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Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
HONORABLE DONALD H. STECKROTH
CASE NO. 09-10555 (DHS)

Chapter 11
(Jointly Administered)

**NOTICE OF MOTION FOR AN ORDER:
(A) APPROVING THE ADEQUACY OF
THE DISCLOSURE STATEMENT
PURSUANT TO 11 U.S.C. § 1125(b); (B)
FIXING A RECORD DATE FOR
VOTING AND PROCEDURES FOR
OBJECTING TO PLAN AND
TEMPORARY ALLOWANCE OR
DISALLOWANCE OF CLAIMS; (C)
APPROVING SOLICITATION
PACKAGES AND DISTRIBUTION
PROCEDURES FOR SAME; (D)
APPROVING FORM OF BALLOT AND
PROCEDURES FOR VOTING ON PLAN
OF REORGANIZATION; AND (E)
SCHEDULING A CONFIRMATION
HEARING AND APPROVING NOTICE
AND PROCEDURES FOR OBJECTING
TO PLAN CONFIRMATION**

HEARING DATE AND TIME:
September 10, 2009 at 10:00 a.m.

In re:

TARRAGON CORPORATION, *et al.*

Debtors-in-Possession.

TO: All Parties-in-Interest on Master Service List



PLEASE TAKE NOTICE that on September 10, 2009, at 10:00 a.m., or as soon thereafter as counsel may be heard, the undersigned, attorneys for Tarragon Corporation, *et al.*, the within debtors and debtors-in-possession (collectively, the “Debtors”),¹ shall move before the Honorable Donald H. Steckroth, United States Bankruptcy Judge, at the United States Bankruptcy Court, Martin Luther King, Jr. Federal Building, 50 Walnut Street, Third Floor, Newark, New Jersey 07102, for entry of an Order: (A) approving the adequacy of the disclosure statement pursuant to 11 U.S.C. § 1125(b); (B) fixing a record date for voting and procedures for filing objections to the plan and temporary allowance or disallowance of claims; (C) approving solicitation packages and procedures for same; (D) approving the form of ballot and establishment of procedures for voting on the Plan; and (E) scheduling a confirmation hearing and approving notice and procedures for objecting to confirmation (the “Motion”).

PLEASE TAKE FURTHER NOTICE that in support of the Motion, the undersigned shall rely on the accompanying Application which sets forth the relevant factual and legal bases upon which the requested relief should be granted. A proposed Order granting the requested relief also is submitted herewith.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief requested in the Motion shall: (i) be in writing, (ii) state with particularity the basis of the objection; and (iii) be filed with the Clerk of the United States Bankruptcy Court electronically by attorneys who

¹ The Debtors are Tarragon Corporation, Tarragon Development Corporation, Tarragon South Development Corp., Tarragon Development Company LLC, Tarragon Management, Inc., Bermuda Island Tarragon LLC, Orion Towers Tarragon, LLP, Orlando Central Park Tarragon L.L.C., Fenwick Plantation Tarragon LLC, One Las Olas, Ltd., The Park Development West LLC, 800 Madison Street Urban Renewal, LLC, 900 Monroe Development LLC, Block 88 Development, LLC, Central Square Tarragon LLC, Charleston Tarragon Manager, LLC, Omni Equities Corporation, Tarragon Edgewater Associates, LLC, The Park Development East LLC, Vista Lakes Tarragon, LLC, Murfreesboro Gateway Properties, LLC, Tarragon Stonecrest, LLC, MSCP, Inc., Tarragon Stratford, Inc. and TDC Hanover Holdings LLC.

regularly practice before the Bankruptcy Court in accordance with the General Order Regarding Electronic Means for Filing, Signing, and Verification of Documents dated March 27, 2002 (the “General Order”) and the Commentary Supplementing Administrative Procedures dated as of March 2004 (the “Supplemental Commentary”) (the General Order, the Supplemental Commentary and the User’s Manual for the Electronic Case Filing System can be found at www.njb.uscourts.gov, the official website for the Bankruptcy Court) and, by all other parties-in-interest, on CD-ROM in Portable Document Format (PDF), and shall be served in accordance with the General Order and the Supplemental Commentary, so as to be received no later than seven (7) days before the hearing date set forth above.

PLEASE TAKE FURTHER NOTICE that unless objections are timely filed, the Motion shall be deemed uncontested in accordance with D.N.J. LBR 9013-1(a), and the relief requested may be granted without a hearing.

PLEASE TAKE FURTHER NOTICE that the undersigned waives oral argument unless objections to the Motion are timely filed.

COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.
Attorneys for Tarragon Corporation, *et al.*,
Debtors-in-Possession

By: /s/ Michael D. Sirota
Michael D. Sirota
Warren A. Usatine

DATED: August 21, 2009

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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
HONORABLE DONALD H. STECKROTH
CASE NO. 09-10555 (DHS)

Chapter 11
(Jointly Administered)

In re:

TARRAGON CORPORATION, *et al.*

Debtors-in-Possession.

**APPLICATION IN SUPPORT OF
DEBTORS' MOTION FOR AN ORDER:
(A) APPROVING THE ADEQUACY OF
THE DISCLOSURE STATEMENT
PURSUANT TO 11 U.S.C. § 1125(B); (B)
FIXING A RECORD DATE FOR
VOTING AND PROCEDURES FOR
OBJECTING TO PLAN AND
TEMPORARY ALLOWANCE OR
DISALLOWANCE OF CLAIMS FOR
VOTING PURPOSES; (C) APPROVING
SOLICITATION PACKAGES AND
DISTRIBUTION PROCEDURES FOR
SAME; (D) APPROVING FORM OF
BALLOT AND PROCEDURES FOR
VOTING ON PLAN OF
REORGANIZATION; AND (E)
SCHEDULING A CONFIRMATION
HEARING AND APPROVING NOTICE
AND PROCEDURES FOR OBJECTING
TO PLAN CONFIRMATION**

TO: HONORABLE DONALD H. STECKROTH
United States Bankruptcy Judge

The Application of Tarragon Corporation, *et al.*, the within debtors and debtors-in-possession (collectively, the “Debtors”),¹ in support of their motion for an Order: (A) approving the adequacy of the Disclosure Statement (as defined below) pursuant to 11 U.S.C. § 1125(b); (B) fixing a record date for voting and procedures for filing objections to the Plan (as defined below) and temporary allowance or disallowance of claims for voting purposes; (C) approving solicitation packages and procedures for same; (D) approving the form of ballot and establishment of procedures for voting on the Plan; and (E) scheduling a confirmation hearing and approving notice and procedures for objecting to confirmation (the “Motion”), respectfully states as follows:

II. INTRODUCTION

1. On January 12, 2009, January 13, 2009 and February 4, 2009 (as applicable to each Debtor, the “Filing Date”), the Debtors each filed a voluntary petition for relief under Chapter 11, Title 11 of the United States Code (the “Bankruptcy Code”). Since the Filing Date, the Debtors have remained in possession of their assets and managed their business as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

2. On February 4, 2009, the Office of the United States Trustee for the District of New Jersey (the “UST”) appointed an official committee of unsecured creditors (the

¹ The Debtors are Tarragon Corporation, Tarragon Development Corporation, Tarragon South Development Corp., Tarragon Development Company LLC, Tarragon Management, Inc., Bermuda Island Tarragon LLC, Orion Towers Tarragon, LLP, Orlando Central Park Tarragon L.L.C., Fenwick Plantation Tarragon LLC, One Las Olas, Ltd., The Park Development West LLC, 800 Madison Street Urban Renewal, LLC, 900 Monroe Development LLC, Block 88 Development, LLC, Central Square Tarragon LLC, Charleston Tarragon Manager, LLC, Omni Equities Corporation, Tarragon Edgewater Associates, LLC, The Park Development East LLC, Vista Lakes Tarragon, LLC, Murfreesboro Gateway Properties, LLC, Tarragon Stonecrest, LLC, MSCP, Inc., Tarragon Stratford, Inc. and TDC Hanover Holdings LLC.

“Committee”). Since its appointment, the Committee has played an active and involved role in all aspects of the Debtors’ Chapter 11 proceedings.

3. On August 3, 2009, the Debtors filed a Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code for the Chapter 11 Plan of Reorganization of Tarragon Corporation, *et al.* (the “Disclosure Statement”) which accompanies the Debtors’ Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the “Plan”).

4. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

III. RELIEF REQUESTED AND BASIS THEREFOR

A. Approval of the Disclosure Statement Pursuant to 11 U.S.C. § 1125(b)

5. The Bankruptcy Code provides that a plan proponent cannot solicit acceptances or rejections of a plan unless the Court approves a written disclosure statement as containing “adequate information.” 11 U.S.C. § 1125(b). See also General Electric Credit Corp. v. Nardulli & Sons, Inc., 836 F.2d 184, 188 (1988). The Bankruptcy Code defines “adequate information” as:

information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan ... and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information.

11 U.S.C. § 1125(a)(1).

6. A plan proponent must furnish such information so that creditors and interest holders can make an informed decision about the feasibility of the plan. See e.g. In re Microwave Prods. of America, Inc., 100 B.R. 376, 377 (Bankr. W.D. Tenn. 1989). The adequacy of a disclosure statement is to be determined on a case-by-case basis “under a flexible standard that can promote the policy of chapter 11 towards fair settlement through a negotiation process between informed and interested parties.” In re Copy Crafters Quickprint, Inc., 92 B.R. 973, 979 (Bankr. N.D.N.Y. 1988); see also Oneida Motor Freight, Inc. v. United Jersey Bank, 848 F.2d 414, 417 (3d Cir. 1988), cert. denied, 488 U.S. 967 (1988). Essentially, a disclosure statement must “clearly and succinctly inform the average unsecured creditor what it is going to get, when it is going to get it, and what contingencies there are to getting its distribution.” In re Ferretti, 128 B.R. 16, 19 (Bankr. D.N.H. 1991).

7. Accordingly, a bankruptcy court has broad discretion to examine the adequacy of information contained in a disclosure statement. See In re Texas Extrusion Corp., 844 F.2d 1142, 1157 (5th Cir. 1988); In re Ionosphere Clubs, Inc., 179 B.R. 24, 29 (S.D.N.Y. 1995); Ferretti, 128 B.R. at 18. In addition to the criteria now specified in Section 1125(a)(1), courts examining the adequacy of disclosure statements prior to the enactment of BAPCPA generally examined whether the disclosure statement contained the following types of information:

- (a) the circumstances that gave rise to the filing of the bankruptcy petition;
- (b) an explanation of the available assets;
- (c) the anticipated future of the debtor;
- (d) the source of the information provided in the disclosure statement;

(e) a disclaimer, which typically indicates that no statement or information concerning the debtor or its assets are authorized, other than those set forth in the disclosure statement;

(f) the condition and performance of the debtor while in chapter 11;

(g) information regarding claims against the estate;

(h) a liquidation analysis;

(i) the accounting methods used to produce the financial information in the disclosure statement;

(j) a summary of the plan;

(k) an estimate of all administrative expenses, including professional fees;

(l) any financial information, valuations or pro forma projections that would be relevant to creditors' determinations of whether to accept or reject the plan;

(m) information relevant to the risks being taken by the creditors and interest holders;

(n) the actual or projected value that can be obtained from avoidable transfers;

(o) the existence, likelihood and possible success of nonbankruptcy litigation;

(p) the tax consequences of the plan; and

(q) the relationship of the debtor with its affiliates.

In re Cardinal Congregate I, 121 B.R. 760, 765 (Bankr. S.D. Ohio 1990); In re Oxford Homes, Inc., 204 B.R. 264, 269 (Bankr. D. Me. 1997). This list is by no means comprehensive, and a plan proponent is not required to provide all of the information on the list. See In re Phoenix Petroleum Co., 278 B.R. 383, 393 (Bankr. E.D. Pa. 2001) (cautioning that "no one list of categories will apply in every case"); Feretti, 128 B.R. at 18-19.

8. The Debtors submit that, based on the above standards, the Disclosure Statement contains adequate information to allow creditors and interest holders to make an informed decision as to whether to accept or reject the Plan. The Disclosure Statement, for example, describes, inter alia, (a) the Plan, including the composition and proposed treatment of each class of claims asserted against the Debtors' estate, (b) the circumstances giving rise to the Debtors' chapter 11 filings, (c) significant events that occurred during the Debtors' chapter 11 cases, (d) the condition and performance of the Debtors while in chapter 11, (e) financial information that will be relevant to creditors' determinations of whether to accept or reject the Plan, (f) descriptions of the Reorganized Debtors' management, (g) the method and timing of distributions under the Plan, (h) a liquidation analysis identifying the estimated return creditors would receive if the Debtors' bankruptcy cases were converted to cases under chapter 7 of the Bankruptcy Code, (i) the federal tax consequences of the Plan, and (j) appropriate disclaimers regarding the Court's approval of information only as contained in the Disclosure Statement. Accordingly, the Debtors submit that the Disclosure Statement contains adequate information within the meaning of section 1125 of the Bankruptcy Code and should be approved.

B. The Record Date

9. Bankruptcy Rule 3017(d) provides that, for the purpose of soliciting votes in connection with confirmation of a plan, "creditors and equity security holders shall include holders of stock, bonds, debentures, notes and other securities of record on the date the order approving the disclosure statement is entered or another date fixed by the court, for cause, after notice and a hearing." Fed. R. Bankr. P. 3017(d). Bankruptcy Rule 3018(a) similarly provides that the record date for voting purposes shall be the "date the order approving the disclosure statement is entered or on another date fixed by the court, for cause, after notice and a hearing."

10. Consistent with Bankruptcy Rules 3017(d) and 3018(a), the Debtors respectfully request that the Court fix the day the Court enters an Order granting the relief requested in this Motion as the record date (the “Record Date”) for purposes of determining creditors entitled to vote on the Plan or, in the case of non-voting classes, to receive the Notice of Non-Voting Status (as defined and described below).

C. The Solicitation Package and Procedures for Distribution Thereof

11. Bankruptcy Rule 3017(d) sets forth the materials that must be provided to holders of claims and equity interests for the purpose of soliciting their votes and providing adequate notice of the hearing on confirmation of a plan. Specifically, Rule 3017(d) provides, in pertinent part:

Upon approval of a disclosure statement,—except to the extent that the court orders otherwise with respect to one or more unimpaired classes of creditors or equity security holders—the debtor in possession, trustee, proponent of the plan, or clerk as the court orders, shall mail to all creditors and equity security holders, and in a chapter 11 reorganization case shall transmit to the United States trustee,

- (1) the plan or a court-approved summary of the plan;
- (2) the disclosure statement approved by the court;
- (3) notice of the time within which acceptances and rejections of such plan may be filed; and
- (4) any other information as the court may direct, including any court opinion approving the disclosure statement or a court-approved summary of the opinion.

In addition, notice of the time fixed for filing objections and the hearing on confirmation shall be mailed to all creditors and equity security holders in accordance with Rule 2002(b), and a form of ballot conforming to the appropriate Official Form shall be mailed to creditors and equity security holders entitled to vote on the plan....

Fed. R. Bankr. P. 3017(d).

12. After the Court has approved the Disclosure Statement as containing adequate information required by section 1125 of the Bankruptcy Code, the Debtors propose that the Debtors will mail or cause to be mailed solicitation packages (the "Solicitation Packages") containing copies of (a) the Order approving this Motion, (b) the Confirmation Hearing Notice (defined below) and (c) the Disclosure Statement (with the Plan annexed thereto as Exhibit A), which Solicitation Package will be filed with the Court upon the mailing thereof. The Debtors will commence mailing the Solicitation Packages on the date that is three (3) business days after the adequacy of the Disclosure Statement is approved (the "Solicitation Date") to (i) the UST, (ii) all parties who have filed a notice of appearance, (iii) all persons or entities listed on the Schedules as holding undisputed, liquidated and non-contingent claims, (iv) any person or entity that has filed a proof of claim against the Debtors' estates in an amount greater than zero, and (v) any other known holders of claims against the Debtors in an amount greater than zero or equity interests in the Debtors as of the Record Date.

13. The Debtors propose to include certain additional solicitation materials in the Solicitation Packages. Holders of claims in the classes entitled to vote to accept or reject the Plan will, in addition to the information listed in paragraph 12 above, receive a form of Ballot and a self-addressed, stamped return envelope. Consistent with sections 1126(f) and (g) of the Bankruptcy Code and Bankruptcy Rule 3017(d), Solicitation Packages for holders of claims against or equity interests in the Debtors within a class under the Plan that is deemed to accept or reject the Plan will not include a Ballot. The Solicitation Packages for such holders of claims and equity interests will include a Notice of Non-Voting Status (defined below).

14. The Debtors also propose not to send Solicitation Packages to creditors that have claims that already have been paid in full; provided, however, that if, and to the extent that, any

such creditor would be entitled to receive a Solicitation Package for any reason other than by virtue of the fact that its claim had been scheduled by the Debtors, then such creditor will be sent a Solicitation Package in accordance with the procedures set forth above.

