Docket #0298 Date Filed: 06/26/2026

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE: BRD LAND & INVESTMENT, et al. Debtors.	Chapter 11 Case No. 26-30215 (Jointly Administered)

DLP LENDING FUND LLC AND DLP CAPITAL LENDING CH LLC'S OBJECTION TO DISCLOSURE STATEMENT FOR JOINT AMENDED PLAN OF LIQUIDATION

DLP Lending Fund LLC ("DLP Lending") and DLP Capital Lending CH LLC ("DLP LendingCH", and together with DLP Lending, collectively "DLP") by and through undersigned counsel, hereby object to approval of the *Disclosure Statement for Amended Joint Plan of Liquidation of BRD Land & Investment, BRDL Warden Station, LLC, and BRDL Warden Station Holding Co, LLC* (the "Amended Disclosure Statement"),[1] filed on June 12, 2026, and in support thereof respectfully state as follows:

I. BACKGROUND

1. On February 24, 2026, the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.[2]

2. The Debtors filed Schedules in their respective bankruptcy cases which provided as follows:

[1] Docket No. 257.
[2] Docket No. 1.

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DEBTOR	ASSETS	LIABILITIES
BRDL Warden Station Holding Co, LLC[3]	$15,937,000	$10,838,000
BRDL Warden Station LLC[4]	$26,775,231.65	$11,161,106.95
BRD Land & Investment[5]	$38,327,207.08	$116,996,798.11

3. BRD Land & Investment discloses in its Schedules that it has issued over 113 Promissory Notes.[6]

4. On April 21, 2026, the Debtors filed their Joint Plan of Liquidation (the "Plan")[7] and the accompanying joint Disclosure Statement.[8] DLP timely filed its Objection to the original Disclosure Statement.[9]

5. On June 12, 2026, Debtors filed the Amended Disclosure Statement.

6. The Amended Plan provides:

> The Plan does not propose substantive consolidation. Instead, the Plan treats the Debtors as separate legal entities for treatment of the claims described in the Plan. The inclusion of the classes below is not intended to and does amount to a consolidation of the Debtors' various estates. More specifically, the majority of the Debtors' collective creditors are creditors of BRD. With BRD being the sole member of Holding Co and Holding Co being the sole member of Warden Station, funds remaining after payment of the Warden Station claims that become allowed claims will flow to Holding Co and to BRD to be used for payment of the BRD claims that become allowed claims.

See Amended Plan III. A.

7. Debtors proposed Joint Amended Plan of Liquidation of BRD Land & Investment, BRDL Warden Station, LLC and BRDL Warden Station Holding Co, LLC ("Amended Plan") provides for eight (8) classes amongst all three (3) Debtors as follows:

[3] Docket No. 15 (*In re BRDL Warden Station Holding Co, LLC*, Case No. 26-30213).
[4] Docket No. 22 (*In re BRDL Warden Station, LLC*, Case No. 26-30214).
[5] Docket No. 184 (*In re BRD Land & Investment*, Case No. 26-30215).
[6] Docket No. 184.
[7] Docket No. 136.
[8] Docket No. 137.
[9] Docket No. 218.

Class 1	Allowed Secured Tax Claims
Class 2	Allowed DLP Warden Station Secured Claim
Class 3	Allowed DLP Clark Secured Claim
Class 4	Allowed DLP Pinewood Secured Claim
Class 5	Allowed Other Secured Claim
Class 6	Allowed Priority Claims
Class 7	Allowed General Unsecured Claims
Class 8	Allowed Unsecured Deficiency Claims
Class 8	Equity Interests

II. THE DISCLOSURE STATEMENT DOES NOT COMPLY WITH SECTION 1125

8. Section 1125(a)(1) of the Bankruptcy Code requires that a disclosure statement contain "adequate information"—that is, "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 . . . that would enable . . . a hypothetical investor of the relevant class to make an informed judgment about the plan." 11 U.S.C. § 1125(a)(1).

9. "The preparing and filing of a disclosure statement is a most important step in the reorganization of a Chapter 11 debtor. It is relied on by both the creditors of the debtor before they vote on the plan of reorganization, and by the bankruptcy court before approving it. Given this reliance, it is crucial that a debtor be absolutely truthful so that the disclosure statement meets the Code standard in § 1125...." *In re Point Wylie Co.*, 78 B.R. 453, 460 n. 6 (Bankr.D.S.C.1987) (*internal citations omitted*) (*quoting In re Galerie Des Monnaies of Geneva, Ltd.*, 55 B.R. 253, 259 (Bankr.S.D.N.Y.1985)); *see also In re Radco Props., Inc.*, 402 B.R. 666, 682

(Bankr.E.D.N.C.2009) ("[T]he importance of full and honest disclosure is critical and cannot be overstated").

III. OBJECTIONS TO THE DISCLOSURE STATEMENT

10. The Amended Disclosure Statement does not satisfy the requirements of 11 U.S.C. § 1125, to wit:

A. The Amended Disclosure Statement Fails to Provide a Debtor-by-Debtor Liquidation Analysis

11. DLP previously objected that the Liquidation Analysis did not provide an analysis by debtor or by each class of creditors by debtor. While the Amended Disclosure Statement's Exhibit B includes some separate figures for BRD Land & Investment and BRDL Warden Station, LLC, it continues to aggregate certain assets, liabilities, and projected distributions, thereby masking potential shortfalls as to individual debtor estates.

