

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA

In re:

PITTSBURGH ATHLETIC ASSOCIATION,  
*et al.*,  
*Debtors.*

Jointly Administered at:  
Bankruptcy No. 17-22222-JAD

Bankruptcy Nos:  
17-22222-JAD, and  
17-22223-JAD

PITTSBURGH ATHLETIC ASSOCIATION,  
PITTSBURGH ATHLETIC ASSOCIATION  
LAND COMPANY,  
*Movants,*

Chapter 11

Doc. No. 841

v.

NO RESPONDENTS.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER  
APPROVING THE AMENDED JOINT DISCLOSURE STATEMENT  
TO ACCOMPANY THE [THIRD REVISED] AMENDED JOINT PLAN  
OF REORGANIZATION DATED MARCH 13, 2018 AS REVISED  
APRIL 22, 2018 ON A FINAL BASIS AND CONFIRMING DEBTORS'  
[THIRD REVISED] AMENDED JOINT PLAN OF REORGANIZATION  
DATED MARCH 13, 2018 AS REVISED APRIL 22, 2018  
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

THIS MATTER came before the Court for hearing on May 30, 2018 (the "Confirmation Hearing") to consider confirmation of the [Third Revised] Amended Joint Plan of Reorganization dated March 13, 2018 of the Debtors-in-Possession, Pittsburgh Athletic Association ("PAA") and Pittsburgh Athletic Association Land Company ("PAALC" and together with PAA collectively, the "Debtors") and as revised April 22, 2018 [Doc. No. 702] (collectively, the "Amended Plan")<sup>1</sup>. A true and correct copy of the Amended Plan is attached hereto as Exhibit "A".

<sup>1</sup> All capitalized terms not defined herein shall have the same as defined in the Amended Plan.

The Court having considered the following:

- a. The Amended Plan [Doc. No. 702];
- b. The [Revised Impaired Class Joint Amended Joint Disclosure Statement To Accompany Joint Plan of Reorganization Dated March 13, 2018 [Doc. No.588] dated March 13, 2018 as revised April 24, 2018 [Doc. No. 717] (the "Amended Disclosure Statement");
- c. The Memorandum of Law in Support of Confirmation of Amended Joint Plan of Reorganization dated March 13, 2018 [Doc. No. 820] (the "Confirmation Memorandum");
- d. The Declaration of William Krieger in Support of Confirmation of Debtors' Joint Amended Chapter 11 Plan of Reorganization (the "Krieger Declaration") [Doc. No. 818];
- e. Declaration of Mark Popovich in Support of Confirmation of Debtors' Joint Amended Chapter 11 Plan of Reorganization (the "Popovich Declaration") [Doc. No. 819];
- f. Declaration of James Sheehan in Support of Confirmation of Debtors' Joint Amended Chapter 11 Plan of Reorganization (the "Sheehan Declaration") [Doc. No. 817];
- g. Declaration of Todd E. Reidbord in Support of Confirmation of Debtors' Joint Amended Chapter 11 Plan of Reorganization (the "Sheehan Declaration") [Doc. No. 821];
- h. The Summary of Ballots [Doc. No.813];
- i. The following objections and responses to the Amended Plan;
  - (a) Objection to Amended Joint Plan of Reorganization Dated March 13, 2018 filed by OFAHA (the "OFAHA Objection") [Doc. No. 688].
  - (b) Objection to the Confirmation of Debtors' Joint Plan of March 13, 2018, as revised March 16, 2018 and April 15, 2018 (Current Plan) and to the Approval of Debtors' Impaired Class Joint Amended Disclosure Statement to Accompany the Joint Plan of Reorganization Dated March 13, 2018 (as revised April 15, 2018) filed by the DOR (the "DOR Objection") [Doc. No. 681].
  - (c) The United States Supplemental Objection to Confirmation of Debtors' Chapter 11 Plan filed by the United States Department of Justice (the "IRS Objection") [Doc. No. 684].

(d) Joint Objection to Confirmation of Plan (Joint Objection to [Third Revised] Amended Joint Plan of Reorganization Dated March 16, 2018 (as revised April 22, 2018) and Accompanying Disclosure Statement Plan Dated March 16, 2018 filed by Yvonne Rose ("Rose"), Richard Velan ("Velan"), Kay Merge ("Merge") and Irwin Kotovsky ("Kotovsky", and together with Rose, Velan and Merge, collectively the "Member Respondents") (the "Member Respondent Objection") [Doc. No. 807].

(e) Joinder to the Joint Objection to the [Third Revised] Amended Joint Plan of Reorganization Dated March 16, 2018 (as revised April 22, 2018) and Accompanying Disclosure Statement and Additional Objection to the [Third Revised] Amended Joint Plan of Reorganization Dated March 16, 2018 (as revised April 22, 2018) and Accompanying Disclosure Statement filed by McKnight Realty Partners (the "McKnight Objection") [Doc. No. 808].

