IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	:	Chapter 11
VALERITAS HOLDINGS, INC., *et al.*,[1]	:	Case No. 20-10290 (LSS)
Debtors.	:	(Jointly Administered)
	:	**Re: D.I. 283, 309, 388**

DECLARATION OF STEVEN FLEMING IN SUPPORT OF CONFIRMATION OF THE COMBINED DISCLOSURE STATEMENT AND JOINT CHAPTER 11 PLAN OF LIQUIDATION PROPOSED BY VALERITAS HOLDINGS, INC. AND ITS AFFILIATED DEBTORS, THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, AND THE PREPETITION LENDERS

I, Steven Fleming, hereby declare as follows:

1. I am a Principal at PricewaterhouseCoopers LLP ("PwC"), the Debtors' restructuring advisor in these Chapter 11 Cases.[2] I am authorized to make this declaration (the "Declaration") on behalf of the Debtors.

2. I make this Declaration in support of the *Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation Proposed by Valeritas Holdings, Inc. and Its Affiliated Debtors, the Official Committee of Unsecured Creditors, and the Prepetition Lenders* [D.I. 283] (together with all schedules, exhibits, annexes and related documents, as any of the foregoing may

[1] The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Valeritas Holdings, Inc. (8907); Valeritas, Inc. (1056); Valeritas Security Corporation (9654); Valeritas US, LLC (0007). The corporate headquarters and the mailing address for the Debtors is c/o DLA Piper LLP (US), 1251 Avenue of the Americas, 27th Floor, New York, New York 10020.

[2] Capitalized term used but not otherwise defined in this Declaration have the meaning ascribed to them in the Combined Disclosure Statement and Plan.

2010290200601000000000005

be amended, modified, or supplemented, the "Combined Disclosure Statement and Plan" or "Plan," as applicable).

3. The statements in this Declaration are based on my personal knowledge or opinion, on information that I have received from the Debtors' current and former employees or advisors, or on information obtained from the Debtors' books and records maintained in the ordinary course of business. If I were called upon to testify, I could and would competently testify to the facts set forth herein.

I. BACKGROUND

A. General Background

4. On February 9, 2020 (the "Petition Date"), each Debtor filed with this Court a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), thereby commencing these chapter 11 cases (the "Chapter 11 Cases").

5. On February 21, 2020, the Office of the United States Trustee for Region 3 (the "U.S. Trustee") appointed an Official Committee of Unsecured Creditors (as amended, the "Creditors' Committee") [D.I. 85].

6. As more fully set forth in the First Day Declaration and the Combined Disclosure Statement and Plan, the Debtors were a commercial-stage medical technology company focused on improving health and simplifying life for people with diabetes by developing and commercializing innovative technologies.

7. After reaching, and in reliance on, agreements with the Prepetition Lenders and the DIP Lender, the Debtors filed these Chapter 11 Cases in order to pursue a sale of all or substantially all of their assets with a goal of maximizing recovery for their estates and creditors. On April 2, 2020, the Debtors closed a going-concern sale of substantially all of their assets to the

Purchaser for $23 million in cash, plus the assumption of certain liabilities. The sale also provided for the employment of a majority of the Debtors' then-current employees by the Purchaser.

B. The Combined Disclosure and Plan Process

8. On March 6, 2020, the Debtors, the Creditors' Committee and the Prepetition Lenders entered into the Amended Settlement, which forms the basis of the Combined Disclosure Statement and Plan. The Amended Settlement, as implemented by the Plan, provides for certain sharing mechanisms between the Prepetition Lenders and General Unsecured Creditors with respect to the Net Sale Proceeds and proceeds, if any, of the Retained Actions. Additionally, the Amended Settlement provides for the creation of the Creditors' Trust for the benefit of Holders of Allowed General Unsecured Claims and the Prepetition Lenders which, among other things, will investigate, prosecute, and/or settle claims respecting the Retained Actions.

9. The Combined Disclosure Statement and Plan is the result of extensive, good faith and arm's-length negotiations between and among the Creditors' Committee, the Prepetition Lenders, and the Debtors. It embodies a number of compromises and settlements of the rights and obligations of various parties in interest and, in the Debtors' considered judgment, represents the best path forward in these Chapter 11 Cases.

