

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**In Re:**  
C Swank Enterprises, LLC,  
**Debtor.**

**Bankruptcy No.** 16-23451 JAD  
**Related Document No.** 239-236  
**Document No.**

**AMENDED SUMMARY OF CHAPTER 11 PLAN**

**AND NOW**, comes the Debtor, by and through its counsel, Calaiaro Valencik and Donald R. Calaiaro, and presents the following:

**A. Class 1, Administrative Claims** Class 1 will be paid in full on the Plan Effective Date unless the parties agree on a different payment arrangement.

**B. Class 2, First National Bank of Pennsylvania:** Class 2 consists of the allowed perfected secured claim of First National Bank of Pennsylvania ("FNB"). FNB's secured claim is composed of seven (7) Loans ("FNB Loans"). FNB is the holder of first priority blanket security interest liens in the personal property assets of Debtor, including inventory, chattel paper, accounts, receivables, equipment, documents and general intangibles as well as certain titled motor vehicles as more fully set forth in certain notes, security agreements, guarantees and other loan security documents ("Loan Documents") executed by the Debtor including dumpsters, cash collateral, fifteen Peterbilt 388s, one Peterbilt 367, one Peterbilt 567 and one International tractor/ trucks. As of the Petition Date, the total secured claim of FNB is \$2,730,522.05 with additional interest at the contractual per diem rate plus late charges and fees and costs, including without limitation attorneys' fees and costs allowed under Section 506 of the Bankruptcy Code. Upon confirmation, the modified Secured Claim of FNB, less credit for adequate protection payments and additional payments, shall be restructured to reflect the reduced balance. The balances on the FNB Loans shall be administratively consolidated by the Debtor into one Secured Claim amount<sup>1</sup>. The first payment will be made on the Plan Effective Date by the Reorganized Debtor. FNB's allowed secured claim will be paid in full with a fixed interest rate of five percent (5%) per annum with monthly minimum payments of \$30,497.11 paid to FNB paid on the 15<sup>th</sup> day of each month, plus the \$14,769.89 a month paid to FNB Commercial Leasing in Class 12 will also be paid monthly to FNB commencing after the lease payment claim in Class 12 is paid in full to FNB Commercial Leasing. All payments shall in be applied and allocated by FNB in its sole discretion to the indebtedness under the Loans. Notwithstanding any other provision in this Disclosure Statement and the Chapter 11 Plan, all of FNB's liens and judgments are retained. The obligations, terms, and conditions set forth in FNB's Loan Documents including the notes, loan agreements, security agreements and guaranties judgments and any other documents with the Debtors are reinstated and reaffirmed unless otherwise amended herein and shall remain in full force and effect. FNB shall be paid its reasonable attorneys' fees and costs pursuant to 11 U.S.C. §506(d) as it is fully secured. The treatment of FNB's secured claim herein shall not in any manner discharge, or affect the rights and claims of FNB against any other persons or entities or the obligations of any person or entity to FNB with respect to the indebtedness, including C Swank Enterprises, LLC and Carol Swank. Upon

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<sup>1</sup> Substantively the FNB Loans shall remain as separate loans with FNB.

confirmation of the Plan, all pre-confirmation defaults will be waived. The Principal of the Debtor will also contribute additional payments to FNB on terms mutually agreed upon by the Parties in a forbearance agreement.

The Debtor, C Swank Enterprises, LLC. will not declare any dividends to its Member shareholders during the period of the repayment to Class 2. The Debtor may retain necessary cash reserves to protect against any instability in its cash flow, a capital reserve for future repairs and maintenance of its equipment and an appropriate reserve for future capital acquisitions. Prior to the beginning of each quarter, the Debtor shall prepare a budget reflecting the necessary reserves (to protect against any instability in its cash flow, a capital reserve for future repairs and maintenance of its equipment and an appropriate reserve for future capital acquisitions) which it intends to create for each quarter, which shall be shared with FNB prior to the beginning of each quarter. In the event there are funds available at the end of the subject quarter in excess of the budgeted amount for reserves, then the Reorganized Debtor will use all such excess funds to pre-pay the Class 2 claims of First National Bank of Pennsylvania.