(f) Response and Reservation of Rights of the Official Committee of Unsecured Creditors of Pittsburgh Athletic Association, et al., to Debtors' [Third Revised] Joint Plan of reorganization dated March 16, 2018 (as revised on April 22, 2018) filed by the Committee (the "Committee Response") [Doc. No. 806].

- j. The withdrawals of the McKnight Objection and the Member Respondent Objection;
- k. The evidence presented;
- l. The statements and representations of counsel;
- m. The record before the Court, including the Court's docket, pursuant to Bankruptcy Rule 7052, makes the following findings of fact and conclusions of law.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the above, and otherwise being fully advised, the Court hereby makes the following findings of fact and conclusions of law pursuant to Rule 7052(a) of the Federal Rules of Bankruptcy Procedure:

- 1. Adequate and sufficient notice, as required pursuant to the Bankruptcy Rules and the Court's Order Conditionally Approving the Disclosure Statement, Fixing Time for Filing Acceptances or Rejections of Plan, Fixing Time for Hearing on Plan Confirmation, and Setting Last Day for Filing a Complaint Objection to Discharge Combined With Notice Thereof [Doc.



No. 724] (the "Disclosure Statement Order") was provided to all known creditors, equity security holders, Member Interest Holders, the Office of the U.S. Trustee, and other parties in interest.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§157 and 1334 and the District Court's general order of reference. Confirmation of the Amended Plan is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

3. The Amended Disclosure Statement complies with 11 U.S.C. § 1125.

4. No Modifications have been made to the Amended Plan.

5. In accordance with § 1122(a) of the Bankruptcy Code (the "Code"), the Amended Plan classifies and places each Claim against and Interest in the Debtors together with other Claims against or interests in the Debtors, as applicable, that are substantially similar to such Claims or interests, and, accordingly, satisfies Section 1122(a) of the Code.

6. The Amended Plan adequately and properly classifies all Claims and Interests required to be classified, and, accordingly, satisfies Section 1123(a)(1) of the Code.

7. The Amended Plan specifies the classes of Claims or Interests that are impaired and those that are unimpaired under the Amended Plan, and accordingly, satisfies Section 1123(a)(2) and (3) of the Code.

8. The Amended Plan provides the same treatment for each Claim or Interest in each Class, unless the holder of such a Claim or Interest agree to less favorable treatment, and accordingly, satisfies Section 1123(a)(4) of the Code.

9. The Amended Plan sets forth in detail the means by which the Amended Plan will be implemented, and accordingly, provides adequate means for its implementation and satisfies Section 1123(a)(5) of the Code.

10. The Amended Plan complies with all applicable provisions of the Code, Section 1129(a) and (b) with respect to all Classes of Claims and Interests under the Amended Plan, and is dated with the name of the entities submitting it, as required by Bankruptcy Rule 3016(a).

**A. 11 U.S.C. § 1129(a)(1)**

11. The Amended Plan complies with the applicable provisions of the Code, including, without limitation, Sections 1122, 1123, 1125 and 1129(a) and (b ), with respect to all Classes of Claims and interests under the Amended Plan. Accordingly, the provisions of Section 1129(a)(1) of the Code have been satisfied.

**B. 11 U.S.C. § 1129(a)(2)**

12. The Debtors have complied with the applicable provisions of the Code. Accordingly, the provisions of Section 1129(a)(2) of the Code have been satisfied.

**C. 11 U.S.C. § 1129(a)(3)**

13. The Amended Plan has been proposed in good faith and not by any means forbidden by law. Accordingly, the provisions of Section 1129(a)(3) of the Code have been satisfied.

**D. 11 U.S.C. § 1129(a)(4)**

14. Any payments made or to be made by the Debtors, or the Reorganized Debtor, for services or for costs and expenses in or in connection with the Case, or in connection with the Amended Plan and incident to the Case, have been approved by, or are subject to the approval of, this Court as reasonable. Accordingly, the provisions of Section 1129(a)(4) of the Code have been satisfied.

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**E. 11 U.S.C. § 1129(a)(5)**

15. The Amended Plan identifies the PAA as the Reorganized Debtor and as sole shareholder of PAALC. Under Article 7.6 of the Amended Plan, as of the Effective Date, PAA will retain its Equity Interest in PAALC and PAALC shall remain in existence until such time is necessary to carry out the provisions of Amended Plan. Accordingly, the provisions of Section 1129(a)(5)(A) of the Code have been satisfied.

16. No insiders will be employed or retained by the Reorganized Debtor and therefore Section 1129(a)(5)(B) is inapplicable.