10. On April 21, 2020, the Bankruptcy Court entered the *Order (I) Approving the Combined Disclosure Statement and Plan on an Interim Basis for Solicitation Purposes Only; (II) Establishing Procedures for Solicitation and Tabulation of Votes to Accept or Reject the Combined Disclosure Statement and Plan; (III) Approving the Form of Ballot and Solicitation Packages; (IV) Establishing the Voting Record Date; (V) Scheduling a Combined Hearing for Final Approval of the Adequacy of Disclosures in, and Confirmation of, the Combined Disclosure Statement and Plan; and (VI) Granting Related Relief* [D.I. 326] (the "Interim Approval and

Procedures Order"), conditionally approving the Combined Disclosure Statement and Plan for solicitation purposes only and authorizing the Debtors to solicit acceptance of the Combined Disclosure Statement and Plan.

11. Thereafter, Kurtzman Carson Consultants LLC (the "Voting Agent") caused the various notice and solicitation materials for the Combined Disclosure Statement and Plan to be served on parties in interest in accordance with the requirements of the Interim Approval and Procedures Order, as set forth in that certain *Certificate of Service* [D.I. 343].

12. I am informed that the deadline for filing any objections to the Combined Disclosure Statement and Plan, including any objection to the adequacy of the disclosures and confirmation of the Plan, was May 28, 2020, at 4:00 p.m. (prevailing Eastern Time). The U.S. Trustee filed the only objection to confirmation of the Plan.

II. THE COMBINED DISCLOSURE STATEMENT AND PLAN CONTAINS ADEQUATE INFORMATION UNDER SECTION 1125 OF THE BANKRUPTCY CODE

13. On the basis of the terms of the Plan, the events that have occurred prior to and during these Chapter 11 Cases, and discussions I have had with the Debtors and their advisors regarding various orders entered during these Chapter 11 Cases and the requirements of the Bankruptcy Code, Bankruptcy Rules and Local Rules of this Court, I believe that the Plan satisfies all provisions of section 1129 of the Bankruptcy Code and complies with all other applicable sections of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and applicable non-bankruptcy law and should therefore be confirmed.

14. I am familiar with the Combined Disclosure Statement and Plan, and I believe after discussions with the Debtors' counsel and the advisors to the Proponents that the

Combined Disclosure Statement and Plan is comprehensive and contains the type of information necessary to allow creditors to make an informed decision in voting to accept or reject the Plan.

III. THE COMBINED DISCLOSURE STATEMENT AND PLAN MEETS ALL APPLICABLE CONFIRMATION REQUIREMENTS

A. The Plan Complies with the Applicable Provisions of the Bankruptcy Code in Accordance with Section 1129(a)(1).

15. I understand that section 1129(a)(1) of the Bankruptcy Code requires the Plan to comply with the applicable provisions of the Bankruptcy Code. As detailed below, I have been made aware of information that leads me to conclude that the Plan satisfies this requirement.

1. *The Plan Satisfies the Classification Requirements of Section 1122 of the Bankruptcy Code.*

16. I am familiar with the Plan's classification of Claims and Interests, and I believe after discussions with the Proponents' advisors that valid business, factual and legal reasons exist for separately classifying the various Classes of Claims or Interests created under the Plan. Further, each Class contains only Claims or Interests that are substantially similar to other Claims and Interests therein.

2. *The Plan Satisfies the Mandatory Plan Requirements of Section 1123(a) of the Bankruptcy Code.*

17. I believe that the Plan complies with section 1123(a) of the Bankruptcy Code, which I understand to set forth seven requirements with which every plan under chapter 11 of the Bankruptcy Code must comply. Specifically, I believe, after discussions with the Proponents' advisors, that the Plan complies with each such requirement as follows:

a. Section 1123(a)(1). Section 3.1 of the Plan designates all Claims and Interests that I understand to require classification under section 1123(a)(1) of the Bankruptcy Code.

b. Section 1123(a)(2). Section 3.2 of the Plan specifies the Classes of Claims that are Unimpaired by the Plan. Specifically, Section 3.2 of the Plan provides that Class 1 Claims are Unimpaired by the Plan.

