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and any applicable non-bankruptcy law, rule and regulation, and such parties have had an opportunity to appear and be heard with respect thereto. As specifically evidenced by the certificates of service filed at Docket Numbers 496 and 498, the Debtor timely provided notice of the Combined Hearing (and the Objection Deadline). No other or further notice is required.

4. The solicitation of acceptances of the Plan was made in good faith and the acceptances of the Plan were submitted in good faith and in accordance with the provisions of Bankruptcy Code § 1125(g), and therefore the acceptances of the Plan are not subject to designation pursuant Bankruptcy Code § 1126(e).

5. Pursuant to Bankruptcy Code § 1125(g) and Bankruptcy Rule 3017(b), the Disclosure Statement is **APPROVED**.

C. Confirmation of the Plan and Approval of Plan Documents

6. The Plan complies with the applicable provisions of the Bankruptcy Code, as required by Bankruptcy Code § 1129(a)(1) thereof, including Bankruptcy Code §§ 1122 and 1123, and meets all of the applicable requirements of Bankruptcy Code § 1129(a) and (b), and should be approved.

7. The Plan is therefore **CONFIRMED** in its entirety under Bankruptcy Code § 1129, and all of the terms and conditions contained in the Plan and all ancillary agreements thereto, including but not limited to the Liquidation Trust Agreement (collectively, the "Plan Documents"), are **APPROVED**. The terms of the Plan and the Plan Supplement, including any exhibits attached thereto, are incorporated herein by reference into, and are an integral part of, this Order.

8. The classification of Claims and Interests contained in the Plan is reasonable and appropriate and complies with Bankruptcy Code § 1122.

9. The Debtor has complied with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules as required by Bankruptcy Code § 1129(a)(2).

10. The Plan has been proposed in good faith and not by any means forbidden by law as required by Bankruptcy Code § 1129(a)(3).

11. The payments referenced in Bankruptcy Code § 1129(a)(4) have been approved by or remain subject to the approval of the Court as reasonable.

12. The Plan properly discloses the identity of individuals who will hold positions with the Debtor after Confirmation of the Plan as required by Bankruptcy Code § 1129(a)(5).

13. The Plan does not provide for a “rate change” as contemplated by Bankruptcy Code § 1129(a)(6), and such provision therefore does not prohibit confirmation of the Plan.

14. As required by Bankruptcy Code § 1129(a)(7), with respect to each impaired Class, each holder of a Claim or Interest of such Class has either accepted the Plan or will receive or retain under the Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount such holder would so receive or retain if the Debtor was liquidated in a Chapter 7 proceeding.

15. Bankruptcy Code § 1129(a)(8) is satisfied as to Class 1 as the Holders of Claims in Class 1 are not impaired under the Plan. Bankruptcy Code § 1129(a)(8) has likewise been satisfied as to Class 3 (Allowed Secured Tax Claims) and Class 5 (Allowed General Unsecured Claims) as Class 3 and Class 5 voted to accept the Plan. Bankruptcy Code § 1129(a)(8) has not been met with respect to Classes 2 (Allowed Other Secured Claims) and Class 4 (Allowed Priority Non-Tax Claims).

16. With respect to the Holders of Claims in Class 2, Class 4 and Interests in Class 6, the Plan complies with Bankruptcy Code § 1129(b)(1). The Plan can be confirmed despite the failure of Class 2 and Class 4 to accept the Plan and the deemed rejection by Class 6 because the

Plan does not discriminate unfairly and is fair and equitable with respect to the Holders of Claims and Interests in Classes 2, 4 and 6.

17. Class 2 (Allowed Other Secured Claims) will receive either (i) Cash equal to the unpaid portion of such Allowed Other Secured Claim, including any interest on such Allowed Other Secured Claim required to be paid pursuant to Bankruptcy Code 506(b) or (ii) reinstatement of the legal, equitable, and contractual rights of the Holder of such Allowed Other Secured Claim. Further, with respect to the Holders of Class 4 (Allowed Priority Non-Tax Claims) and Class 6 (Interests), no Holders of Claims junior to Class 4 or Class 6 will receive or retain any property under the Plan on account of such junior Claim until Holders of Claims in Class 4 have been paid in full, consistent with Bankruptcy Code § 1129(b)(2)(C)(ii). Accordingly, the requirements for cramdown under Bankruptcy Code § 1129(b) have been satisfied.