**F. 11 U.S.C. § 1129(a)(6)**

17. Section 1129(a)(6) of the Code is not applicable under the terms of the Amended Plan.

**G. 11 U.S.C. § 1129(a)(7)**

18. There are three Impaired Classes, OFAHA, the Blanche Trust and the PAA Member Interests. OFAHA and the Blanche Trust voted to accept the Amended Plan and therefore the provisions of Sections 1129(a)(7)(i) have been met. As set forth in the Ballot Summary, there were 94 overall Members who voted to accept the Amended Plan thereby satisfying the provisions of Sections 1129(a)(7)(i) and there were 46 overall Members who voted not to accept the Amended Plan, however those Members will receive or retain under the Amended Plan on account of their Interests, property of a value, as of the Effective Date of the Amended Plan, that is not less than the value of their Interest thereby satisfying the provisions of Sections 1129(a)(7)(ii).

**H. 11 U.S.C. § 1129(a)(8)**

19. Classes 1, 4, 5, 6, 7, 8, 9 and 10 are Unimpaired under the Amended Plan and are deemed to have accepted the Amended Plan. Classes 2, 3 and 11 are impaired and have voted to accept the Amended Plan as evidenced by the Summary of Ballots filed on May 25, 2018 [Doc. No. 813]. Accordingly, the provisions of Sections 1129(a)(8) have been met.

**I. 11 U.S.C. § 1129(a)(9)**

20. Article 4, Sections 4.7 and 4.8, of the Amended Plan provide for payment in full of all Claims entitled to priority under Section 507(a) of the Code either on the later of (a) thirty (30) days from the Effective Date or (b) fifteen days after the date such Priority Claim becomes an Allowed Priority Claim. Accordingly, the provisions of Section 1129(a)(9) of the Code have been satisfied.

**J. 11 U.S.C. § 1129(a)(10)**

21. The Amended Plan includes two Impaired Classes of Claims, both of which accepted the Amended Plan. Accordingly, the provisions of Section 1129(a)(10) of the Code have been satisfied.

**K. 11 U.S.C. § 1129(a)(11)**

22. Other than as provided in the Amended Plan, confirmation of the Amended Plan is not likely to be followed by the liquidation, or the need for further financial reorganization of the Debtors or any successor to the Debtors under the Amended Plan. Accordingly, the provisions of Section 1129(a)(11) of the Code have been satisfied.



**L. 11 U.S.C. § 1129(a)(12)**

23. The Amended Plan provides for payment in full of all fees payable under 28 U.S.C. § 1930. The Debtors have paid all such fees on a current basis and Article 14.1 of the Amended Plan provides for the payment of all remaining statutory fees on the Effective Date. The Amended Plan further provides that any statutory fees accruing after the Confirmation Date shall constitute Administrative Expense Claims and be paid by the Debtor in accordance with Article 2.1 of the Amended Plan. Accordingly, the provisions of Section 1129(a)(12) of the Code have been satisfied.

**M. 11 U.S.C. § 1129(a)(13)**

24. The Debtors no longer employ any individuals entitled to any retiree benefits. As such, Debtors are no longer obligated to pay any such benefits, and section 1129(a)(13) of the Code is inapplicable.

**N. 11 U.S.C. § 1129(a)(14) and (15)**

25. Sections 1129(a) (14) and (15) of the Code do not apply to this case because these provisions apply to individual debtors and these Debtors are not individuals.

**O. 11 U.S.C. § 1129(a)(16)**

26. The sale of the Debtors Assets shall be completed in accordance with both applicable Pennsylvania non-profit laws and the Internal Revenue Code sections governing tax-exempt organizations. Accordingly, the provisions of Section 1129(a)(16) of the Code have been satisfied.



**P. 11 U.S.C. § 1129(b)**

27. All Classes of Creditors and Interests entitled to vote on the Amended Plan accepted the Amended Plan. Accordingly, Section 1129(b) of the Code is inapplicable.

**Q. 11 U.S.C. § 1129(c)**

28. The Amended Plan is the only plan that has been filed in the Case and therefore Section 1129 of the Code is inapplicable.

**R. 11 U.S.C. § 1129(d)**

29. The principal purpose of the Amended Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933. Therefore, the provisions of Section 1129(d) of the Code have been satisfied.

**S. 11 U.S.C. § 1129(e)**

30. The Debtors cases are not small business cases and therefore Section 1129(e) of the Code is inapplicable.

**T. Plan Implementation**

31. The terms of the Amended Plan and all exhibits and schedules thereto, and all other documents filed in connection with the Amended Plan, or executed or to be executed in connection with the transactions contemplated by the Amended Plan and all amendments and modifications of any of the foregoing made pursuant to the provisions of the Amended Plan governing such amendments and modifications are incorporated by reference, are approved in all respects, and constitute an integral part of this Confirmation Order.