c. Section 1123(a)(3). Sections 3.3 and 3.4 of the Plan specify the Classes and Interests that are Impaired by the Plan. Specifically, Section 3.3 of the Plan specifies the treatment of Impaired Classes of Claims: Class 2 (CRG Secured Claim), Class 3 (Prepetition Lenders' Unsecured Claims), Class 4 (General Unsecured Claims) and Class 5 (Intercompany Claims); and Section 3.4 specifies the treatment of the Impaired Class of Interest: Class 6 (Preferred Stock and Common Stock).

d. Section 1123(a)(4). The Plan provides for the same treatment for each Claim or Interest in a given Class. Furthermore, the Holder of the Class 2 CRG Secured Claim has agreed to compromise its Claim pursuant to the Amended Settlement, which is the primary reason the Debtors are able to pursue a plan process in this case.

e. Section 1123(a)(5). I believe that the Plan, including the various documents and agreements set forth in the Plan Supplement, provides adequate means for the Plan's implementation, including by, among other things, providing for all of the actions set forth in Article VII of the Plan. Most significantly, the Plan provides for the appointment of the Liquidating Trustee to administer the Creditors' Trust and make Distributions in accordance with the Plan and the Creditors' Trust Agreement, establishes the Administrative and Priority Claims Reserve, the Trust Expense Reserve and the Disputed General Unsecured Claims Reserve and assigns the Retained Actions to the Creditors' Trust for the benefit of the Creditors' Trust Beneficiaries. Accordingly, I believe that the Plan satisfies the requirements set forth in section 1123(a)(5) of the Bankruptcy Code.

f. Section 1123(a)(6). I believe that section 1123(a)(6) is not relevant, as the Debtors are transferring all of their assets and the Retained Actions to the Creditors' Trust and are not issuing nonvoting equity securities. Rather, pursuant to Section 7.11 of the Plan, the Creditors' Trust Beneficiaries will each receive Creditors' Trust Interests that will entitle the Holder to receive Distributions of Cash pursuant to the terms of the Creditors' Trust Agreement.

g. Section 1123(a)(7). It is my understanding that the Plan satisfies the requirements set forth in section 1123(a)(7) of the Bankruptcy Code because Exhibit 2 to the Plan Supplement identifies the Liquidating Trustee as of the Effective Date, which accords with applicable law, the Bankruptcy Code, the interests of Holders of Claims and Interests, and public policy.

B. The Plan Complies with the Requirements of Section 1123(b) of the Bankruptcy Code.

18. I have been advised that section 1123(b) of the Bankruptcy Code sets forth permissive provisions that may be incorporated into a chapter 11 plan and, as discussed in more detail below, I believe that each of the provisions of the Plan is consistent with section 1123(b).

1. *The Plan Appropriately Contains Certain Discretionary Components Permitted by Section 1123(b) of the Bankruptcy Code.*

a. Section 1123(b)(1). As I understand is permitted by section 1123(b)(1) of the Bankruptcy Code , the Plan provides that (i) Class 1 is Unimpaired and (ii) Classes 2, 3, 4, 5 and 6 are Impaired.

b. Section 1123(b)(2). As I understand is permitted by section 1123(b)(2) of the Bankruptcy Code , Section 9.1 of the Plan provides for the rejection of all Executory Contracts and unexpired leases, except to the extent previously assumed or rejected, or subject to a separate motion to assume or reject (filed prior to the Effective Date), as specified therein, while leaving unaffected and enforceable all insurance policies and agreements of the Debtors and the D&Os, and all obligations of any of the Debtors and the other counterparties thereto.

c. Section 1123(b)(3). As I understand is permitted by section 1123(b)(3) of the Bankruptcy Code, Section 8.6 of the Plan provides for a release of certain claims and causes of action owned by the Debtors, as specified therein.

d. Section 1123(b)(5). As I understand is permitted by section 1123(b)(5) of the Bankruptcy Code, the Plan modifies the rights of Holders of Claims or Interests in the Impaired Classes, and leaves unaffected the rights of Holders of Claims in the Unimpaired Class.

e. Section 1123(b)(6). As I understand is permitted by section 1123(b)(6) of the Bankruptcy Code, Article VIII of the Plan contains release, exculpation and injunctive provisions that are not inconsistent with the applicable provisions of the Bankruptcy Code or applicable case law and are essential to the Plan and the Amended Settlement underlying the Plan.