15. The Debtors anticipate that some of the notices of hearing to consider approval of and deadline for objecting to the Debtors' Disclosure Statement (the "Disclosure Statement Notices") may be returned to the Debtors as undeliverable. The Debtors believe it would be costly and wasteful to distribute Solicitation Packages to the same addresses to which undeliverable Disclosure Statement Notices were distributed. Therefore, the Debtors seek the Court's approval for a departure from the strict notice rule, excusing them from distributing Solicitation Packages to those entities listed at such addresses, unless the Debtors are provided accurate addresses for such entities before the Solicitation Date.

16. The Debtors respectfully submit they have shown good cause for implementing the proposed notice and service procedures.

D. Form of Ballot and Procedures for Voting on the Plan

1. Form of Ballot and Method for Distribution Thereof

17. Bankruptcy Rule 3017(d) requires the Debtors to mail a form of ballot, which substantially conforms to Official Form No. 14, only to "creditors and equity security holders entitled to vote on the plan." Fed. R. Bankr. P. 3017(d). The Debtors propose to distribute to creditors, which are impaired and entitled to vote on the Plan, a ballot substantially in the form annexed hereto as **Exhibit A** (the "Ballot"). The form of Ballot is based upon Official Form No. 14, with slight modification to meet the particular requirements of the Debtors' Chapter 11 cases and the Plan. The Ballot will not be mailed to any classes that are either unimpaired and conclusively presumed to have accepted the Plan, or will receive no distribution under the Plan and, therefore, are deemed to have rejected the Plan.

2. Form of Notice to Non-Voting Classes

18. Certain classes are unimpaired under the Plan and, therefore, are conclusively presumed to accept the Plan and are not entitled to vote. See 11 U.S.C. § 1126(f). In addition to the materials described in paragraph 12 above, the Debtors will send the holders of claims in those classes a notice of non-voting status (the “Notice of Non-Voting Status—Unimpaired Class”), substantially in the form annexed hereto as **Exhibit B**, which identifies each class as unimpaired and informs holders of claims in those classes that they are not entitled to vote to accept or reject the Plan.

19. The Debtors also propose to send a notice (the “Notice to Scheduled Non-Claimants”) to any party to an executory contract who holds a claim that is not allowed, filed or scheduled, and any party who holds a claim that is listed in the Schedules as contingent, unliquidated or disputed (and who did not file a proof of claim with respect to same), identifying the status of such claims and advising such parties that they are not entitled to vote to accept or reject the Plan. The Notice to Scheduled Non-Claimants, which will be substantially in the same form as that annexed hereto as **Exhibit C**, will be sent to such parties.²

20. Holders of intercompany claims and equity interests are not receiving distributions under the Plan, and therefore, those classes are conclusively presumed to reject the Plan. See 11 U.S.C. § 1126(g). Accordingly, the Debtors will include with the Solicitation Packages sent to holders of interests in those classes, a notice of non-voting status (the “Notice

² In an effort to reduce the cost associated with sending the voluminous record of materials set forth in paragraph 12, the Debtors propose excluding copies of the Plan and Disclosure Statement to those parties identified in Paragraph 19. The Debtors submit there is no prejudice to excluding these materials because the Notice to Scheduled Non-Claimants advises those parties that copies of such materials are available on Kurtzman’s (defined herein) website and will be provided upon written request made to the Debtors’ counsel.

of Non-Voting Status—Impaired Class”), substantially in the form annexed hereto as **Exhibit D**, which identifies those classes as impaired and that they are deemed to reject the Plan and are not entitled to vote to accept or reject the Plan.

3. The Deadline for Receipt of Ballots

21. Bankruptcy Rule 3017(c) provides that, on or before approval of a disclosure statement, the court shall fix a time within which the holders of claims or equity interests may accept or reject a plan. Assuming the Court approves the Disclosure Statement at the initial Disclosure Statement hearing, the Debtors propose that to be counted as a vote to accept or reject the Plan, each Ballot must be properly executed, completed and delivered to Kurtzman Carson Consultants LLC, the Debtors’ approved ballot solicitation and tabulation agent herein at the following address:

Tarragon Corporation
c/o Kurtzman Carson Consultants LLC
2335 Alaska Avenue
El Segundo, CA 90245

so that same is received no later than 5:00 p.m. (prevailing Eastern Time) on the day that is thirty (30) days after the Disclosure Statement hearing (the “Voting Deadline”). The Debtors submit that such solicitation period is a sufficient period within which creditors can make an informed decision to accept or reject the Plan.

4. Proposed Procedure for Tabulating Votes and Temporarily Allowing or Disallowing Claims for Voting Purposes

22. Section 1126(c) of the Bankruptcy Code provides:

A class of claims has accepted a plan if such plan has been accepted by creditors, other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class held by creditors, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.

11 U.S.C. § 1126(c). Further, Bankruptcy Rule 3018(a) provides that the “court after notice and hearing may temporarily allow the claim or interest in an amount which the court deems proper for the purpose of accepting or rejecting a plan.” Fed. R. Bankr. P. 3018(a).

23. Solely for the purposes of voting to accept or reject the Plan and not for the purpose of the allowance of, or distribution on account of, a claim, and without prejudice to the rights of the Debtors in any other context, the Debtors propose that each holder of claim shall have an allowed claim, solely for the purpose of voting on the Plan, in an amount equal to the lesser of (a) the amount of such claim as set forth in the Schedules, or (b) the amount of such claim as set forth in a timely filed proof of claim. The foregoing general procedure will be subject to the following exceptions:³

(a) if a claim for which a proof of claim has been timely filed is marked as, or is by its terms, contingent, unliquidated or disputed on its face, or the claim for which a proof of claim has been timely filed is listed as contingent, unliquidated or disputed on the Schedules, either in whole or in part, such claim shall be temporarily disallowed for voting purposes;

(b) if a claim has been estimated or otherwise allowed for voting purposes by order of the Court, such claim shall be temporarily allowed in the amount so estimated or allowed by the Court;

(c) if a claim is listed in the Schedules as contingent, unliquidated or disputed and a proof of claim has not been timely filed, such claim shall be temporarily disallowed for voting purposes;

³ A pending objection to a claim disallows it for voting purposes. Jacksonville Airport Inc. v. Michkeldel, Inc., 434 F.3d 729 (4th Cir. 2006); In re Quigley Co., Inc., 383 B.R. 19 (Bankr. S.D.N.Y. 2008).

(d) if a claim is not listed in the Schedules and a proof of claim is timely filed, such claim shall be temporarily disallowed for voting purposes;

(e) if the Debtors have filed an served an objection to a claim at least twenty (20) days before the expiration of the Voting Deadline, such claim shall be temporarily disallowed for voting purposes;

(f) each entity that holds or has filed more than one (1) unsecured claim against the Debtors shall not be entitled to aggregate such unsecured claims for purposes of voting, classification and treatment under the Plan; and

(g) if an individual files a claim covering the same claim filed by a class, association or other representative, only the class representative, association or other purported representative shall be entitled to vote and the individual claim shall be disallowed for voting purposes.

24. The Debtors believe that the foregoing proposed procedures provide for a fair and equitable voting process.

25. The Debtors request that whenever a creditor casts more than one Ballot voting the same claim(s) before the Voting Deadline, the last Ballot received before the Voting Deadline be deemed to reflect the voter's intent and shall supercede any prior Ballot. The Debtors further propose that the following Ballots not be counted or considered for any purpose in determining whether the Plan has been accepted or rejected: (a) any Ballot received after the Voting Deadline unless the Debtors shall have granted an extension of the Voting Deadline with respect to such Ballot; (b) any Ballot that is illegible or contains insufficient information to permit the identification of the claimant; (c) any Ballot cast by a person or entity that does not hold a claim in a class that is entitled to vote to accept or reject the Plan; (d) any Ballot cast for a

claim identified as unliquidated, contingent, or disputed for which no proof of claim was timely filed; (e) any unsigned Ballot; (f) any Ballot transmitted by telecopier or other electronic means, unless the Debtors in writing and on notice to the Committee waives this requirement and accepts alternate means of transmission or delivery of any Ballot.

26. On the other hand, the Debtors propose that any Ballot that is properly completed, executed, and timely returned to Kurtzman, but does not indicate an acceptance or rejection of the Plan, or that indicates both an acceptance and rejection of the Plan, shall be deemed to accept the Plan.