18. The Holders of Allowed Claims of the type identified in Bankruptcy Code § 1129(a)(9) shall receive the treatment required to be provided by such section under the Plan.

19. Class 3 (Allowed Secured Tax Claims) and Class 5 (Allowed General Unsecured Claims) have voted to accept the Plan and qualify as accepting, impaired classes for purposes of Bankruptcy Code § 1129(a)(10).

20. The information in the Disclosure Statement and the evidence proffered or adduced at the Confirmation Hearing: (i) is reasonable, persuasive, credible and accurate; (ii) utilizes reasonable and appropriate methodologies and assumptions; and (iii) has not been controverted by other evidence. The Plan provides for the orderly liquidation of the Debtor's assets through the Liquidation Trust. Confirmation and consummation of the Plan are not likely to be followed by the need for further financial reorganization of the Debtor or any successor of the Debtor under the Plan, and accordingly, the Plan complies with 11 U.S.C. § 1129(a)(11).

The structure of the Plan and mechanisms for implementation of the Plan are reasonable and appropriate

21. All fees payable under 28 U.S.C. § 1930 have been paid or have payment provided for as required by Bankruptcy Code § 1129(a)(12).

22. Bankruptcy Code §§ 1129(a)(13)-(16) are not implicated by the Plan.

23. The Debtor is authorized to implement the Plan in accordance with its terms and conditions.

24. All objections to confirmation of the Plan or approval of the Liquidation Trust Agreement not withdrawn or otherwise resolved at or before the Confirmation Hearing are expressly overruled.

D. Effects of Confirmation of the Plan

25. In accordance with Bankruptcy Code § 1141, (i) the Plan and each of its provisions, (ii) all documents executed in connection with and pursuant to the terms of the Plan, including but not limited to the Liquidation Trust Agreement, and (iii) the Confirmation Order shall be binding upon the Debtor, upon each person or entity acquiring or receiving property under the Plan, upon each Holder of a Claim against or Interest in the Debtor, whether or not the Claim or Interest of such creditor or Interest Holder is Allowed, Disallowed or impaired under the Plan and whether or not such creditor or equity interest holder has filed, or is deemed to have filed, a proof of Claim or Interest, any and all non-Debtor parties to executory contracts and unexpired leases with the Debtor, and upon any other party in interest to the Chapter 11 Case, and irrespective of whether such provision of the Plan is specifically mentioned or otherwise referred to in these Findings of Fact and Conclusions of Law and Order.

26. Upon entry of this Order, the Debtor is authorized and directed to take all steps necessary and appropriate to implement the Plan without the need for further member, director,

or other corporate or third party approvals or consents, including, without limitation, the Debtor's execution and implementation of the Liquidation Trust Agreement included in the Plan Supplement.

27. On the Effective Date, the Debtor shall file and serve a Notice of Effective Date.

28. On the Effective Date, except as otherwise specifically provided for in the Plan, all Interests in the Debtor shall be canceled as more fully described in the Plan.

29. Except as otherwise provided in the Plan, this Order, or in a separate Final Order, any and all injunctions or automatic stays provided for in this Chapter 11 Case under Bankruptcy Code §§ 105 and 362, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect through the Effective Date.

E. The Liquidation Trust Agreement

30. The Liquidation Trust Agreement is approved as to form and substance for use in establishing the Liquidation Trust under the terms of the Plan.

31. In accordance with Article V.E of the Plan, Emerald Capital Advisors is hereby appointed, as of the Effective Date of the Plan, to serve as the Liquidation Trustee of the Liquidation Trust.

32. Unless a Right of Action of the Debtor (including the right to object to any Claim asserted against the Estate) is expressly waived, relinquished, released, assigned, compromised, or settled in the Plan, or in a Final Order, all rights of the Estate from and after the Effective Date with respect to Rights of Action are expressly preserved for the benefit of, assigned to, and fully vested in, the Liquidation Trust.

33. In accordance with Article X of the Plan, on the Effective Date of the Plan, and except as otherwise expressly provided in the Plan, all Remaining Assets, including, without limitation, all of the Rights of Action referenced in Article X and Exhibit B to the Plan, Article

4.E. and Exhibit 3 of the Disclosure Statement, and paragraph 32 herein, shall be preserved and transferred to the Liquidation Trust free and clear of all Liens of any kind. On and after the Effective Date, the Liquidation Trustee shall have standing to pursue all Rights of Action, and is hereby appointed as of the Effective Date, and in accordance with Bankruptcy Code § 1123(b)(3), as the representative of the Estate for the purpose of enforcing, prosecuting and settling such Rights of Action.