**U. Binding and Enforceable**

32. The Amended Plan and all exhibits and schedules thereto have been negotiated in good faith and at arm's length, are fair and reasonable, and, subject to the occurrence of the Effective Date, shall bind any holder of a Claim or interest and such holder's respective successors and assigns subject to the occurrence of the Effective Date. The Amended Plan and all exhibits and schedules thereto constitute legal, valid, binding, and authorized obligations of the respective parties thereto and shall be enforceable in accordance with their terms. Pursuant to Section 1142(a) of the Bankruptcy Code, the Amended Plan shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

**V. The Sale of the Sale Assets**

33. The Sale of the Sale Assets to Walnut PAA, LP ("Walnut PAA") provides for the prompt payment in full of all Allowed Claims. The Sale of the Sale Assets is fair and equitable, a valid exercise of the Debtors' business judgment, and in the best interests of the estates. Walnut PAA is a good faith purchaser under section 11 U.S.C. § 363(m), and (e). The provisions of 11 U.S.C. § 363(n) have not been violated.

**W. Executory Contracts and Unexpired Leases**

34. The Debtors have exercised sound business judgment in determining whether to reject, assume, or assume and assign each of their Executory Contracts and Unexpired Leases pursuant to Sections 365 and 1123(b)(2) of the Code. Subject to the Effective Date, Articles 9.1 and 9.3 of the Amended Plan provide for the assumption and assignment of the Club Lease and the Ground Lease by the Debtors to Walnut PAA. Since the filing of the Amended Plan, Walnut PAA has advised the Debtors that it no longer desires to assume the Club Lease and therefore the Club lease will be rejected by the Debtors pursuant to this Order and the conveyance of both the

Hotel Parcel and Club Parcel to two (2) different Walnut entities or affiliates. Article 9.4 of the Amended Plan provides for the rejection of each of the Debtors' Executory Contracts and Unexpired Leases that is not being assumed under the Amended Plan or otherwise has not been previously rejected, assumed, or assumed and assigned by the Debtors.

**X. Discharge of Claims**

35. Pursuant to section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Amended Plan, this Confirmation Order, or in any contract, instrument, or other agreement or document created pursuant to the Amended Plan, the distributions, rights, and treatment that are provided in the Amended Plan, and subject to the occurrence of the Effective Date, shall be in complete satisfaction, discharge, and release, effective as of the Effective Date, of Claims, Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, liens on, obligations of, rights against, and interests in, the PAA or any of its assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Amended Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests of the PAA, subject to the Effective Date occurring. The conveyance of the Real Property Assets are free and clear of any and all liens, claims and encumbrances pursuant to 11 U.S.C. §§ 363(b),(f)&(h) and 1123, except for the claims and liens specifically assumed in the Amended Plan and this Order.



**Y. Exculpation and Injunction**

36. The injunctions and exculpations, and related provisions set forth in Article 10 of the Amended Plan are incorporated herein in their entirety, are hereby approved and authorized in all respects, are so ordered, and shall be immediately effective on the Effective Date without further order or action on the part of this Court or any other party.

37. As to the United States of America there shall be no release, exculpation, or discharge beyond the provisions in 11 U.S.C. §§ 505(b), 1141, or other applicable provision of the Bankruptcy Code.

**Z. Tax Consequences of the Sale of the Sale Assets and the TCE-TIA Escrow**

38. The PAA is a tax-exempt 501(c)(7) entity and the Debtors' book and records evidence that the PAALC has operated as a 501(c)(2) entity since it obtained tax exempt status in 1940.

39. On March 8, 2018, PAALC filed its application for retroactive reinstatement of its 501(c)(2) tax-exempt status.

40. On May 25, 2018, the PAALC's 501(c)(2) tax-exempt status was reinstated retroactively with an effective date of January 1, 2007.

41. The IRS and DOR have agreed to the creation of the TCE-TIA Escrow whereby funds in the amount of up to \$3,500,000.00 will be held in escrow pending: (i) a final adjudication under Section 505 as to the allowance and amount of any income tax; or (ii) any final adjudication of any audit and assessment associated therewith by a tribunal with appropriate jurisdiction over such audit and assessment. A lesser amount may be escrowed on consent of the IRS, DOR, Reorganized Debtor and Walnut.

42. The TCE-TIA Escrow will be funded by a contribution of money contributed by Walnut PAA.

43. Upon final determination under Section 505(b), or upon audit and final assessment associated therewith by the tribunal with appropriate jurisdiction over such audit and assessment that a payment is required, the funds from the TCE-TIA Escrow will first be used to pay proportionally any liability due to the IRS or DOR. Additionally, the tax returns filed by the Debtors under Section 505(b) shall be sent via email to counsel for the IRS, Ari D. Kunofsky, Esquire, and counsel for the DOR, T. Lawrence Palmer, Esquire.