27. At or before the Confirmation Hearing (defined below), the Debtors' counsel or Kurtzman, shall prepare and file, in accordance with Local Bankruptcy Rule 3018-2, a certification of balloting (the "Certification of Balloting") that summarizes, under penalty of perjury, both the numbers and amounts of acceptances and rejections in each voting class, and certifying to their timely filing. The Debtors' counsel shall serve the Certificate of Balloting on the UST, the Committee, all parties that have filed a notice of appearance in the Debtors' Chapter 11 cases, and such other persons as the Court may direct.

E. The Proposed Notice and Objection Procedures Regarding Confirmation of the Plan

1. The Confirmation Hearing

28. Bankruptcy Rule 3017(c) provides:

[o]n or before approval of the disclosure statement, the court shall fix a time within which the holders of claims and interests may accept or reject the plan and may fix a date for the hearing on confirmation.

Fed. R. Bankr. P. 3017(c).

29. In accordance with Bankruptcy Rules 2002(b) and 3017(c), and in view of the proposed solicitation schedule outlined herein, assuming the Court approves the Disclosure

Statement at the initial Disclosure Statement hearing, the Debtors request that a hearing on confirmation of the Plan (the “Confirmation Hearing”) be scheduled for October 22, 2009, which is a date set for omnibus hearings in these cases, and which also is approximately forty (40) days after the initial Disclosure Statement hearing. The Confirmation Hearing may be continued from time to time by the Court or the Debtors without further notice other than adjournments announced in open Court. The proposed date for the Confirmation Hearing is in compliance with the Bankruptcy Code and the Bankruptcy Rules and will enable the Debtors to pursue confirmation of the Plan in a timely fashion.

2. The Proposed Notice Procedures for the Confirmation Hearing

30. Bankruptcy Rule 2002(b) and (d) require not less than twenty-five (25) days’ notice to all creditors and equity security holders of time fixed for filing objections and the hearing to consider confirmation of a chapter 11 plan. In accordance with Bankruptcy Rules 2002 and 3017(d), the Debtors propose to provide all creditors and equity interest holders a copy of the notice substantially in the form annexed hereto as **Exhibit E** (the “Confirmation Hearing Notice”), setting forth (a) the date of approval of the Disclosure Statement, (b) the Record Date, (c) the Voting Deadline, (d) the time fixed for filing objections to confirmation of the Plan, and (e) the time, date and place for the Confirmation Hearing. The Confirmation Hearing Notice will be sent contemporaneously with the Solicitation Packages.

31. Bankruptcy Rule 2002(l) permits the Court to “order notice by publication if it finds that notice by mail is impracticable or that it is desirable to supplement the notice.” Fed. R. Bankr. P. 2002(l). In addition to mailing the Confirmation Hearing Notice, the Debtors propose to publish a notice substantially in the form of the Confirmation Hearing Notice not less than 20 days before the commencement of the Confirmation Hearing in *The Wall Street Journal*.

3. The Proposed Procedures for Filing Objections to Confirmation of the Plan

32. Pursuant to Bankruptcy Rule 3020(b)(1), objections to confirmation of a plan must be filed and served “within a time fixed by the court.” Fed. R. Bankr. P. 3020(b)(1). The Confirmation Hearing Notice provides, and the Debtors request, that the Court direct objections to confirmation of the Plan or proposed modifications to the Plan, if any, must (a) be in writing, (b) state the name and address of the objecting party and the amount and nature of the claim or interest of such party, (c) state with particularity the basis and nature of any objection to the Plan, and (d) be filed, together with proof of service, with the Court and served so that they are received by (i) the Clerk of the Court, (ii) the attorneys for the Debtors and (iii) the UST at the addresses set forth in the Confirmation Hearing Notice, no later than ten (10) days prior to the Confirmation Hearing. The proposed timing for service of objections and proposed modifications, if any, will afford the Debtors, the Committee and other significant parties in interest sufficient time to consider the objections and proposed modifications and file any replies while leaving the Court sufficient time to consider any such objections and replies before the Confirmation Hearing. Any replies to the objections shall be filed no later than three (3) days prior to the Confirmation Hearing.

NOTICE

The Debtors propose to serve a copy of the Motion on the following: (1) the Office of the United States Trustee; (2) the Debtors’ secured creditors and/or their known counsel; (3) counsel to the Official Committee of Unsecured Creditors; (4) all parties listed on the Debtors’ Schedules of Assets and Liabilities; (5) all parties having filed a proof of claim in the Debtors’ cases; (6) those persons having filed a notice of appearance; and (7) all other parties listed on the Master Service List.

WHEREFORE, the Debtors respectfully request that the Court enter an Order granting the relief requested herein as well as such other and further relief as the Court may deem just appropriate under the circumstances.

Respectfully submitted,

COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.
Attorneys for Tarragon Corporation, *et al.*,
Debtors-in-Possession

By: /s/ Michael D. Sirota
Michael D. Sirota
Warren A. Usatine

DATED: August 21, 2009

EXHIBIT A

**COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.**
A Professional Corporation
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Facsimile
Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Attorneys for Tarragon Corporation, *et al.*,
Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
HONORABLE DONALD H. STECKROTH
CASE NO. 09-10555 (DHS)

In re:

TARRAGON CORPORATION, *et al.*

Debtors-in-Possession.

Chapter 11
(Jointly Administered)

BALLOT

On September 10, 2009, the United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court") (i) approved the Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code for the Chapter 11 Plan of Reorganization of Tarragon Corporation, *et al.*, dated August 3, 2009, filed by Tarragon Corporation, *et al.*, the within Debtors and Debtors-in-Possession (collectively, the "Debtors"),¹ and (ii) authorized the Debtors to solicit votes with regard to the approval or rejection of the Debtors' Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated August 3, 2009 (the "Plan"). Capitalized terms used but not defined in these instructions have the meaning ascribed to them in the Plan.

¹ The Debtors are Tarragon Corporation, Tarragon Development Corporation, Tarragon South Development Corp., Tarragon Development Company LLC, Tarragon Management, Inc., Bermuda Island Tarragon LLC, Orion Towers Tarragon, LLP, Orlando Central Park Tarragon L.L.C., Fenwick Plantation Tarragon LLC, One Las Olas, Ltd., The Park Development West LLC, 800 Madison Street Urban Renewal, LLC, 900 Monroe Development LLC, Block 88 Development, LLC, Central Square Tarragon LLC, Charleston Tarragon Manager, LLC, Omni Equities Corporation, Tarragon Edgewater Associates, LLC, The Park Development East LLC, Vista Lakes Tarragon, LLC, Murfreesboro Gateway Properties, LLC, Tarragon Stonecrest, LLC, MSCP, Inc., Tarragon Stratford, Inc. and TDC Hanover Holdings LLC.

The Debtors are soliciting votes with respect to the Plan from the holders of impaired claims in the Plan. If you have any questions on how to properly complete this Ballot, please call Cole, Schotz, Meisel, Forman & Leonard, P.A., Debtors' counsel, at (201) 489-3000.

VOTING INSTRUCTIONS FOR COMPLETING THE BALLOT

This Ballot does not constitute and shall not be deemed to constitute (i) a proof of Claim or an assertion of a Claim, or (ii) an admission by the Debtors or the Committee of the nature, validity or amount of any Claim. This Ballot is not a letter of transmittal and may not be used for any purpose other than to cast votes to accept or reject the Plan. Do not enclose notes or securities with your completed Ballot.

1. This Ballot is submitted to you to solicit your vote to accept or reject the Plan. Please indicate your vote by marking an "x" in the appropriate box on the face of the Ballot.

2. Please indicate the amount of your Claim in the appropriate space on the face of the Ballot. The amount of your Claim as set forth by you on this Ballot does not necessarily constitute an Allowed Claim under the Plan. The amount of your Claim may be subject to further reconciliation and an objection may be interposed.

3. After providing all remaining information requested on the Ballot, please sign, date and return this Ballot by mail, overnight courier or hand delivery to the Debtors' Balloting Agent, Kurtzman Carson Consultants, 2335 Alaska Avenue, El Segundo, California 90245, **no later than 5:00 p.m. (prevailing Pacific Time) on _____.**

4. The Plan can be confirmed by the Bankruptcy Court and thereby made binding if it is accepted by the holders of at least two-thirds in amount and more than one-half in number of impaired Claims in a Class. The votes of the Claims actually voted in your Class will bind those who do not vote. If the requisite acceptances are not obtained, the Bankruptcy Court may nevertheless confirm the Plan if at least one impaired Class of Claims has accepted the Plan and the Bankruptcy Court finds that the Plan accords fair and equitable treatment to, and does not discriminate unfairly against, the Classes rejecting it.

5. You must vote all of your Claims within a single Class to either accept or reject the Plan. A Ballot that partially rejects and partially accepts the Plan or a Ballot that fails to indicate acceptance or rejection of the Plan will be counted as an acceptance of the Plan.