34. On the Effective Date, title to all Remaining Assets of the Debtor shall vest in the Liquidation Trust as, and to the extent, provided by the Plan. Notwithstanding anything in the Plan or this Order to the contrary, the Remaining Assets shall not include any assets sold to the Purchaser pursuant to the TPP Sale.

35. On the Effective Date, or as soon thereafter as is practicable, the Liquidation Trustee shall establish and appropriately fund the following Reserves: (i) the Wind-Down Reserve and (ii) the Professional Fee Reserve. Distributions from the Reserves shall be made by the Liquidation Trustee.

36. Amounts in the Wind-Down Reserve may be used only to pay unpaid Allowed Administrative Claims, Allowed Secured Claims, Ordinary Course Liabilities, Allowed Secured and Priority Tax Claims, and U.S. Trustee fees identified in the DIP Budget and only up to the amounts identified in the DIP Budget. Pursuant to the Plan, any remaining amounts in the Wind-Down Reserve, after payment of the above-referenced Claims, shall, subject to the Debtor's, the Committee's, or the Liquidation Trustee's right to challenge such obligation, including under the DIP Order or the TPP Sale Order, be transferred to the Senior Secured Lenders in accordance with the Plan.

37. The Professional Fee Reserve shall be used first for distributions to Holders of Allowed Professional Fee Claims consistent with the Carve-Out amounts in the DIP Budget.

Distributions from the Professional Fee Reserve shall be made by the Liquidation Trustee. After the payment in full of the Carve-Out amounts, any unused portion of the Professional Fee Reserve shall be allocated to pay down any unpaid Allowed Professional Fee Claims of Professionals that are not Subordinating Professionals. After the payment in full of the Carve-Out amounts and the Allowed Professional Fee Claims of Professionals that are not Subordinating Professionals, any unused portion of the Professional Fee Reserve shall be allocated to pay down any remaining unpaid Subordinated Professional Fee Claims on a pro-rata basis.

38. In the event of a default under the Plan, a party in interest must send written notice of such default to the Liquidation Trustee. If the default has not been cured within thirty (30) days of sending such notice, a party in interest may file a motion with the Bankruptcy Court to enforce the provisions of the Plan or otherwise seek a remedy for such default, subject to the terms of the Liquidation Trust Agreement.

39. From and after the Effective Date, the Liquidation Trust and the Liquidation Trust Committee may, in the ordinary course of business and without the necessity for any approval by this Bankruptcy Court, pay the reasonable fees and expenses of professionals thereafter incurred subject to the terms and conditions of the Liquidation Trust Agreement.

F. Provisions Related to Executory Contracts

40. The Plan provides that all Executory Contracts that were not previously assumed or rejected by prior order of the Court are deemed rejected. The terms of the Plan shall govern the deadlines for filing proofs of claim resulting from such rejection. Any such claims not timely filed as required by the Plan shall be discharged and forever barred. The Debtor's rejection of these Executory Contracts reflects the Debtor's sound business judgment and is reasonable and in the best interest of its estate.

41. All Rejected Executory Contracts shall be rejected as of the Confirmation Date (which rejection shall be effective on the Effective Date). Entry of this Confirmation Order shall constitute approval of such rejections under Bankruptcy Code §§ 365 and 1123.

G. Miscellaneous Confirmation Provisions

42. The provisions of the confirmed Plan and this Order bind the Debtor and any Creditor or Interest Holder of the Debtor, whether or not the Claim or Interest of such Creditor or Interest Holder is impaired under the Plan and whether or not such Creditor or Interest Holder has accepted the Plan.

43. Notwithstanding anything herein to the contrary, nothing in this Order, the Plan or the Liquidation Trust Agreement shall alter or modify Gruber Elrod's rights and interest in recoveries from those claims, causes of action and litigation as set forth in the Gruber Elrod Retention Agreement.

44. This Order is in recordable form, and shall be accepted by any filing or recording officer or authority of any applicable governmental unit for filing and recording purposes without further or additional orders, certifications, or other supporting documents and in lieu of any filing or certification that may otherwise be required by any such governmental unit to give effect to the Debtor's liquidation and dissolution under otherwise applicable law.