44. In the event that all or some of the funds held in the TCE-TIA Escrow are not needed to pay the income tax claims of the IRS and DOR resulting from the sale of the Real Property Assets, the unused funds will be distributed as follows: (i) the first \$500,000 of the unused funds will be returned to Walnut PAA; and (ii) second, the remaining balance of the unused funds up to \$2,000,000 will be first distributed back to Walnut PAA to be utilized for tenant improvements as set forth in the PSA with any remaining money not to exceed \$1,000,000 to be remitted to the Reorganized Debtor on account of the Equity Contribution.

45. In addition to the Purchase Price (as that term is defined in the PSA), Walnut PAA agrees to fund at Closing the amount necessary to ensure funds are available to the Disbursing Agent sufficient to pay in full all Allowed Claims and fund the necessary claims Disputed Claims Reserve, including but not limited to, Professional Fee Claims, as required under the Amended Plan.

46. To the extent of any inconsistencies by and between the PSA and the Amended Plan, the Amended Plan shall control. To the extent of any inconsistencies by and between the Amended Plan and this Confirmation Order, this Confirmation Order shall control. To be free of

doubt, the Confirmation Order shall control in respect of any inconsistency by and between this Confirmation Order, the Amended Plan, any Amended Plan supplements and/or the PSA.

47. In accordance with Section 1146, the Real Property Assets will be sold pursuant to a confirmed plan of reorganization and therefore the transfer to Walnut PAA, its affiliates and/or designees, any subsequent lease back to PAA will be exempt from realty transfer taxes.

**AA. Oral Findings Incorporated by Reference**

48. The Court's oral findings of fact and conclusions of law announced on the record at the Confirmation Hearing are incorporated by reference herein.

**BB. Requirements for Confirmation Satisfied**

49. All of the requirements for Confirmation under Section 1129 of the Code have been satisfied. Confirmation of the Amended Plan is in the best interests of the Estate, its creditors and interest holders, and all other parties in interest.

**BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW WHICH ARE ADOPTED AND INCORPORATED HEREIN, IT IS HEREBY ORDERED THAT:**

50. The Notice of the Amended Plan and Disclosure Statement, objection and balloting dates was adequate and sufficient under the Code, the Bankruptcy Rules, the Local Rules, Orders of this Court, and the Due Process Clause of the United States Constitution.

51. The Court has conducted a hearing to consider the Amended Plan and Disclosure Statement and all objections and responses received. Based on the evidence submitted and the arguments of counsel and the parties, any objections to confirmation not withdrawn or otherwise addressed in this Order are expressly **OVERRULED**.



52. The Amended Disclosure Statement is **APPROVED** on a final basis as of the date hereof.

53. The Amended Plan is **CONFIRMED** and **APPROVED** in all respects.

54. The Findings of Fact and Conclusions of Law shall constitute findings of fact and conclusions of law of this Court pursuant to Bankruptcy Rule 7052. To the extent any finding of fact is later determined to be a conclusion of law it shall be so deemed, and to the extent any conclusion of law is shall later determined to be a finding of fact it shall be so deemed.

55. The provisions of this Order, unless stated otherwise, are meant only to supplement and approve the terms and conditions of the Amended Plan and should not be interpreted as a limitation on the terms and conditions contained in the Amended Plan. In the event of clear ambiguity and/or inconsistency between the terms of this Order and the terms and conditions of the Amended Plan, the terms of this Order shall apply and govern.

56. The PAA shall continue to operate as the Reorganized Debtor under the terms as set forth in the Amended Plan. The Debtors are authorized and directed to take all actions necessary or appropriate to consummate the Amended Plan, including by entering into, implementing, and consummating the contracts, instruments, releases, indentures, and other agreements or documents created, amended, supplemented, modified, or adopted in connection with the Sale of the Sale Assets.

57. Within thirty (30) days from the date that this Confirmation Order becomes a final order, the Closing will occur and the Debtors shall sell the Sale Assets to Walnut PAA pursuant to the terms of the PSA and the Amended Plan. The individuals authorized to execute the closing documents on behalf of the Debtors are James Sheehan, President of the Debtors,

Thomas Blake Stanton, Vice President of the Debtors, Jonathan Glance, Secretary of the Debtors and Charles Felix, Treasurer of the Debtors.

58. All requests for allowance and payment of Administrative Expense Claims pursuant to 11 U.S.C. § 503(b), including, without limitation, any and all Claims asserted pursuant to § 503(b)(9), shall be filed with the Bankruptcy Court and served in accordance with the Bankruptcy Rules no later than thirty (30) days after the entry of this Confirmation Order on the docket. Administrative Expense Claims that are not timely filed will be disallowed automatically and deemed forever barred, estopped, and enjoined from assertion, without the need for any objection by the Debtors or the Reorganized Debtor or any further notice to or action, order, or approval of this Court, and are not enforceable against the Debtors and/or the Reorganized Debtor.