12. The Disclosure Statement and Liquidation Analysis fail to advise creditors of BRDL Warden Station Holding Co, LLC that based on the face its Schedules all unsecured creditors can be paid in full. Specifically, BRDL Warden Station Holding Co., LLC Schedules state it has $15,937,000 in assets with disclosed liabilities of $10,838,000. Likewise, BRDL Warden Station LLC has scheduled assets of $26,775,231.65 and liabilities of $11,161,106.95. There is no mention of this solvency in the Disclosure Statement or Liquidation Analysis nor how the face of the Schedules does not mean unsecured creditors should not receive a full recovery in these two estates. Instead, what Debtors propose is that the creditors of BRD Warden Station Holding Co, LLC and BRDL Warden Station LLC drastically reduce their recovery by being saddled with the liabilities of the other debtor.

13. In a joint case, the estates remain legally distinct absent substantive consolidation; thus, the liquidation analysis and resulting floor for distributions must be performed separately for

each Debtor's estate. *See* 11 U.S.C. § 302(b). The Amended Plan itself acknowledges that it "does not propose substantive consolidation" and "treats the Debtors as separate legal entities." Creditors are entitled to a clear, debtor-by-debtor analysis that permits them to evaluate whether the "best interests of creditors" test under Section 1129(a)(7) of the Bankruptcy Code will be satisfied as to each individual Debtor's estate.

B. The Amended Plan Improperly Classifies the General Unsecured Creditors of Three Separate Debtor Estates in a Single Class

14. The Plan provides for a single Class 7 of Allowed General Unsecured Claims and a single Class 8 of Allowed Unsecured Deficiency Claims spanning all three Debtors, even though the Plan expressly states that it "does not propose substantive consolidation" and "treats the Debtors as separate legal entities." A plan may not place the unsecured creditors of multiple, separate debtor estates into a single class where those estates hold materially different assets, owe materially different liabilities, and offer materially different projected recoveries. The Bankruptcy Code requires that each claim be classified only with other claims that are "substantially similar," 11 U.S.C. § 1122(a), and the unsecured creditors of a solvent estate are not substantially similar to the unsecured creditors of a deeply insolvent estate.

15. Each Debtor is a separately formed legal entity with its own corporate existence, its own assets, and its own liabilities. The fact that the Debtors may be members of one another—BRD Land & Investment is the sole member of BRDL Warden Station Holding Co, LLC, and Holding Co is the sole member of BRDL Warden Station, LLC—does not merge their estates or render their respective creditors similarly situated. Corporate separateness is the default rule, and absent a substantive consolidation order (which the Debtors expressly disclaim), the assets of each entity answer first to the creditors of that entity. A membership or ownership interest is an equity interest that is junior to creditors; accordingly, a parent's ownership of a subsidiary does not give

the parent's creditors any direct claim on the subsidiary's assets ahead of the subsidiary's own creditors. That the Debtors' corporate structure may permit residual funds to flow upward after each subsidiary's own creditors are paid does not justify classifying creditors of distinct estates together as if those estates were one.

16. The single-class structure carries concrete and prejudicial economic consequences for the creditors of the solvent estates. Based on the Debtors' own Schedules, BRDL Warden Station Holding Co, LLC and BRDL Warden Station LLC are each solvent, such that each creditors could be paid in full. By contrast, BRD Land & Investment and BRDL Warden Station LLC are deeply insolvent, with $14,445,207.08 in assets against $108,043,297.68 in liabilities.

17. By pooling the unsecured creditors of the solvent estate with the unsecured creditors of the insolvent BRD estate in a single Class 7, the Plan dilutes the recoveries of BRDL Warden Station Holding Co, LLC and BRDL Warden Station LLC creditors and effectively redistributes the value of the solvent estate to the creditors of the insolvent estate—achieving a de facto substantive consolidation without the findings, notice, or protections that consolidation requires.

18. The single-class structure also distorts the voting process. Combining the creditors of three separate estates into one voting class permits the large body of BRD's unsecured noteholders—arising from over 113 promissory notes issued by BRD—to dictate the acceptance or rejection of the Plan for the creditors of the other estates, contrary to the separate-classification and class-acceptance requirements of Sections 1122, 1126, and 1129(a)(8) of the Bankruptcy Code as they must be applied to each Debtor's estate. Accordingly, the Plan should provide a separate class of general unsecured claims for each Debtor, and the Disclosure Statement should disclose, on a debtor-by-debtor basis, the assets, liabilities, and projected unsecured recovery for each estate.

As presently structured, the Plan is not confirmable and the Disclosure Statement fails to provide adequate information under Section 1125.