6. Your signature is required in order for your vote to be counted. You are also required to provide your social security number or Tax I.D. number before receiving any distribution. If the Claims voted with this Ballot are held by a partnership, the Ballot should be executed in the name of the partnership by a general partner. If the Claim is held by a corporation, the Ballot must be executed by an officer. If you are signing in a representative capacity, also indicate your title after your signature.

PLEASE COMPLETE THE FOLLOWING:

ITEM 1. Vote on the Plan. The undersigned holder of a claim in Class _____ in the case of _____, which is one of the jointly administered debtors, hereby votes to:

Check one box: Accept the Plan Reject the Plan
Amount of Claim: \$ _____

ITEM 2. Acknowledgments and Certification. By signing this Ballot, the undersigned acknowledges that the undersigned has been provided with a copy of the Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code for the Chapter 11 Plan of Reorganization of Tarragon Corporation, *et al.*, dated August 3, 2009. The undersigned certifies that (i) it is the holder of a Class _____ Claim, and (ii) it has full power and authority to vote to accept or reject the Plan. The undersigned understands that if the Ballot is validly executed but does not indicate either acceptance or rejection of the Plan, then this Ballot will be counted as an acceptance of the Plan.

Signed: _____

Name of Claimant (Print): _____

Title: _____
(Please sign exactly as name or names appear hereon. Full title of one signing in representative capacity should be clearly designated after signature. Names of all joint holders should be written even if signed by one.)

Name of Institution: _____

Street Address: _____

City, State and Zip Code: _____

Telephone Number: _____

Dated: _____

Tax I.D. or Social Security Number: _____

BALLOTS CAST BY FACSIMILE, TELECOPIER, E-MAIL OR OTHER ELECTRONIC COMMUNICATION WILL NOT BE COUNTED UNLESS AN ORIGINAL IS SUBSEQUENTLY RECEIVED ON OR BEFORE THE VOTING DEADLINE. ONLY ORIGINAL BALLOTS WITH AN ORIGINAL SIGNATURE WILL BE COUNTED. ANY BALLOT WHICH IS PROPERLY EXECUTED BUT DOES NOT INDICATE AN ACCEPTANCE OR REJECTION OF THE PLAN SHALL BE COUNTED AS AN ACCEPTANCE.

EXHIBIT B

**COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.**
A Professional Corporation
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Facsimile
Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Attorneys for Tarragon Corporation, *et al.*,
Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
HONORABLE DONALD H. STECKROTH
CASE NO. 09-10555 (DHS)

In re:

TARRAGON CORPORATION, *et al.*

Debtors-in-Possession.

Chapter 11
(Jointly Administered)

**NOTICE OF NON-VOTING STATUS
WITH RESPECT TO UNIMPAIRED
CLASSES**

PLEASE TAKE NOTICE THAT by order, entered September 10, 2009 (the “Order”), the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”) approved the Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code for the Chapter 11 Plan of Reorganization of Tarragon Corporation, *et al.*, dated August 3, 2009, filed by Tarragon Corporation, *et al.*, as debtors and debtors-in-possession (collectively, the “Debtors”),¹ and directed the Debtors to solicit votes to accept or reject the Debtors’ Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated August 3, 2009 (as may be amended, the “Plan”), annexed as Exhibit “A” thereto.

¹ The Debtors are Tarragon Corporation, Tarragon Development Corporation, Tarragon South Development Corp., Tarragon Development Company LLC, Tarragon Management, Inc., Bermuda Island Tarragon LLC, Orion Towers Tarragon, LLP, Orlando Central Park Tarragon L.L.C., Fenwick Plantation Tarragon LLC, One Las Olas, Ltd., The Park Development West LLC, 800 Madison Street Urban Renewal, LLC, 900 Monroe Development LLC, Block 88 Development, LLC, Central Square Tarragon LLC, Charleston Tarragon Manager, LLC, Omni Equities Corporation, Tarragon Edgewater Associates, LLC, The Park Development East LLC, Vista Lakes Tarragon, LLC, Murfreesboro Gateway Properties, LLC, Tarragon Stonecrest, LLC, MSCP, Inc., Tarragon Stratford, Inc. and TDC Hanover Holdings LLC.

UNDER THE TERMS OF THE PLAN, YOUR CLAIM(S) AGAINST THE DEBTORS IS/ARE NOT IMPAIRED AND, THEREFORE, PURSUANT TO SECTION 1126(f) OF THE BANKRUPTCY CODE, YOU ARE (i) CONCLUSIVELY PRESUMED TO HAVE ACCEPTED THE PLAN AND (ii) NOT ENTITLED TO VOTE ON THE PLAN. ACCORDINGLY, THE ENCLOSED DOCUMENTS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE OR THE ENCLOSED DOCUMENTS, PLEASE CALL COLE, SCHOTZ, MEISEL, FORMAN & LEONARD, P.A., DEBTORS' COUNSEL, AT (201) 489-3000.

Dated: Hackensack, New Jersey
September ____, 2009

COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.
Attorneys for Tarragon Corporation, *et al.*,
Debtors-in-Possession
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, NJ 07602

EXHIBIT C

**COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.**
A Professional Corporation
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Facsimile
Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Attorneys for Tarragon Corporation, *et al.*,
Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
HONORABLE DONALD H. STECKROTH
CASE NO. 09-10555 (DHS)

In re:

TARRAGON CORPORATION, *et al.*

Debtors-in-Possession.

Chapter 11
(Jointly Administered)

**NOTICE TO SCHEDULED NON-
CLAIMANTS**

PLEASE TAKE NOTICE THAT by order, entered September 10, 2009 (the "Order"), the United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court") approved the Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code for the Chapter 11 Plan of Reorganization of Tarragon Corporation, *et al.*, dated August 3, 2009 (the "Disclosure Statement"), filed by Tarragon Corporation, *et al.*, as debtors and debtors-in-possession (collectively, the "Debtors"),¹ and directed the Debtors to solicit votes to accept or reject the Debtors' Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated August 3, 2009 (as may be amended, the "Plan"), annexed as Exhibit "A" thereto.

¹ The Debtors are Tarragon Corporation, Tarragon Development Corporation, Tarragon South Development Corp., Tarragon Development Company LLC, Tarragon Management, Inc., Bermuda Island Tarragon LLC, Orion Towers Tarragon, LLP, Orlando Central Park Tarragon L.L.C., Fenwick Plantation Tarragon LLC, One Las Olas, Ltd., The Park Development West LLC, 800 Madison Street Urban Renewal, LLC, 900 Monroe Development LLC, Block 88 Development, LLC, Central Square Tarragon LLC, Charleston Tarragon Manager, LLC, Omni Equities Corporation, Tarragon Edgewater Associates, LLC, The Park Development East LLC, Vista Lakes Tarragon, LLC, Murfreesboro Gateway Properties, LLC, Tarragon Stonecrest, LLC, MSCP, Inc., Tarragon Stratford, Inc. and TDC Hanover Holdings LLC.

Copies of the Disclosure Statement and Plan are available for parties in interest who make written requests for copies. Any such written requests for copies should be directed to Cole, Schotz, Meisel, Forman & Leonard P.A., Court Plaza North, P.O. Box 800, Hackensack, NJ 07602-0800. Alternatively, the Disclosure Statement and Plan are available at <http://www.kcclcc.net>.

ALTHOUGH YOU ARE LISTED IN THE DEBTORS' SCHEDULES OF ASSETS AND LIABILITIES AS EITHER A PARTY TO AN EXECUTORY CONTRACT OR AN UNEXPIRED LEASE WITH THE DEBTORS, OR AS HAVING A CONTINGENT, UNLIQUIDATED, OR DISPUTED CLAIM, BECAUSE YOU DID NOT FILE A PROOF OF CLAIM BY MAY 4, 2009, THE DEADLINE FOR FILING PROOFS OF CLAIM AGAINST THE DEBTORS, YOU DO NOT HOLD A CLAIM AGAINST THE DEBTORS AND, THEREFORE, THE ENCLOSED DOCUMENTS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE PLEASE CALL COLE, SCHOTZ, MEISEL, FORMAN & LEONARD, P.A., DEBTORS' COUNSEL, AT (201) 489-3000.

Dated: Hackensack, New Jersey
September ____, 2009

COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.
Attorneys for Tarragon Corporation, *et al.*,
Debtors-in-Possession
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, NJ 07602

EXHIBIT D

**COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.**
A Professional Corporation
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Facsimile
Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Attorneys for Tarragon Corporation, *et al.*,
Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
HONORABLE DONALD H. STECKROTH
CASE NO. 09-10555 (DHS)

In re:

TARRAGON CORPORATION, *et al.*

Debtors-in-Possession.