59. Notwithstanding the provisions of paragraph 56, all Professionals engaged pursuant to Sections 327, 328, and 1103 of the Code and seeking Bankruptcy Court approval of Professional Compensation Claims incurred through and including the Effective Date must file, where applicable, their respective final applications for allowance of Professional Fee Claims within thirty (30) days following the Effective Date. Allowed Professional Fee Claims shall be paid in full by the Disbursing Agent on the date when the order relating to any such Professional Fee Claim is a Final Order, or on such other terms as may be mutually agreed upon between the holder of an Allowed Fee Compensation Claim and the Debtors and the Disbursing Agent.

60. Distributions will be made in accordance with the Amended Plan by the Disbursing Agent except that the following Claims shall be paid by the Closing Agent:

A. Mortgages:

- a. Open-End Mortgage and Security Agreement from Pittsburgh Athletic Association Land Company to Allegheny Valley Bank of Pittsburgh dated December 16, 2008 and recorded December 16, 2008 in Mortgage Book Volume 36129, page 295 in the amount of \$2,625,000.00; assigned by Standard Bank PASB Successor in interest to Allegheny Valley Bank of Pittsburgh to PITT AA LLC, an Illinois limited liability company, by Assignment of Mortgage recorded August 29, 2017 in Mortgage Book Volume 48317, page 163.

Together with the following mortgage related document:

- (i) Assignment of Rents and Leases dated December 16, 2008 and recorded December 16, 2008 in Deed Book Volume 13815, page 211.
- b. Open-End Mortgage and Security Agreement from Pittsburgh Athletic Association Land Company to Oakland Fifth Avenue Hotel Associates, L.P. dated May 20, 2014 and recorded June 4, 2014 in Mortgage Book Volume 43948, page 1 in the amount of \$575,000.00; last assigned from First Commonwealth Bank to Oakland Fifth Avenue Hotel Associates LP by Assignment and Assumption of The \$575,000.00 Note, Mortgage, Assignment of Rents, Loan Agreement and Other Loan Documents dated June 16, 2017 and recorded July 14, 2017 in Mortgage Book Volume 48129, page 318; and Assignment and Assumption of Open-End Mortgage and Security Agreement and Assignment of Rents and Leases dated June 16, 2017 and recorded July 14, 2017 in Mortgage Book Volume 48129, page 327.

Together with the following mortgage related documents:

- (i) Assignment of Rents and Leases dated May 20, 2014 and recorded June 4, 2014 in Deed Book Volume 15620, page 100.
  - (ii) Financing Statement showing Pittsburgh Athletic Association Land Company, debtor, and Oakland Fifth Avenue Hotel Associates, L.P., secured party, filed on June 4, 2014 at Financing Statement No. 77988; assigned to First Commonwealth Bank on March 13, 2015 at Financing Statement No. 78990; assigned to Oakland Fifth Avenue Hotel Associates LP by Amendment filed July 14, 2017 at Financing Statement 82979.

See Also:



- (iii) Assignment and Assumption of Open-End Mortgage and Security Agreement and Assignment of Rents and Leases from Oakland Fifth Avenue Hotel Associates, L.P. to First Commonwealth Bank dated February 27, 2015 and recorded in Mortgage Book Volume 44883, page 159.
- (iv) Subordination Agreement executed by Oakland Fifth Avenue Hotel Associates, L.P. dated March 10, 2015 and recorded in Mortgage Book Volume 44882, page 293.
- c. Open-End Mortgage and Security Agreement from Pittsburgh Athletic Association Land Company to Oakland Fifth Avenue Hotel Associates, L.P. dated March 10, 2015 and recorded March 13, 2015 in Mortgage Book Volume 44882, page 262 in the amount of \$1,372,744.00.

Together with the following mortgage related documents:

- (i) Assignment of Rents and Leases dated March 10, 2015 and recorded March 13, 2015 in Deed Book Volume 15907, page 572.
- (ii) Financing Statement showing Pittsburgh Athletic Association Land Company, debtor, and Oakland Fifth Avenue Hotel Associates, L.P., secured party, filed on March 13, 2015 at Financing Statement No. 78988; assigned to First Commonwealth Bank on March 13, 2015 at Financing Statement No. 78991; last assigned to Oakland Fifth Avenue Hotel Associates LP by Assignment filed July 14, 2017 at Financing Statement 82980.