45. The Debtor, the Debtor's CRO and Winter Harbor, the Committee, the Committee's individual members, and the Estate Professionals have all acted in good faith in connection with and during the Chapter 11 Case. The terms and conditions of the releases as set forth in Article IX.D of the Plan and the exculpations as set forth in Article IX.E of the Plan are all hereby approved.

46. To the extent that, under applicable non-bankruptcy law, any of the actions contemplated in the Plan would otherwise require the consent or approval of the Holders of

Interests in the Debtor, this Order shall constitute such consent or approval, and such actions shall be, and are deemed to have been taken by unanimous action of the Holders of Interests in the Debtor.

47. Pursuant to Bankruptcy Code §§ 1123(a) and 1142(a), the provisions of this Order, the Plan, the Plan Documents, and all other agreements and documents executed and delivered pursuant to the Plan shall apply and be enforceable notwithstanding any otherwise applicable non-bankruptcy law.

48. If any or all of the provisions of this Order are hereafter reversed, modified, or vacated by subsequent order of this Court or any other court, such reversal, modification, or vacatur shall not affect the validity of the acts or obligations incurred or undertaken under or in connection with the Plan before the Debtor's receipt of written notice of any such order; nor shall such reversal, modification, or vacatur of this Order affect the validity or enforceability of such act or obligation. Notwithstanding any such reversal, modification, or vacatur of this Order, any such act or obligation incurred or undertaken pursuant to, and in reliance on, this Order before the effective date of such reversal, modification, or vacatur shall be governed in all respects by the provisions of this Order, the Plan, and all documents, instruments and agreements related thereto or any amendments or modifications thereto.

49. The Debtor is authorized to serve a "Notice of Entry of Confirmation Order and Notice of Effective Date" on all creditors and parties-in-interest in this Chapter 11 Case, and such notice shall constitute notice in compliance with Bankruptcy Rule 2002.

50. The failure to include specifically any particular provision of the Plan in this Order will not diminish the effectiveness of such provision nor constitute a waiver thereof, it being the intent that the Plan is confirmed in its entirety.

51. The Administrative Claims Bar Date, the Professional Fee Claim Bar Date, and

the Post-Petition Tax Claim Bar Date provided in Article II of the Plan are enforceable. Holders of Claims who file requests for payment of Claims after the applicable bar date in Article II or elsewhere in the Plan or any other order of the Court, shall be forever barred from asserting such Claims against the Debtor or any of its affiliates or any of its respective property.

52. The rights, duties, and obligations of any Person named or referred to in the Plan shall be binding upon, and shall inure to the benefit of, the successors and assigns of such Person.

53. On the Effective Date, the Plan shall be deemed to be substantially consummated under Bankruptcy Code §§ 1101(2) and 1127.

54. The fourteen-day stay under Bankruptcy Rule 3020(e) is waived and this Order shall become effective immediately upon its entry.

55. The Court's oral Findings of Fact and Conclusions of Law on the record at the Confirmation Hearing are incorporated herein by reference in their entirety.

56. The Court reserves the right to make additional Findings of Fact and Conclusions of Law as it deems necessary.

57. In the event of a conflict between the terms of this Order, the Plan, and/or the Plan Documents or any other supporting document, the provisions of this Order shall control.

58. Notwithstanding the entry of this Order, prior to the Effective Date the Debtor may modify the Plan consistent with 11 U.S.C. § 1127(b). Notwithstanding the entry of this Order or the occurrence of the Effective Date, the Bankruptcy Court, even after the Chapter 11 Case has been closed, shall retain jurisdiction over all matters arising under, arising in, or relating to the Chapter 11 Case pursuant to section 1142 of the Bankruptcy Code and 28 U.S.C. § 1334 to the fullest extent permitted by the Bankruptcy Code and other applicable law, including, without limitation, those matters set forth in Article XII.A of the Plan.

END OF ORDER

Submitted by:

Robert D. Albergotti
State Bar No. 00969800

Ian T. Peck
State Bar No. 24013306

Jarom J. Yates
State Bar No. 24071134

HAYNES AND BOONE, LLP

2323 Victory Avenue, Suite 700
Dallas, Texas 75219

Telephone: 214.651.5000

Facsimile: 214.651.5940

Email: robert.albergotti@haynesboone.com

Email: ian.peck@haynesboone.com

Email: jarom.yates@haynesboone.com

ATTORNEYS FOR DEBTOR