2. *Deemed Substantive Consolidation for Voting, Confirmation and Distribution Purposes Is Appropriate*

19. Based on my review of the Plan and my discussions with the Proponents' advisors, I believe that the deemed substantive consolidation provided by Section 7.1 of the Plan

is fair, appropriate and necessary, as well as consistent with other plans confirmed by courts in this District.

20. I believe that the deemed substantive consolidation for voting, confirmation and Distribution purposes only will enable the Liquidating Trustee to administer the Plan more efficiently, for the benefit of all parties in interest. It is my understanding that the Debtors seek deemed substantive consolidation to promote such administrative efficiency. All Impaired Classes of Claims of each Debtor voted overwhelmingly in favor of the Plan notwithstanding its deemed substantive consolidation provisions. In addition, I believe that creditors will not be prejudiced by the Plan's deemed substantive consolidation because the costs of reconciling and analyzing distributions by Debtor would exceed the benefits.

21. I believe that several factors, as noted in the Plan, make deemed substantive consolidation appropriate for efficient administration of the Chapter 11 Cases. These factors include:

- The Debtors operated on a consolidated basis;
- Debtor Valeritas, Inc. is the Debtor entity that processed substantively all of the Debtors' disbursements (other than employee payroll obligations through Valeritas US, LLC), including disbursements on account of customer program obligations and trade vendor obligations;
- As set forth in the Schedules, the Debtors do not record intercompany payables and receivables in the ordinary course of business (other than employee payroll obligations);
- The Debtors do not have any intercompany agreements; and
- Efforts to deconsolidate the Debtors' respective assets and liabilities would be burdensome and divert professional resources that are more profitably directed elsewhere, all without meaningfully affecting the distributions received by any class.

22. The Plan modifications make clear that (i) the three Debtors (other than Valeritas, Inc.) are to be dissolved and their cases closed as soon as is practicable after the Effective Date and (ii) the U.S. Trustee Fees for such Debtors will be paid until the dates their respective cases are closed.

23. For the foregoing reasons, I believe that the deemed substantive consolidation provided by the Plan is appropriate under the circumstances and should be approved.

3. *The Releases Should Be Approved.*

24. The Plan contains a release of claims of the Debtors and their respective Estates (the "Debtors' Releases") against the Released Parties. The Plan is the result of, and effectuates, the global settlement memorialized in the Amended Settlement, which facilitated the negotiation and filing of the Combined Disclosure Statement and Plan and the funding of the Creditors' Trust. The Released Parties were integral to the development of the Plan and expected and negotiated a release in exchange for their contributions to the Debtors and their Chapter 11 Cases. The Debtors' Releases are consistent with the releases provided in the Amended Settlement.

25. Based on my participation in these Chapter 11 Cases, including events relating to the negotiation of the terms of the Plan, I believe that the Debtors' Releases are an essential component of the Plan, constitute a sound exercise of the Debtors' business judgment, and are in the best interests of the Debtors and their Estates and creditors. I have been informed that the release provisions are consistent with the Bankruptcy Code and comply with applicable case law.

26. Furthermore, all Classes entitled to vote on the Plan have voted to accept the Plan. For these reasons, I believe that the Debtors' Releases contained in the Plan are

warranted and satisfy the requirements of the Bankruptcy Code and applicable case law precedent as I understand them.

27. The Plan also provides for fully consensual Third-Party Releases of the Released Parties by the Releasing Parties. These Third-Party Releases are consensual because they only apply to Holders of Claims who elected on their Ballot affirmatively to opt-in to the Third-Party Release, regardless of whether such Holder voted to accept or reject the Plan or abstained from voting on the Plan. Interested parties received sufficient, clear and conspicuous notice of the Third-Party Releases and the process of opting into such releases.

28. It is my understanding that the Plan effectuates the terms of the Amended Settlement and allows the Voting Classes to effectively opt-in to the terms of the Amended Settlement on a fully consensual basis (by virtue of an opt-in mechanism) and grant the Third-Party Releases. Accordingly, I believe that the consensual Third-Party Releases should be approved.