See Also:

- (iii) Assignment and Assumption of Open-End Mortgage and Security Agreement and Assignment of Rents and Leases from Oakland Fifth Avenue Hotel Associates, L.P. to First Commonwealth Bank dated February 27, 2015 and recorded March 13, 2015 in Mortgage Book Volume 44883, page 172; reassigned to Oakland Fifth Avenue Hotel Associates LP by Assignment and Assumption of Open-End Mortgage and Security Agreement and Assignment of Rents and Leases from First Commonwealth Bank dated June 16, 2017 and recorded July 14, 2017 in Mortgage Book Volume 48129, page 345.

- d. Open-End Mortgage and Security Agreement from Pittsburgh Athletic Association Land Company to Oakland Fifth Avenue Hotel Associates, L.P. dated April 10, 2017 and recorded April 12, 2017 in Mortgage Book Volume 47764, page 261 in the amount of \$150,000,000.00.
- e. Open-End Mortgage and Security Agreement from Pittsburgh Athletic Association Land Company to Rollover Fund LLC, an Illinois limited liability company, dated June 16, 2017 and recorded in Mortgage Book Volume 48029, page 1 in the amount of \$750,000.00; as amended or modified by Affirmation of and Amendment to Loan Documents by and among Pittsburgh Athletic Association, Pittsburgh Athletic Association Land Company and Rollover Fund LLC dated August 4, 2017 and recorded August 9, 2017 in Mortgage Book Volume 48237, page 234; as amended by Affirmation of and Second Amendment to Loan Documents by and among Pittsburgh Athletic Association, Pittsburgh Athletic Association Land Company and Rollover Fund LLC dated October 9, 2017 and recorded October 12, 2017 in Mortgage Book Volume 48499, page 139.

with the following mortgage related documents:

- (i) Assignment of Rents and Leases dated June 16, 2017 and recorded June 20, 2017 in Deed Book Volume 16837, page 460.
- (ii) Financing Statement showing Pittsburgh Athletic Association Land Company, debtor, and Rollover Fund LLC, secured party, filed on June 20, 2017 at Financing Statement 82858.
- f. Steffan Industries Incorporated vs Pittsburgh Athletic Association Land Company, et al, filed at GD-17-000274, filed on January 6, 2017 mechanic lien claim in the amount of \$36,640.00.
- g. All unpaid water and sewage charges, including municipal claim of Pittsburgh Water and Sewer Authority, filed at GD17-006268, filed on 4-27-17.
- h. All unpaid real estate taxes, if any:
- i. Settled corporate taxes, if any.

61. At the Closing, the Closing Agent shall pay to the Disbursing Agent funds from the sale of the Sales Assets sufficient to pay the Allowed Claims in full in accordance with Amended Plan and fund the necessary claims Disputed Claims Reserve, including but not limited to, Professional Fee Claims, as required under the Amended Plan.

62. Notwithstanding the payment of the aforementioned Claims by the Closing Agent in paragraph 58, the Debtor reserves the right to dispute said Claims and file Claim Objections and seek a refund of any amounts that were paid by the Closing Agent.

63. Except as otherwise provided in the Amended Plan, the Debtors and the Reorganized Debtor shall retain all Pre-Petition and Post-Petition Causes of Action Post-Confirmation including, without limitation, those causes of action identified in Section 7, Paragraph G(iii) of the Amended Disclosure Statement [causes of action against the Pittsburgh History & Landmarks Foundation and Meyer Unkovic & Scott].

64. The Debtors and the Reorganized Debtor shall have the authority to file, settle, compromise, withdraw, arbitrate, or litigate to judgment objections to all Claims and interests filed, scheduled, or deemed filed of record and not otherwise Allowed under the Amended Plan. The Debtors and the Reorganized Debtor shall file and serve objections to Claims on or before sixty (60) days from the Effective Date, or such time as may be set by the Bankruptcy Court.

65. On the Effective Date, all Pre-Petition executory contracts and unexpired leases to which the Debtors are a party shall be deemed automatically rejected as of the Effective Date in accordance with the provisions and requirements of Sections 365 and 1123(b)(2) of the Bankruptcy Code, unless any such executory contract or unexpired lease (i) previously has been subject to a Final Order of the Bankruptcy Court authorizing assumption or rejection, as the case may be, entered prior to the Effective Date, (ii) is the subject of a motion to assume, assume and



assign, or reject pending as of the Effective Date, or (iii) is going to be assumed and assigned on the Effective Date pursuant to the terms of the Amended Plan.

66. This Order constitutes an Order of this Court, as of the Effective Date, authorizing and approving (i) the rejection of the Club Lease; and (ii) the assumption and assignment of the Ground Lease to Walnut PAA.