Chapter 11
(Jointly Administered)

**NOTICE OF NON-VOTING STATUS
WITH RESPECT TO IMPAIRED CLASS**

PLEASE TAKE NOTICE THAT by order, entered September 10, 2009 (the "Order"), the United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court") approved the Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code for the Chapter 11 Plan of Reorganization of Tarragon Corporation, *et al.*, dated August 3, 2009, filed by Tarragon Corporation, *et al.*, as debtors and debtors-in-possession (collectively, the "Debtors"),¹ and directed the Debtors to solicit votes to accept or reject the Debtors' Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated August 3, 2009 (as may be amended, the "Plan"), annexed as Exhibit "A" thereto.

¹ The Debtors are Tarragon Corporation, Tarragon Development Corporation, Tarragon South Development Corp., Tarragon Development Company LLC, Tarragon Management, Inc., Bermuda Island Tarragon LLC, Orion Towers Tarragon, LLP, Orlando Central Park Tarragon L.L.C., Fenwick Plantation Tarragon LLC, One Las Olas, Ltd., The Park Development West LLC, 800 Madison Street Urban Renewal, LLC, 900 Monroe Development LLC, Block 88 Development, LLC, Central Square Tarragon LLC, Charleston Tarragon Manager, LLC, Omni Equities Corporation, Tarragon Edgewater Associates, LLC, The Park Development East LLC, Vista Lakes Tarragon, LLC, Murfreesboro Gateway Properties, LLC, Tarragon Stonecrest, LLC, MSCP, Inc., Tarragon Stratford, Inc. and TDC Hanover Holdings LLC.

UNDER THE TERMS OF THE PLAN, YOU ARE NOT ENTITLED TO RECEIVE OR RETAIN ANY PROPERTY ON ACCOUNT OF YOUR CLAIM(S) AGAINST OR EQUITY INTEREST(S) IN THE DEBTORS AND, THEREFORE, PURSUANT TO SECTION 1126(g) OF THE BANKRUPTCY CODE, YOU ARE (i) DEEMED TO HAVE REJECTED THE PLAN AND (ii) NOT ENTITLED TO VOTE ON THE PLAN. ACCORDINGLY, THE ENCLOSED DOCUMENTS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE OR THE ENCLOSED DOCUMENTS, PLEASE CALL MICHAEL D. SIROTA, ESQ. OR WARREN A. USATINE, ESQ. OF COLE, SCHOTZ, MEISEL, FORMAN & LEONARD, P.A., DEBTORS' COUNSEL, AT (201) 489-3000.

Dated: Hackensack, New Jersey
September ____, 2009

COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.
Attorneys for Tarragon Corporation, *et al.*,
Debtors-in-Possession
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, NJ 07602

EXHIBIT E

**COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.**
A Professional Corporation
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Facsimile
Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Attorneys for Tarragon Corporation, *et al.*,
Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
HONORABLE DONALD H. STECKROTH
CASE NO. 09-10555 (DHS)

Chapter 11
(Jointly Administered)

In re:

TARRAGON CORPORATION, *et al.*
Debtors-in-Possession.

**NOTICE OF (i) APPROVAL OF
DISCLOSURE STATEMENT; (ii)
ESTABLISHMENT OF RECORD DATE;
(iii) HEARING ON CONFIRMATION OF
THE PLAN AND PROCEDURES FOR
OBJECTING TO CONFIRMATION OF
THE PLAN; AND (iv) PROCEDURES
AND DEADLINE FOR VOTING ON THE
PLAN**

PLEASE TAKE NOTICE that:

1. **Approval of Disclosure Statement.** By order dated September 10, 2009 (the “Order”), the United States Bankruptcy Court for the District of New Jersey (the “Court”) approved the Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code for the Chapter 11 Plan of Reorganization of Tarragon Corporation, *et al.*, dated August 3, 2009 (as it may be amended, the “Disclosure Statement”) filed by Tarragon Corporation, *et al.*, the within debtors and debtors-in-possession (the “Debtors”)¹ and directed the Debtors to solicit votes with

¹ The Debtors are Tarragon Corporation, Tarragon Development Corporation, Tarragon South Development Corp., Tarragon Development Company LLC, Tarragon Management, Inc., Bermuda Island Tarragon LLC, Orion Towers Tarragon, LLP, Orlando Central Park Tarragon L.L.C., Fenwick Plantation Tarragon LLC, One Las Olas, Ltd., The Park Development West LLC, 800 Madison Street Urban Renewal, LLC, 900 Monroe Development LLC, Block 88 Development, LLC, Central Square Tarragon LLC, Charleston Tarragon Manager, LLC, Omni (continued...)

regard to the approval or rejection of the Debtors' Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated August 3, 2009 (as it may be amended, the "Plan"), annexed as Exhibit A to the Disclosure Statement. Any capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

2. **Confirmation Hearing.** A hearing (the "Confirmation Hearing") to consider the confirmation of the Plan will be held at __:__ __.m. (prevailing Eastern Time) on _____, before the Honorable Donald H. Steckroth, United States Bankruptcy Judge, United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court"), Martin Luther King, Jr. Federal Building, 50 Walnut Street, Third Floor, Newark, New Jersey 07102. The Confirmation Hearing may be continued from time to time without further notice other than an announcement of the adjourned date(s) at the Confirmation Hearing, and the Plan may be modified, if necessary, prior to, during or as a result of the Confirmation Hearing, without further notice to interested parties.

3. **Record Date for Voting Purposes.** Only creditors who hold claims on September 10, 2009, are entitled to vote on the Plan.

4. **Voting Deadline.** All votes to accept or reject the Plan must be actually received by the Debtors' balloting agent, Kurtzman Carson Consultants ("KCC") by regular mail, overnight mail or hand delivery, so that it is **actually received** by KCC, 2335 Alaska Avenue, El Segundo, California 90245 (Telephone No. 881-830-4662), **no later than 5:00 p.m. (prevailing Pacific Time) on** _____ (the "Voting Deadline"). Any failure to follow the voting instructions included with your Ballot may disqualify your Ballot and your vote.

5. **Parties in Interest Not Entitled to Vote.** The following creditors and shareholders are not entitled to vote on the Plan: (i) holders of unimpaired claims; (ii) holders of claims or interests who will receive no distribution at all under the Plan; and (iii) holders of claims that are the subject of filed objections or requests for estimation, except to the extent and in the manner as may be set forth in such objection, complaint or request for estimation.

6. **Objections to Confirmation.** Responses and objections, if any, to confirmation of the Plan must:

- (a) be in writing;
- (b) state the name and address of the objecting party and the nature of the claim or interest of such party;
- (c) state with particularity the basis and nature of any objection or proposed modification to the Plan,

(...continued)

Equities Corporation, Tarragon Edgewater Associates, LLC, The Park Development East LLC, Vista Lakes Tarragon, LLC, Murfreesboro Gateway Properties, LLC, Tarragon Stonecrest, LLC, MSCP, Inc., Tarragon Stratford, Inc. and TDC Hanover Holdings LLC.

- (d) be filed with the Court either (i) electronically or (ii) conventionally, as noted below:
- (i) Electronic Filing: if the filer is an attorney who regularly practices before the Bankruptcy Court and who is in possession of passwords and logins to both PACER and the Bankruptcy Court's Electronic Case Filing System, electronic filing must be in accordance with the Bankruptcy Court's General Order Regarding Electronic Means for Filing, Signing and Verification of Documents dated March 27, 2002 and the Commentary Supplementing Administrative Procedures dated as of March 2004 (each of which can be found at www.njb.uscourts.gov); or
 - (ii) Conventional Filing: the filer must send the response or objection by mail, courier or messenger to the Clerk's Office at the following address: United States Bankruptcy Court, Martin Luther King, Jr. Federal Building, 50 Walnut Street, Third Floor, Newark, New Jersey 07102; the hard copy of the response or objection should be accompanied by a diskette containing the response or objection in Portable Document Format (PDF) format; and
- (e) be served upon (i) the United States Trustee for the District of New Jersey, One Newark Center, Suite 2100, Newark, New Jersey 07102, Attention: Donald F. MacMaster, Esq.; (ii) Cole, Schotz, Meisel, Forman & Leonard, P.A., Court Plaza North, 25 Main Street, P.O. Box 800, Hackensack, New Jersey 07602 (Telephone No. 201-489-3000), Attention: Michael D. Sirota, Esq.; and (iii) Patterson Belknap Webb & Tyler LLP, attorneys for the Official Committee of Unsecured Creditors (the "Committee"), 1133 Avenue of the Americas, New York, New York 10036-0670, Attention: Daniel Lowenthal, Esq. (Telephone No. 212-336-2115), **so as to be filed with the Court in accordance with paragraph 6(d) above and served and actually received by the parties listed in this paragraph by no later than _____, at 5:00 p.m. (prevailing Eastern Time). IF ANY OBJECTION TO CONFIRMATION OF THE PLAN IS NOT FILED AND SERVED STRICTLY AS PRESCRIBED HEREIN, THE OBJECTING PARTY MAY BE BARRED FROM OBJECTING TO CONFIRMATION OF THE PLAN AND MAY NOT BE HEARD AT THE HEARING.**