4. *The Exculpation Provisions Should Be Approved.*

29. In addition to the Releases discussed above, the Plan provides for the exculpation of the Exculpated Parties, who are the Proponents, and their officers, directors, members and professionals. The scope of the exculpation provision is limited to customary activities related to the Combined Disclosure Statement and Plan, and other acts or omissions in contemplation of the Chapter 11 Cases or during the administration of the Debtors' Estates until the Effective Date. Moreover, the exculpation provision explicitly carves out willful misconduct, actual fraud, or gross negligence.

30. I believe the Exculpated Parties have participated in the Debtors' restructuring in good faith and the Exculpation Provision is necessary to protect those parties who

have contributed to the Debtors' reorganization from collateral attacks related to any good faith acts or omissions related to the Debtors' restructuring. The Plan would not be possible without the compromise and support provided by the Prepetition Lenders and their advisors.

31. Among other things, the Prepetition Lenders consented to the priming of their first-priority prepetition liens and use of their cash collateral, which facilitated the DIP Lender's willingness to provide the DIP Facility, which, in turn, facilitated the Purchaser's willingness to enter in into the Stalking Horse Agreement. Stated simply, the Debtors' Chapter 11 Cases would not have gotten off the ground but for the Prepetition Lenders' concessions and contributions. After the Creditors' Committee was appointed, the Debtors, Prepetition Lenders and the Creditors' Committee engaged in good faith, arm's-length negotiations that resulted in a global settlement that, among other things, resolved the Creditors' Committee's objections to the Final DIP Financing Order and the sale process—eventually leading to a successful, timely Sale and provided the foundation for a consensual plan. It is my understanding that the Plan embodies these agreements and concessions and would not have been possible without the Prepetition Lenders. Accordingly, I believe that the exculpation of the Prepetition Lenders should be approved.

32. Further, I believe that the scope of the Exculpation Provision is appropriately tailored to conform to what I am advised are the applicable legal standards for such exculpation provisions that have been determined to be appropriate by this Court and others.

5. *The Injunction Provision Should Be Approved.*

33. Article VIII of the Plan includes a provision enjoining parties from pursuing Claims discharged or Interests terminated under the Plan or taking any actions to interfere with the implementation or substantial consummation of the Plan. I believe this injunction provision is

necessary to implement the Plan, and to preserve and enforce the Debtors' Releases and the exculpation provision described above, and is appropriately tailored to achieve these purposes.

C. The Plan Complies with Section 1129(a)(2) of the Bankruptcy Code.

34. Based on my review of the Plan and my discussions with the Proponents' advisors, it is my understanding that the Proponents have complied with all solicitation and disclosure requirements set forth in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and the Interim Approval and Procedures Order governing notice, disclosure and solicitation in connection with the Combined Disclosure Statement and Plan. It is also my understanding that, as evidenced by the proof of service declarations and affidavits filed of record in these Chapter 11 Cases that the Proponents have complied with the Interim Approval and Procedures Order, as well as the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and other applicable law with respect to the foregoing.

D. The Plan Has Been Proposed in Good Faith Pursuant to Section 1129(a)(3) of the Bankruptcy Code.

35. I believe the Proponents have proposed the Plan in good faith and not by any means forbidden by law. The Plan is the result of extensive, good faith, arm's-length negotiations among the Proponents, first in connection with the CRG Settlement and the Amended Settlement, and second, in connection with the terms of the Plan, which implements the Amended Settlement. The Plan negotiation process demonstrates the Proponents' dedication to achieving the best possible result for all parties in interest; the Proponents also took into account comments from the U.S. Trustee and guidance from the Bankruptcy Court in preparing the plan. The good faith of the Plan is further evidenced by the overwhelming support of the Plan by voting Classes 2, 3 and 4. I believe that the Plan is fundamentally fair to all stakeholders and has been proposed with the legitimate purpose of maximizing Distributions to creditors.

E. The Plan Provides for Bankruptcy Court Approval of Payments for Services or Costs and Expenses Pursuant to Section 1129(a)(4) of the Bankruptcy Code.

36. Based on my review of the Plan and my discussions with the Proponents' advisors, it is my understanding that all payments made or to be made by the Debtors for services or for costs or expenses in connection with these Chapter 11 Cases, including all professional fees, have been approved by, or remain subject to approval of, the Court as reasonable. Therefore, I believe that the Plan complies with section 1129(a)(4) of the Bankruptcy Code.