67. Counterparties to executory contracts or unexpired leases that are deemed rejected as of the Effective Date may assert a claim on account of such rejection, subject to compliance with the requirements of the Amended Plan. Any Claims arising from the rejection or the Debtors' executory contracts and unexpired leases pursuant to the Amended Plan or otherwise must be filed with this Court no later than thirty (30) days after the Effective Date. Any such Claims that are not timely filed will be disallowed automatically, and forever barred, estopped, and enjoined from assertion and shall not be enforceable against the Debtors and/or Reorganized Debtor without the need for any objection by the Debtors or the Reorganized Debtor or any further notice to or action, order, or approval of this Court, and any Claim arising out of the rejection of the executory contract or unexpired lease shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the rejection of the Debtor's executory contracts and unexpired leases will be and are classified as Class 9 General Unsecured Claims and entitled to the treatment accorded to holders of claims in Class 9 pursuant to the Amended Plan.

68. The automatic stay provisions of Section 362 of the Bankruptcy Code shall remain in effect until the Effective Date.

69. All fees payable in the Case pursuant to 28 U.S.C. § 1930, if and to the extent due as provided in the Amended Plan, or as otherwise determined by the Bankruptcy Court, if not previously paid, will be paid by the Disbursing Agent in full in Cash on the Effective Date and will continue to be paid by the Debtors and Reorganized Debtor as required under 28 U.S.C. § 1930 until such time as an Order is entered by this Court closing the Case.

70. The Agreement of Purchase and Sale dated November 27, 2017, as amended in May 2018, and attached to the Amended Disclosure Statement as Exhibit C by and between the Debtors and Walnut is approved and will be effective of the Effective Date.

71. Subject to the occurrence of the Effective Date, the Discharge and Injunction provisions set forth in Article 10.1(b) of the Amended Plan are approved.

72. Subject to the occurrence of the Effective Date, the Indemnification provisions set forth in Article 10.1(c) of the Amended Plan are approved.

73. Subject to the occurrence of the Effective Date, the Exculpation provisions set forth in Article 10.1(d) of the Amended Plan are approved.

74. The determination of the income tax liability and distribution of the proceeds of the TCE-TIA Escrow is deferred pending adjudication. Each of the statements, positions, motions, objections, and legal analysis regarding the income tax liability, if any, for the Sale of the Real Property Assets and the disposition of the TCE-TIA Escrow of the Reorganized Debtor, Walnut PAA, IRS and DOR (and, if applicable post-confirmation, the Debtors and the Creditors Committee) are preserved. Once the income tax liabilities are determined, then the distribution from the TCE-TIA Escrow will occur pursuant to the Escrow Agreement executed by the Reorganized Debtor, Walnut PAA, the IRS and DOR.

75. Nothing in the Amended Plan or Confirmation Order shall constitute an adjudication on the Debtors' income tax liabilities resulting from the sale of Sale Assets or otherwise. In addition, the amount provided in the TCE-TIA Escrow shall not limit the amount of income tax, interest, and penalties that may potentially accrue pursuant to the Internal Revenue Code.

76. The Amended Disclosure Statement discloses that the Debtors have claims against the Pittsburgh History & Landmarks Foundation related to a façade easement. See Amended Disclosure Statement [Doc. No. 717], p. 44. The Debtors may bring those façade easement claims post-confirmation and the Court will retain jurisdiction of the adversary action that may be filed post-confirmation encompassing the façade easement claims.

77. The Debtors shall reasonably form or, if one already exists, re-form an Art Committee (the "PAA Art Committee") to address the question of the final disposition of the PAA art collection (the "Artwork") and to decide on the process and procedure for selling the Artwork sufficient to pay the Allowed Secured Claim of the Blanche Trust and any professional fee administrative claim consistent with the terms of the Amended Plan and the provisions of the Bankruptcy Code. Members of the PAA Art Committee shall be drawn from the PAA members. This paragraph is subject to the rights, if any, of the Blanche Trust provided under the Third Amended Plan or in applicable law.

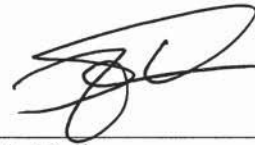


78. In the event that the Redevelopment Plan build out contemplated by the PSA, the New PAA Lease and the Amended Plan is determined to be impracticable, then PAA shall convene a membership meeting on notice consistent with its Bylaws to address how PAA shall direct future use of any unused portion of the Equity Contribution remaining in the TCE-TIA Escrow.

79. Upon the occurrence of the Effective Date, the Committee shall be dissolved and discharged from any further duties and/or responsibilities.

IT IS SO ORDERED, THIS 31<sup>st</sup> DAY OF May, 2018.

BY THE COURT:



\_\_\_\_\_  
Jeffery A. Deller  
Chief Bankruptcy Judge

FILED  
5/31/18 2:49 pm  
CLERK  
U.S. BANKRUPTCY  
COURT - WDPA