7. **Parties Who Will Not Be Treated as Creditors.** Any holder of a claim that (i) is scheduled in the Debtors' schedules of assets and liabilities, statements of financial affairs and schedules of executory contracts and unexpired leases at zero, or in an unknown amount, or as disputed, contingent, or unliquidated, and is not the subject of a timely filed proof of claim or a proof of claim deemed timely filed with the Court pursuant to either the Bankruptcy Code or any order of the Court, or otherwise deemed timely filed under applicable law, or (ii) is not scheduled and is not the subject of a timely filed proof of claim or a proof of claim deemed timely filed with the Court pursuant to either the Bankruptcy Code or any order of the Court, or otherwise

deemed timely filed under applicable law, shall not be treated as a creditor with respect to such claim for purposes of (a) receiving notices regarding, or distributions under, the Plan, or (b) voting on the Plan.

8. **Additional Information.** Any party in interest wishing to obtain information about the solicitation procedures or copies of the Disclosure Statement or the Plan should contact the either KCC at the telephone number and/or address listed in paragraph 4 of this Notice or the Debtors' counsel at the telephone number and/or address listed in paragraph 6(e) of this Notice.

Dated: September ____, 2009

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)
COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.
A Professional Corporation
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, NJ 07602-0800
Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
(201) 489-3000
(201) 489-1536 Facsimile
Attorneys for Tarragon Corporation, *et al.*, Debtors-
in-Possession

In re:

TARRAGON CORPORATION, *et al.*,

Debtors-in-Possession.

Case No. 09-10555 (DHS)

Judge: Donald H. Steckroth

Chapter 11

Hearing Date: September 10, 2009 at 10:00
a.m.

ORDER: (A) APPROVING THE DISCLOSURE STATEMENT PURSUANT TO 11 U.S.C. § 1125(b); (B) FIXING A RECORD DATE FOR VOTING AND PROCEDURES FOR FILING OBJECTIONS TO THE PLAN AND TEMPORARY ALLOWANCE OR DISALLOWANCE OF CLAIMS FOR VOTING PURPOSES; (C) SCHEDULING A HEARING AND APPROVING NOTICE AND OBJECTION PROCEDURES IN RESPECT OF PLAN CONFIRMATION; (D) APPROVING SOLICITATION PACKAGES AND PROCEDURES FOR DISTRIBUTION THEREOF; AND (E) APPROVING THE FORM OF BALLOT AND ESTABLISHMENT OF PROCEDURES FOR VOTING ON THE PLAN

The relief set forth on the following pages, numbered two (2) through fourteen (14), is hereby **ORDERED**.

(Page 2)

Debtor: TARRAGON CORPORATION, *et al.*
Case No.: 09-10555 9 (DHS)
Caption of Order: ORDER: (A) APPROVING THE DISCLOSURE STATEMENT
PURSUANT TO 11 U.S.C. § 1125(B); (B) FIXING A RECORD DATE
FOR VOTING AND PROCEDURES FOR FILING OBJECTIONS TO
THE PLAN AND TEMPORARY ALLOWANCE OR
DISALLOWANCE OF CLAIMS FOR VOTING PURPOSES;
(C) SCHEDULING A HEARING AND APPROVING NOTICE AND
OBJECTION PROCEDURES IN RESPECT OF PLAN
CONFIRMATION; (D) APPROVING SOLICITATION PACKAGES
AND PROCEDURES FOR DISTRIBUTION THEREOF; AND
(E) APPROVING THE FORM OF BALLOT AND ESTABLISHMENT
OF PROCEDURES FOR VOTING ON THE PLAN

THIS MATTER having been opened to the Court by Tarragon Corporation, *et al.*, the within debtors and debtors-in-possession (collectively, the “Debtors”),¹ by and through their counsel, upon motion for an Order: (a) approving the adequacy of the Disclosure Statement filed by the Debtors on August 3, 2009 (the “Disclosure Statement”) pursuant to 11 U.S.C. § 1125(b); (b) fixing a record date for voting and procedures for objecting to plan and temporary allowance or disallowance of claims for voting purposes, (c) approving solicitation packages and distribution procedures for same, (d) approving form of ballot and procedures for voting on the Debtors Plan of Reorganization (as may be amended, the “Plan”); and (e) scheduling a confirmation hearing and approving notice procedures for objecting plan confirmation (the

¹ The Debtors are Tarragon Corporation, Tarragon Development Corporation, Tarragon South Development Corp., Tarragon Development Company LLC, Tarragon Management, Inc., Bermuda Island Tarragon LLC, Orion Towers Tarragon, LLP, Orlando Central Park Tarragon L.L.C., Fenwick Plantation Tarragon LLC, One Las Olas, Ltd., The Park Development West LLC, 800 Madison Street Urban Renewal, LLC, 900 Monroe Development LLC, Block 88 Development, LLC, Central Square Tarragon LLC, Charleston Tarragon Manager, LLC, Omni Equities Corporation, Tarragon Edgewater Associates, LLC, The Park Development East LLC, Vista Lakes Tarragon, LLC, Murfreesboro Gateway Properties, LLC, Tarragon Stonecrest, LLC, MSCP, Inc., Tarragon Stratford, Inc. and TDC Hanover Holdings LLC.

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“Motion” and the Application in support of the Motion hereinafter, the “Application”); and the Court having considered the Motion and determined that cause exists for entry of this Order;

IT IS FOUND THAT:

1. The Disclosure Statement contains adequate information within the meaning of section 1125 of the Bankruptcy Code.
2. The form of each ballot attached hereto as Exhibit A to the Application (singularly a “Ballot” and collectively, the “Ballots”), is sufficiently consistent with Official Form No. 14 and adequately addresses the particular needs of these chapter 11 cases and is appropriate for the class of claims entitled under the Plan to vote to accept or reject the Plan.
3. Ballots need not be provided to the holders of claims and interests in those classes that are unimpaired and, therefore, conclusively presumed to accept the Plan.
4. Ballots need not be provided to the holders of equity interests or intercompany claims because those classes will not retain or receive any property under the Plan and, therefore, are conclusively presumed to reject the Plan.

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5. The period set forth below during which the Debtors may solicit acceptances to the Plan is a reasonable period of time for creditors to make an informed decision whether to accept or reject the Plan.

6. The procedures for the solicitation and tabulation of votes to accept or reject the Plan (as more fully set forth in the Application) provide for a fair and equitable voting process and are consistent with section 1126 of the Bankruptcy Code.

7. The procedures set forth below regarding notice (the “Confirmation Hearing Notice”) to all creditors of the time, date and place of the hearing to confirm the Plan (the “Confirmation Hearing”) and the contents of the Solicitation Packages (as defined below) comply with Bankruptcy Rules 2002 and 3017 and constitute sufficient notice to all interested parties.

8. The determination of temporary allowance or disallowance of claims solely for voting purposes, as set forth below is fair and equitable.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The Disclosure Statement is approved.

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2. The form and manner of notice of the time set for filing objections to, and the hearing to consider the approval of, the Disclosure Statement, as described in the Application and as reflected in the Affidavit of Service filed with the Court, was proper, adequate and sufficient notice thereof.

3. The record date (the "Record Date") for purposes of determining creditors entitled to vote on the Plan, or in the case of non-voting classes, to receive the Notices of Non-Voting Status (as defined below) shall be September 10, 2009.