F. The Plan Provides for Bankruptcy Court Approval of Payments for Services or Costs and Expenses Pursuant to Section 1129(a)(4) of the Bankruptcy Code.

37. In the Plan Supplement, the Proponents disclosed Emerald Capital Advisors Corp. as the proposed Liquidating Trustee and the terms of the compensation to be paid to the initial Liquidating Trustee. Therefore, it is my understanding, in consultation with the Proponents' advisors, that the Plan satisfies the requirements of section 1129(a)(5) of the Bankruptcy Code.

G. Section 1129(a)(6) Is Not Applicable to the Plan.

38. Based on my review of the Plan and my discussions with the Proponents' advisors, it is my understanding that the Plan does not provide for any rate changes subject to the jurisdiction of any governmental regulatory commission.

H. The Plan Is In the Best Interests of Creditors and Interest Holders Pursuant to Section 1129(a)(7) of the Bankruptcy Code.

39. I understand from the Proponents' advisors that the Bankruptcy Code requires, and I believe that, with respect to each Impaired Class of Claims and Interests, each Holder of such Claim or Interest (i) accepted the Plan or (ii) received or will retain under the Plan on account of such Claim or Interest property of a value, as of the Effective Date, that is not less

than the amount that such Holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

40. In consultation with employees of the Debtors and other employees of PwC, I supervised the preparation of the Liquidation Analysis annexed as Exhibit B to the Combined Disclosure Statement and Plan. I am familiar with the Liquidation Analysis, the underlying financial and asset data, and the assumptions upon which the Liquidation Analysis is based.

41. I believe that that the Liquidation Analysis incorporates reasonable assumptions and estimates regarding (i) the liquidation values of the Debtors' assets and the satisfaction of Claims, and (ii) the ultimate amount of Allowed Claims against, and expenses of, the hypothetical chapter 7 estates. I believe that the Liquidation Analysis provides a fair and reasonable assessment of the effects that a conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code would have on the proceeds available for distribution to Holders of Claims and Interests of the Debtors.

42. The Liquidation Analysis demonstrates that each Holder of an Allowed Claim or Interest will receive or retain under the Plan on account of such Claim or Interest property of a value, as of the Effective Date, that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. Accordingly, I believe that the Plan satisfies section 1129(a)(7) of the Bankruptcy Code.

I. Section 1129(a)(8) of the Bankruptcy Code Does Not Preclude Confirmation.

43. I believe, after consultation with the Proponents' advisors, that the Plan satisfies section 1129(a)(8) of the Bankruptcy Code because Class 1 is Unimpaired under the Plan and Impaired Classes 2, 3 and 4 have voted to accept the Plan. Class 5 Claims and Class 6 Interests are Impaired and are deemed to reject the Plan because they will not receive or retain any property

on account of their Claims or Interests. Based on discussions with the Debtors' advisors, it is my understanding that the Plan is nonetheless confirmable because it satisfies section 1129(a)(10) and section 1129(b) of the Bankruptcy Code, as discussed below.

J. The Plan Provides for Payment in Full of Administrative and Allowed Priority Claims Pursuant to Section 1129(a)(9) of the Bankruptcy Code.

44. Based on my discussions with the Proponents' advisors, it is my understanding that the Plan satisfies the requirements of section 1129(a)(9) of the Bankruptcy Code with respect to the Allowed Administrative Claims and Priority Claims.

45. Specifically, I, along with the Debtors' and other employees of PwC, reviewed the Debtors' books and records and all filed Claims that assert administrative expense status under section 503(b) of the Bankruptcy Code or priority status under section 507 of the Bankruptcy Code. I, along with other employees of PwC, also held also held discussions with the Debtors' current and former management in order to determine the potential for additional administrative expense or priority Claims that may be asserted against the Estates. Based on this diligence, I do not believe that any of the asserted administrative expense claims that remain unpaid are valid and believe that only approximately $70,000 to $105,000 of the asserted priority claims are potentially valid. Under the Plan, the Debtors have set aside more than $950,000 in excess funds in the Plan Escrow and the Administrative and Priority Claims Reserve to satisfy such potential claims. Therefore, I believe the Plan complies with section 1129(a)(9) of the Bankruptcy Code.