**C. Class 3, Paccar Financial,** is the holder of liens on two 2016 Peterbilt 389s, a 2016 Peterbilt 367, 2013 Peterbilt 388, 2015 Peterbilt 389, and a 2012 Peterbilt 388. The Creditor has filed claims at POC # 1 in the amount of \$66,096.37, POC # 8 in the amount of \$138,330.87, and POC # 9 in the amount of \$379,273.52. The total secured claims of this creditor are \$583,700.76. They will be paid in full over seven (7) years with a fixed interest rate of five percent (5%).

**D. Class 4, Santander,** is the holder of liens on two 2016 Peterbilt 367s, 2012 Peterbilt 388, 2015 Peterbilt 367, and 2013 International 5900i. The Creditor has filed claims at POC # 14 in the amount of \$101,137.20, POC # 15 in the amount of \$101,848.80, POC # 16 in the amount of \$130,369.80, and POC # 17 in the amount of \$347,443.65. The total secured claims of this creditor are \$680,799.45. This amount will be paid in full over seven (7) years with a fixed interest rate of five percent (5%).

**E. Class 5, TCF Equipment Finance,** is the holder of liens on a 2014 International 5900i. The Creditor has filed a claim at POC #22 in the amount of \$325,682.99 with \$240,000 secured. The Creditor will be paid its secured claim in full over seven (7) years with a fixed interest rate of five percent (5%). The unsecured portion of their claim will be modified in class 14.

**F. Class 6, Ally Bank,** is the lien holder of a 2012 Dodge Ram 2500 Crew Cab, a 2013 Dodge Ram 1500, and a 2012 Dodge Ram 4500. The Creditor has filed claims at POC # 11 in the amount of \$3,981.45, POC # 12 in the amount of \$2,961.76, and POC # 13 in the amount of \$11,499.84. The total secured claim of this Creditor is \$18,443.05. The amount will be paid in full over five (5) years with a fixed interest rate of five percent (5%).

**G. Class 7, Chrysler Capital,** is the lien holder of two 2013 Dodge Ram 5500s and two 2014 Dodge Ram 5500. The Creditor has not filed a proof of claim. The Debtor believes this Creditor's secured claim is \$104,517.47. The amount will be paid in full over Five (5) years with a fixed interest rate of five percent (5%).

**H. Class 8, De Lage Landen Financial Services, Inc.** is the lien holder of a 2013 International 5900i. The Creditor has not filed a proof of claim. The Debtor believes this Creditor's secured claim is \$67,545.78. The amount will be paid in full over seven (7) years

**I. Class 9, BMO Harris as assignee of GE Capital and GE Navistar Capital,** is the lien holder of a 2014 Peterbilt 337, 2013 Peterbilt 367, and 20113 Heritage 120BBL Tank. The Creditor filed a claim at POC # 20 in the amount of \$189,191.33. This amount will be paid in full over seven (7) years with a fixed interest rate of five percent (5%).

**J. Class 10, M&T Bank,** is the lien holder of 2014 Alpine 5<sup>th</sup> Wheel. The Creditor filed a claim at POC # 24 in the amount of \$33,457.56. This amount will be paid in full over seven (7) years with a fixed interest rate of five percent (5%).

**K. Class 11, Hunter Truck Sales & Service** is the lien holder of 8 equipment finance contracts. These vehicles were sold to the Debtor by Hunter Truck Sales & Service as a vendor. They were financed through Paccar. Hunter Truck sales and Service was "on recourse" as part of the financing. When the Debtor filed the bankruptcy, Hunter Truck Sales & Service paid the balance of the loans to Paccar in exchange for purchasing the primary security interests over the vehicles, as agreed to by the parties and as expressly ordered by this Court. As such, Hunter Truck Sales & Service holds the primary secured lien on:

- A. 2016 Peterbilt 367-1NPTL40X1GM308535- RF# 73
- B. 2016 Peterbilt 367-1NPTL40X5GM308537- RF# 74
- C. 2016 Peterbilt 367-2NPTL40X5GM308527- RF # 75
- D. 2013 Peterbilt 388-1NPWX4EX9DD178788- RF# 38
- E. 2013 Peterbilt 388-1NPWX4EX7DD178787- RF# 37
- F. 2013 Peterbilt 388-1NPWX4EX8DD178778- RF# 56
- G. 2013 Peterbilt 388-1NPWX4EX8DD178779- RF# 57
- H. 2015 Peterbilt -1NPWL40X3FD251417- RF# 50

This amount will be paid in full over seven (7) years at a fixed interest rate of three and three-quarter's percent (3.75%).