C. The Amended Disclosure Statement Continues to Provide Inadequate Information Regarding Avoidance Actions

19. The Debtors have employed Cole Hayes as special bankruptcy litigation counsel and have identified four specific areas of causes of action that he is retained to investigate and pursue: (a) the Debtors' avoidance actions and other causes of action; (b) causes of action against counterparties to unconsummated land purchase and land sale agreements; (c) causes of action against the Debtors' prepetition lenders; and (d) the review and analysis of the professional fees of all professionals retained in these Chapter 11 Cases. However, the Amended Disclosure Statement fails to mention any of these matters or how they may economically impact the Debtors and the recoveries available to creditors.

20. The Amended Disclosure Statement acknowledges that the Liquidating Agent will have authority to commence avoidance actions. However, the Amended Disclosure Statement provides no disclosure regarding whether the Debtors intend to assert any specific avoidance actions, identifies no potential targets, and does not quantify the potential recoveries from avoidance actions that would be available to fund distributions to creditors. Given the Debtors' issuance of over 113 promissory notes and the substantial sums flowing through the Debtors prepetition, this omission is particularly material.

D. The Disclosure Statement Fails to Adequately Disclose the Basis for the Hypothetical Liquidation Analysis

21. The Hypothetical Liquidation Analysis attached as Exhibit B to the Disclosure Statement purports to demonstrate that creditors will receive more under the Plan than in a Chapter 7 liquidation. However, the analysis is conclusory and fails to disclose the factual assumptions

underlying its projected sale values. The Disclosure Statement provides no information as to how the estimated property values were determined, what comparable sales or market data were considered, who prepared the analysis, or what methodology was employed. Without this information, DLP cannot evaluate whether the "best interests of creditors" test under Section 1129(a)(7) of the Bankruptcy Code will be satisfied.

22. In addition, a liquidation analysis is needed for each separate debtor and its respective creditors.

23. In addition, the Amended Disclosure Statement fails to disclose any analysis of avoidance actions or other causes of action against other parties that would be available to fund distributions to creditors.

E. The Court May Deny Approval of the Disclosure Statement Because the Plan Is Not Confirmable

24. A court may deny approval of a disclosure statement, even if it is not by itself deficient, if a debtors plan has no hope of being confirmed. *In re Bermuda Bay, LLC*, Nos. 09–32133 and 09–32130, 2009 WL 5218071, at *3 (Bankr. E.D.Va. Dec. 31, 2009) (*quoting In re CRIIMI MAE, Inc.*, 251 B.R. 796, 799 (Bankr. D.Md. 2000)).

25. The Plan cannot be confirmed because it fails the "best interests of creditors" test as to each Debtor individually. The Bankruptcy Code requires that each holder of an impaired claim receive not less than the amount that holder would receive in a hypothetical chapter 7 liquidation of the applicable debtor on the effective date. See 11 U.S.C. § 1129(a)(7). In a joint case, the estates remain legally distinct absent substantive consolidation; thus, the liquidation analysis and resulting floor for distributions must be performed separately for each Debtor's estate. See 11 U.S.C. § 302(b).

26. The Plan improperly aggregates the Debtors' assets, liabilities, and projected distributions and applies a single, combined "best interests" analysis, thereby masking shortfalls as to individual debtor estates. This contravenes the Code's plain text and structure.

27. The statutes speak in terms of what "each holder" would receive if "the debtor" were liquidated under chapter 7 (§ 1129(a)(7)).

28. Furthermore, the Plan violates the absolute priority rule.

29. The Plan permits the holders of Equity Interests in the Debtors to retain their Equity Interests, even though the Plan does not propose to pay the holders of General Unsecured Claims in full. A plan may not be confirmed over the objection of an impaired, dissenting class of unsecured claims if the holders of junior Equity Interests retain property on account of those interests. See 11 U.S.C. § 1129(b)(2)(B)(ii). Neither the Plan nor the Amended Disclosure Statement explains how the Plan can satisfy the absolute priority rule, further confirming that the Plan is not confirmable and that approval of the Disclosure Statement should be denied.

IV. RESERVATION OF RIGHTS

30. DLP expressly reserves all rights, claims, defenses, and objections with respect to the Plan and the Disclosure Statement, including without limitation: (a) the right to object to confirmation of the Plan on any and all grounds; (b) the right to make an election under Section 1111(b) of the Bankruptcy Code; (c) the right to object to or challenge any proposed surcharge of its collateral under Section 506(c) of the Bankruptcy Code; and (d) any and all other rights DLP may have under applicable law. Nothing herein shall be deemed a waiver of any such rights.

V. CONCLUSION

For the foregoing reasons, DLP respectfully requests that the Court deny approval of the Disclosure Statement or in the alternative require the Disclosure Statement be amended and such other and further relief as this Court deems just and proper.

Dated: June 26, 2026

/s/ Esther McKean
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CERTIFICATE OF SERVICE

I, Esther McKean, hereby certify that on this 26th day of June 2026, I caused the foregoing DLP LENDING FUND LLC AND DLP CAPITAL LENDING CH LLC'S OBJECTION TO DISCLOSURE STATEMENT filed herewith to be served by this Court's CM/ECF System.

Dated: June 26, 2026.

/ Esther McKean
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