K. At Least One Impaired Class of Claims That Is Entitled to Vote Has Accepted the Plan, Pursuant to Section 1129(a)(10) of the Bankruptcy Code.

46. It is my understanding that Impaired Classes 2, 3 and 4 have voted to accept the Plan, thereby satisfying section 1129(a)(10) of the Bankruptcy Code.

L. The Plan is Feasible Pursuant to Section 1129(a)(11) of the Bankruptcy Code.

47. Based on my discussions with the Debtors' advisors, I believe that the Plan is reasonably likely to succeed and thus is feasible under section 1129(a)(11) of the Bankruptcy Code. First, the ability for the Debtors to make distributions as described in the Plan does not depend on future earnings or operations—only the orderly liquidation of the Debtors' assets. In addition, given that substantially all of the Debtors' assets have been liquidated and the Plan provides for the Distribution of all of the Cash proceeds of the Debtors' assets to Holders of Allowed Claims, I believe the Liquidating Trustee will have sufficient assets to accomplish its tasks under the Plan.

48. Furthermore, the Plan provides for the establishment of the Administrative and Priority Claims Reserve (which, as outlined above, is well in excess of the anticipated amount of valid administrative expense and priority claims), the Disputed General Unsecured Claims Reserve, and the Trust Expense Reserve (collectively, the "Reserves") to set aside money and property sufficient for the Creditors' Trust to make required payments and Distributions, and to fund any litigation and claims reconciliation conducted by the Liquidating Trustee. I believe that the Reserves are sufficient for these purposes, and therefore, the Plan is feasible.

M. The Plan Provides for the Payment of All Fees Under 28 U.S.C. § 1930 Pursuant to Section 1129(a)(12) of the Bankruptcy Code.

49. Based on my review of the Plan, and my discussions with the Proponents' advisors, Section 2.1 of the Plan provides for the payment of any fees due pursuant to section 1930 of title 28 of the United States Code or other statutory requirement. The Plan modifications make clear that the U.S. Trustee Fees for such Debtors will be paid until the dates their respective cases are closed.

N. Sections 1129(a)(13) through (16) of the Bankruptcy Code Are Not Applicable to the Plan.

50. Based on my discussions with the Proponents' advisors, sections 1129(13)-(16) of the Bankruptcy Code are not applicable to the Plan because the Debtors (i) do not have any retiree benefits as that term is defined in section 1114(a) of the Bankruptcy Code; (ii) are not required to pay any domestic support obligations; (iii) are not individuals; and (iv) are not nonprofit corporations or trusts.

O. The Plan Satisfies Section 1129(b) of the Bankruptcy Code.

51. Based on my discussions with the Proponents' advisors, it is my understanding and belief that the Plan does not discriminate unfairly, and I believe the Plan is fair and equitable with respect to each Class of Claims or Interests that is Impaired under, and has not accepted or is deemed to reject, the Plan. Specifically, I understand that Classes 5 and 6 are the only Classes of Claims or Interests that are Impaired under, and are deemed to reject, the Plan. Based on my discussions with the Proponents' advisors, I understand that the that the Plan is fair and equitable with respect to, and does not discriminate unfairly against these classes because the Claims and Interests in Classes 5 and 6, respectively, are legally and factually distinct from other Claims in other Classes and are properly classified in separate Classes. Therefore, I believe the Plan does not discriminate between Class 5 or 6 and any class of equal priority.

P. Section 1129(c) of the Bankruptcy Code Does Not Apply Because Only One Plan Is Before the Court

52. Based on my discussions with the Proponents' advisors, it is my understanding that section 1129(c) of the Bankruptcy Code is not applicable because the Plan is the only plan before the Court.

Q. The Plan Complies with Section 1129(d) of the Bankruptcy Code Because It Is Not An Attempt to Avoid Tax Obligations.

53. Based on my review of the Plan, my knowledge of the circumstances leading up to its development and my discussions with the Proponents' advisors, I submit that the principal purpose of the Plan is not the avoidance of taxes or the avoidance of the requirements of section 5 of the Securities Act of 1933, and no party in interest has filed an objection alleging otherwise.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: June 1, 2020

/s/ Steven Fleming
Steven Fleming