**L. Class 12, Equipment leases with FNB.** FNB has leased 3 vehicles with the Debtor. They are three (3) 2016 Peterbuilt tucks:

- a. 2016 Peterbilt 367-VIN: 2NPTL40X9GM308525-RF#83;
- b. 2016 Peterbilt 389-VIN: 1NPXL40X3GD334545- RF#84; and
- c. 2016 Peterbilt 389-VIN: 1NPXL40X5GD333557- RF#85.

The lease payment on these trucks is \$ 14,769.89 a month. The pre-bankruptcy arrears are the August and September 2016 payments or \$ 29,539.78. The leases will be assumed and cured.

**M. Class 13, Executory Contract with Wells Fargo,** Class 13 shall consist of the executory contracts for equipment. The only member of this class is Wells Fargo that is the current lessor of an office copier for \$502.00 monthly and appropriate taxes. The lease was dated July 22, 2015 and it was for 36 months. There is a pre-petition arrearage of \$1,299.92. The Debtor will assume this lease and cure the pre-petition and post-petition arrears on the Plan Effective Date. The Debtor will make all future payments as required by the contract.

**N. Class 14, Priority Tax Claims,** will be paid in full over five years.

**O. Class 15, Executory Contracts with Royal Flush. The Debtor has leased 57 trucks to an affiliate Royal Flush. These are the 57 leases**

Class 2 – First National Bank of Pennsylvania in addition to its blanket lien on all assets, FNB has liens on the following vehicles:

5	28	2012 Peterbilt 388	1NPWXPEX2CD169432	FNB Loan 45624140
6	32	2012 Peterbilt 388	1NPWX4EX8CD169417	FNB Loan 45624140
7	29	2012 Peterbilt 388	1NPWX4EXXCD169418	FNB Loan 45624140
8	39	2013 Peterbilt 388 / 5 axles	1NPWL40XDD185395	FNB Loan 45624140
9	40	2013 Peterbilt 388 / 5 axles	1NPWL40X7DD185418	FNB Loan 45624140
10	41	2015 Peterbilt 388 / 4 axles (RO)	1NPWL40X7FD267172	FNB Loan 45624140
11	52	2012 Peterbilt 388 / 4 axles	1NPWL40XXCD169292	FNB Loan 45624140
12	53	2012 Peterbilt 388 / 4 axles	1NPWL40X1CD169293	FNB Loan 45624140
13	54	2013 Peterbilt 388 / 4 axles	1NPWL40X8DD185315	FNB Loan 45624140
14	55	2013 Peterbilt 388 / 4 axles	1NPWL40X4CD169319	FNB Loan 45624140
15	25	2012(new)Peterbilt 388	1NPWX4EXXCD169421	FNB Loan 45624140
16	35	2013 Peterbilt 388 - roll off	1NPWX4EX0DD178792	FNB Loan 45624140
17	36	2013 Peterbilt 388 - quad axle	1NPWX4EX8DD178782	FNB Loan 45624140
18	61	2013 Peterbilt 388 / 4 axles	1NPWXPEX1DD178754	FNB Loan 45624140
19	62	2013 Peterbilt 388 / 4 axles	1NPWXPEX3DD178755	FNB Loan 45624140
20	69	2014 Peterbilt 367	1NPCLP0X0ED218233	FNB/45522085
21	71	2015 Int'l 5900i	3HTNUAPT0FN719213	FNB/45522085
22	72	2014 Peterbilt 567	1NPCLP0X8ED247477	FNB/45522085

**Class 3 – PACCAR Financial**

26	80	2015 Peterbilt 389	1NPCL40X0FD306957	Paccar - B: 100-683-150-
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27	81	2016 Peterbilt 389S	2NPXL40X8GM298538	Paccar - B: 100-683-150- 00056644917
28	82	2016 Peterbilt 389S	2NPXL40XXGM298539	Paccar - B: 100-683-150- 00056644917
29	78	2016 Peterbilt 367	2NPTL40X3GM308536	Paccar - B: 100-683-150- 00056644305
36	23	2012(used)Peterbilt 388	1NPWX4EX9CD133851	PACCAR: 100-683-150- 00006236145
39	20	2013 Peterbilt 388 – black	1NPWL40X1DD185303	PACCAR: 100-683-150- 00006222335