4. The form of Ballots are approved.

5. Within three (3) business days after the date hereof, Kurtzman Carson Consultants LLC ("Kurtzman"), the Debtors' ballot solicitation and tabulation agent, shall mail solicitation packages (the "Solicitation Packages") containing a copy of (A) this Order, (B) the Confirmation Hearing Notice, and (C) (i) a Ballot, together with a return envelope and the Disclosure Statement (together with the Plan annexed thereto as Exhibit "A") or (ii) a Notice of Non-Voting Status (as defined below), as applicable to (a) all persons or entities identified in the Debtors' schedules of liabilities filed pursuant to section 521 of the Bankruptcy Code and Bankruptcy

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Rule 1007, and all amendments and modifications thereto through and including the Record Date (the “Schedules”) as holding liquidated, noncontingent, and undisputed claims, in an amount greater than zero, (b) all parties having filed proofs of claims in an amount greater than zero or notices of transfers of claims in the Debtors’ chapter 11 cases, (c) any other known holders of claims against the Debtors in an amount greater than zero or equity interests in the Debtors as of the Record Date, (d) all parties to executory contracts or leases that have not yet been assumed or rejected; (e) the Office of the United States Trustee (the “UST”), (f) counsel for the Creditors’ Committee, and (g) the Securities and Exchange Commission.

6. A “Notice of Scheduled Non-Claimants,” substantially in the form annexed as Exhibit C to the Application, shall be included in the Solicitation Packages distributed to all known Scheduled Non-Claimants. Notwithstanding anything herein to the contrary, the Debtors shall not be required to include with the Solicitation Packages sent to the Scheduled Non-Claimants copies of the Plan and Disclosure Statement; provided, however, copies of the Plan and Disclosure shall be posted on Kurtzman’s website (www.kcclcc.net) and Scheduled Non-

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Claimants shall be provided copies of the Plan and Disclosure Statement upon written request of the Debtors' counsel.

7. The Debtors shall not be required to send Solicitation Packages to creditors that have claims that have already been paid in full; provided, however, that if, and to the extent that, any such creditor would be entitled to receive a Solicitation Package for any reason other than by virtue of the fact that its claim had been scheduled by the Debtors, then such creditor shall be sent a Solicitation Package in accordance with the procedures set forth herein.

8. With respect to addresses from which Disclosure Statement Notices were returned as undeliverable, the Debtors are excused from mailing Solicitation Packages to those entities listed at such addresses unless the Debtors are provided with accurate addresses for such entities before the Solicitation Date.

9. The failure to mail Solicitation Packages to such entities that are described above will not constitute inadequate notice of the Confirmation Hearing or the Voting Deadline nor constitute a violation of Bankruptcy Rule 3017(d).

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10. A “Notice of Non-Voting Status - Unimpaired Classes,” substantially in the form annexed as Exhibit B to the Application, shall be distributed to all known holders of claims on the Record Date in classes that are unimpaired under the Plan and, therefore, are not entitled to vote to accept or reject the Plan.

11. A “Notice of Non-Voting Status – Impaired Class,” substantially in the form annexed to the Application, as Exhibit D, shall be distributed to the holders of impaired interests which classes are not entitled to vote to accept or reject the Plan.

12. All Ballots must be properly executed, completed, and returned to Kurtzman, 2335 Alaska Avenue, El Segundo, California 90245 (i) by first-class mail, in the return envelope provided with each Ballot, (ii) by overnight courier, or (iii) by personal delivery, so that they are received by KCC no later than October 10, 2009, at 5:00 p.m., prevailing Pacific Time (the “Voting Deadline”).

13. Solely for purposes of voting to accept or reject the Plan and not for the purpose of the allowance of, or distribution on account of, a claim, and without prejudice to the rights of the Debtors in any other context, each claim within a class of claims entitled to vote to accept or

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reject the Plan is temporarily allowed in an amount equal to the amount of such Claim as set forth in the Schedules, provided that:

- a. if a claim for which a proof of claim has been timely filed is marked as, or is by its terms, contingent, unliquidated or disputed on its face, or the claim for which a proof of claim has been timely filed is listed as contingent, unliquidated or disputed on the Schedules, either in whole or in part, such claim shall be temporarily disallowed for voting purposes;
- b. if a claim has been estimated or otherwise allowed for voting purposes by order of the Court, such claim shall be temporarily allowed in the amount so estimated or allowed by the Court;
- c. if a claim is listed in the Schedules as contingent, unliquidated or disputed and a proof of claim has not been timely filed, such claim shall be temporarily disallowed for voting purposes;
- d. if a claim is not listed in the Schedules and a proof of claim is timely filed, such claim shall be temporarily disallowed for voting purposes;

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e. if the Debtors have filed an served an objection to a claim, such claim shall be temporarily disallowed for voting purposes;

f. each entity that holds or has filed more than one (1) unsecured claim against the Debtors shall not be entitled to aggregate such unsecured claims for purposes of voting, classification and treatment under the Plan; and

g. if an individual files a claim covering the same claim filed by a class, association or other representative, only the class representative, association or other purported representative shall be entitled to vote and the individual claim shall be disallowed for voting purposes;

14. As to any creditor filing a motion pursuant to Bankruptcy Rule 3018(a), such creditor's Ballot shall not be counted unless temporarily allowed for voting purposes after notice and a hearing by an order entered by the Court on or prior to the Confirmation Hearing.

15. If a creditor casts more than one Ballot voting the same claim before the Voting Deadline, the last Ballot received before the Voting Deadline is deemed to reflect the voter's intent and thus shall supersede any prior Ballots.

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16. Each creditor that votes to accept or reject the Plan is deemed to have voted the full amount of its claim.

17. Creditors must vote all of their claims within a particular class under the Plan either to accept or reject the Plan and may not split their vote(s), and a Ballot that partially rejects and partially accepts the Plan shall be counted as an acceptance of the Plan.

18. Any Ballot that is properly completed, executed, and timely returned to Kurtzman, but does not indicate an acceptance or rejection of the Plan, or that indicates both an acceptance and rejection of the Plan, shall be deemed to accept the Plan.

19. The following types of Ballots will not be counted in determining whether the Plan has been accepted or rejected: (a) any Ballot received after the Voting Deadline unless the Debtors shall have granted an extension of the Voting Deadline with respect to such Ballot; (b) any Ballot that is illegible or contains insufficient information to permit the identification of the claimant; (c) any Ballot cast by a person or entity that does not hold a claim in a class that is entitled to vote to accept or reject the Plan; (d) any Ballot cast for a claim identified as unliquidated, contingent, or disputed for which no proof of claim was timely filed; (e) any

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unsigned Ballot; (f) any Ballot transmitted by Telecopier or other electronic means, unless the Debtors in writing and on notice to the Creditors' Committee waives this requirement and accepts alternate means of transmission or delivery of any Ballot.

20. The Debtors' counsel or Kurtzman shall, at or before the Confirmation Hearing (defined below), prepare and file a certification of balloting (the "Certification of Balloting") that summarizes, under penalty of perjury, both the numbers and amounts of acceptances and rejections in each voting class, and certifying to their timely filing.

21. The Debtors' counsel shall, at or before Confirmation Hearing, serve the Certificate of Balloting on (a) the UST, (b) counsel for the Creditors' Committee and (c) all parties that have filed a notice of appearance in the Debtors' Chapter 11 cases.

22. The Debtors are authorized, in their sole discretion, to take or refrain from taking any action necessary or appropriate to implement the terms of and the relief granted in this Order without seeking further order of the Court.

23. The Debtors are authorized to make nonsubstantive changes to the Disclosure Statement, the Plan and related documents without further order of the Court, including, without

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limitation, changes to correct typographical and grammatical errors and to make conforming changes among the Disclosure Statement, the Plan and any other materials in the Solicitation Package prior to their mailing.

24. The notice to be provided pursuant to the procedures set forth herein is good and sufficient notice to all parties in interest and no other or further notice need be provided.

25. The Confirmation Hearing will be held at __:__ __.m. (prevailing Eastern Time) on _____; provided, however, that the Confirmation Hearing may be continued from time to time by the Court or the Debtors without further notice or through adjournments announced in open court.

26. The Confirmation Hearing Notice annexed to the Application as Exhibit E is approved.

27. The Debtors may cause the publication of the Confirmation Hearing Notice in the national edition of *The Wall Street Journal* at least twenty (20) days prior to the date set for the Confirmation Hearing.

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28. Any objections to confirmation of the Plan or proposed modifications to the Plan must (a) be in writing, (b) state the name and address of the objecting party and the nature of the Claim or interest of such party, (c) state with particularity the basis and nature of any objection or proposed modification and (d) be filed, together with proof of service, with the Court, and be served upon (i) the UST, (ii) counsel for the Debtors and (iii) counsel for the Committee at the addresses set forth in the Confirmation Hearing Notice, so as to be received by no later than ten (10) days before the Confirmation Hearing. Any replies to those objections must be filed no later than three (3) days before the Confirmation Hearing.

29. Objections to confirmation of the Plan that are not timely filed, served and actually received in the manner set forth above shall not be considered and shall be deemed overruled.