## Class 4 – Santander

40	76	2016 Peterbilt 367	VIN-308528	Santander: 002-0014812
41	77	2016 Peterbilt 367	VIN-308529	Santander: 002-0014812
43	51	2012 Peterbilt 388 / 4 axles	VIN-169302	Santander: 002-0014812- 001
44	33	2013 Int'l 5900i	1HTXYSJT9DJ145603	Santander: 002-0014812- 000
64	64	2015 Peterbilt 367	VIN- 1NPCL40X4FD290309	Santander: 002-0014812- 002

## Class 5 – TCF Equipment Finance

45	66	2014 Int'l 5900i	VIN-022538	TCF/001- 0667187-500
46	65	2014 Int'l 5900i	VIN-022540	TCF/001- 0667187-501

## Class 6 – Ally Bank

47	21	2012 Dodge RAM 2500 crew cab	3C6TD5HT5CG303618	Ally: 611917865243
48	26	2013 Dodge RAM 1500 - black	3CJR7AT0DG500972	Ally: 61191919973
49	8	2012 Dodge RAM 4500	3C7WDKEL1CG246197	Ally: 611920000705

## Class 7 – Chrysler Capital

50	31	2013 Dodge RAM 5500	3C7WRNBL2DG521388	Chrysler Capital: 3344617
51	16	2013 Dodge RAM 5500	3C7WRMBLXDG537008	Chrysler Capital: 3411978
56	43	2014 Dodge RAM 5500 Flatbed	3C7WRNFL4EG180622	Chrysler
57	44	2014 Dodge RAM 5500	3C7WRNFL6EG162607	Chrysler

## Class 8 – DeLage Landen Financial Services, LLC

1	24	2013 Int'l 5900i – red	1HTXYSJT9DJ145665	De Lage Landen: 595202
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## Class 9- BMO Harris as assignee of GE Capital &amp; GE Navistar Capital

23	45	2014 Peterbilt 377 (mechanic truck)	2NP2HM6X9EM247176	GE Capital: 7807709-001
24	70	2013 Peterbilt 367	VIN-175834	GE Capital/978939500

## Class 10 – M&amp;T Bank

25	n/a	2014 Alpine 5th Wheel RV		M&T Bank
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## Class 11 – Hunter Truck Sales &amp; Service

30	75	2016 Peterbilt 367	VIN-308527	PACCAR: 100-683-150-00006632848
31	73	2016 Peterbilt 367	VIN-308535	PACCAR: 100-683-150-00006631121
32	74	2016 Peterbilt 367	VIN-308537	PACCAR: 100-683-150-00006631121
33	56	2013 Peterbilt 388 / 4 axles	VIN-178778	PACCAR: 100-683-150-00006341861
34	57	2013 Peterbilt 388 / 4 axles	VIN-178779	PACCAR: 100-683-150-00006341861
35	50	2015 Peterbilt 388 / 4 axles	VIN-251417	PACCAR: 100-683-150-00006335723
37	37	2013 Peterbilt 388 (incl.warranty)	1NPWX4EX7DD178787	PACCAR: 100-683-150-00006311682
38	38	2013 Peterbilt 388	1NPWX4EX9DD178788	PACCAR: 100-

## Class 12 – equipment leases with FNB Commercial Leasing

2	83	2016 Peterbilt 367	2NPTL40X9GM308525	FNB LEASE: 4627-FML1
3	85	2016 Peterbilt 389S	1NPXL40X5GD333557	FNB LEASE: 4627-FML1
4	84	2016 Peterbilt 389S	1NPXL40X3GD334545	FNB LEASE: 4627-FML1

## Other leases –Unencumbered

52	2	2011 Ford F250	1FTBF2A68BEB47100	PAID
53	1	2011 Ford F250	1FTBF2A62BEA34825	PAID
54	5	2012 Isuzu NPR	54DC4W1B8CS800540	PAID
60	11	2012 Hino 238	5PVNE8JR8C4S50179	PAID

These leases are being assumed as a term of the Royal Flush Plan. This class is comprised of a related entity Royal Flush and it is not entitled to Vote upon this plan. See 11 USC § 1129 (a) (10)

**P. Class 16, General Unsecured Creditors** The class 16 unsecured creditors will be paid in full on the Plan Effective Date with post-confirmation interest. The debtor believes there are no unsecured creditors.

**Q. Class 17, Creditors who have claims arising from Guaranties of related entities** These creditors will retain their claims against related entities. The members of Class 17 loaned money to one or more third parties who are related to or affiliated with the Debtor, and Debtor guaranteed the third party's obligations to the creditor in connection with those loans. Class 17 creditors, will retain their claims against the Debtor and any third parties who are liable for such debts, and such debts shall not be deemed discharged as to the Debtor or any third party who may be obligated to the Bank in connection with the same upon confirmation of the plan. Excluding the secured guaranty claims of FNB and FNB Commercial Leasing which are retained and treated under Classes 2 and 12 in this Plan any creditor who holds claims against Royal Flush, Inc. will receive their payment from the borrower and not this debtor.

The class 17 members shall be enjoined from taking any action against the related entities while the Borrower and Royal Flush, Inc. and C. Swank Enterprises LLC remains current on the contract or under C Swank's Plan their debts will not be discharged. Any creditor who holds claims against C Swank will receive their payment from the borrower and not this debtor. This injunction does not apply to FNB and FNB Commercial Leasing which will enter into forbearance agreements with Carol Swank, from the enforcement of any claims against C. Swank Enterprises, LLC, and Carol Swank for guaranties of Royal Flush, Inc, debts.

**R. Class 18, Equity Shareholder Claims and Rights.** The rights of the equity interest in the Debtor, the LLC will be retained by the Member as modified.

The Reorganized Debtor shall not issue any dividends nor make any loans to shareholders until Classes 1 through 16 have been paid in full. In order to improve plan feasibility, Carol Swank has agreed that her post-confirmation salary for 2017 and 2018 will be \$ 120,000.00. Her salary will not exceed \$ 135,000.00 per year in 2019; this salary shall not be increased until after Jan. 1, 2020. After January 1, 2020, Carol Swank's salary may be increased only if the Debtor is current on payments to Classes 2 through 16 are current under this Plan. Brian Swank has also agreed to limit his post-confirmation salary to improve plan feasibility. Brian Swank has agreed that his post-confirmation salary for 2017 and 2018 will be \$ 120,000.00. His salary will not exceed \$135,000.00 per year in 2019; this salary shall not be increased until after Jan. 1, 2020. After January 1, 2020, Brian Swank's salary may be increased only if the Debtor is current on payments to Classes 2 through 16 are current under the Plan.

C. Swank Enterprises LLC agrees that it will not declare any dividends to its Member during the period of the repayment to Class 2 through 16.

C. Swank Enterprises LLC and its member, Carol Swank and Royal Flush, Inc. and its shareholder, Carol Swank, stipulate that any claim that Royal Flush, Inc has against C. Swank Enterprises, LLC shall not be discharged. This includes any claims of contribution that Royal Flush may acquire if it pays off the debts of C. Swank Enterprises, LLC. They also agree that they waive any passage of time from the commencement of the case and after confirmation until the Plan is completed or until there has been a declared default under the plan as to any statute of limitations or Statue of Repose for those excluded periods.

C. Swank Enterprises LLC. and its member, Carol Swank and Royal Flush, Inc. and its shareholder, Carol Swank, stipulate that any claim that Royal Flush, Inc. has under chapter 5 of the bankruptcy code shall not be discharged. They also agree that they waive any passage of time from the commencement of the case and after confirmation until the Plan is completed or until there has been a declared default under the plan as to any statute of limitations or Statue of Repose for those excluded periods.

**Respectfully Submitted,**

**Date:** July 31, 2017

**BY:** /s/ Donald R. Calaiaro

**Donald R. Calaiaro, Esquire, PA I.D. #27538**

[dcalaiaro@c-vlaw.com](mailto:dcalaiaro@c-vlaw.com)

**BY:** /s/ David Z. Valencik

**David Z. Valencik, Esquire PA ID #30836**

[dvalencik@c-vlaw.com](mailto:dvalencik@c-vlaw.com)

**CALAIARO VALENCIK**

**428 Forbes Avenue, Suite 900**

**Pittsburgh, PA 15219-1621**

**(412) 232-0930**