Docket #0474 Date Filed: 10/07/2026

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 SECOND 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 Joint Second Amended Plan of Liquidation of BRD Land & Investment, BRDL Warden Station, LLC, and BRDL Warden Station Holding Co, LLC* (the "Disclosure Statement"),[1] filed on September 18, 2026, in support of the *Joint Second Amended Plan of Liquidation* attached thereto as Exhibit A (the "Plan"), and in support thereof respectfully state as follows:

PRELIMINARY STATEMENT

DLP recognizes that these cases have produced multiple disclosure statements and that further litigation and professional fees reduce funds available to creditors. DLP seeks targeted supplementation, not wholesale revision of the Disclosure Statement. Creditors still lack the financial information necessary to evaluate the Plan under 11 U.S.C. § 1125(a)(1). The new Liquidation Analysis required correction after materially overstating projected unsecured

[1] Docket No. 452.

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recoveries and still contains unexplained assumptions and improper duplication of value among the Debtors' estates. The Disclosure Statement does not: (i) reconcile conflicting claims and liabilities, (ii) estimate allowed claims and projected recoveries by class, or (iii) adequately disclose the professional fees, administrative expenses, Liquidating Agent compensation, and sale costs that will reduce funds available for distribution.

The Disclosure Statement also does not adequately disclose the status, risks, and anticipated costs of the Warden Station sale process, including the proposed Water Agreement with Bucksport Water System, Inc. governing water access for development and continuing carrying costs. Nor does it meaningfully identify or value potential avoidance and other litigation claims that the Liquidating Agent may pursue. These omissions prevent creditors from evaluating net assets available for distribution and their likely recovery. DLP therefore requests that any approval be conditioned upon targeted supplementation addressing these deficiencies. Although DLP principally challenges inadequate disclosure, the Court may also deny approval if the Plan is patently unconfirmable. The significant confirmation defects discussed below must be addressed, whether now or at confirmation.

I. GENERAL 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:

[2] Docket No. 1.

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 "Original Plan")[7] and the accompanying Disclosure Statement (the "First Disclosure Statement").[8] DLP timely filed its objection to the First Disclosure Statement.[9] The parties treated the June 3, 2026 hearing on the First Disclosure Statement as a status conference.

5. On June 12, 2026, the Debtors filed their Joint Amended Plan of Liquidation and an accompanying disclosure statement (the "Second Disclosure Statement").[10] At the July 8, 2026 hearing on the Second Disclosure Statement, the Court expressed concerns regarding the status of the Debtors' land purchase agreements, and the Debtors thereafter turned to resolving those agreements rather than proceeding with the Second Disclosure Statement.

6. On September 18, 2026, the Debtors filed the Disclosure Statement and the Plan, their third attempt at an approvable disclosure statement in these cases.[11]

[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.
[10] Docket Nos. 256 and 257.
[11] Docket No. 452.

7. On October 2, 2026, the Debtors filed a *Notice of Filing of Corrected BRD Land & Investment Liquidation Analysis*,[12] conceding that the BRD Land & Investment liquidation analysis attached to the Disclosure Statement contained an incorrect figure for "Net assets available to Unsecured" and the corresponding line items.

8. The Plan proposes the following fourteen classes of claims and interests:

Class 1	BRD Secured Tax Claims
Class 2	DLP Warden Station Secured Claim
Class 3	DLP Clark Secured Claim
Class 4	WMP Secured Claim
Class 5	Other Secured Claims
Class 6	BRD Priority Claims
Class 7	BRD General Unsecured Claims
Class 8	Holding Co General Unsecured Claims
Class 9	Warden Station General Unsecured Claims
Class 10	BRD Unsecured Deficiency Claims
Class 11	Warden Station Unsecured Deficiency Claims
Class 12	BRD Equity Interests
Class 13	Holding Co Equity Interests
Class 14	Warden Station Equity Interests

II. EFFORTS TO SELL WARDEN STATION

9. BRD Land & Investment ("BRD") is an entitlement and permitting company that acquired raw land, obtains permits and entitlements, and sells the shovel ready land to national and regional homebuilders.

10. BRDL Warden Station, LLC ("Warden Station") is a project specific entity that holds title to three parcels of approximately 1,739.38 acres, 61.71 acres, and 11.6 acres of real

[12] Docket No. 471.

property in Horry County, South Carolina (the "Warden Station Property"). BRDL Warden Station Holding Co, LLC ("Holding Co.") is the sole member of Warden Station, and BRD is the sole member of Holding Co.

11. DLP holds a mortgage on the Warden Station Property recorded in the Horry County Register of Deeds at Book 6763, Page 673. As additional security, Holding Co. pledged its membership interest in Warden Station, together with all cash, other property, and proceeds thereof, to DLP under an Ownership Interest Pledge Agreement dated February 29, 2024 (the "Pledge Agreement"). DLP's amended proof of claim against Warden Station asserts a claim of $12,178,387.00 as of the Petition Date.[13] As of July 22, 2026, DLP's claim was $13,373,341.31, and continues to accrue interest and fees.

12. On March 16, 2026, the Debtors filed an *Ex Parte Application for Authority to Employ Great Neck Realty Company of North Carolina, LLC, Iron Horse Auction Company, Inc. and Iron Horse Commercial Properties, LLC Collectively, as Auctioneers and Real Estate Brokers to Debtors Pursuant to Section 327(a) of the Bankruptcy Code*[14] (the "Brokers Application") seeking to employ those entities (collectively, the "Brokers").

13. Under the Brokers Application, the Brokers agreed to market Debtors' real properties.

14. The Court approved the employment of the Brokers by order entered on March 17, 2026.[15]

15. According to the Debtors only three offers were presented for Warden Station.

[13] Claim No. 4 in Warden Station's case, as amended.
[14] Docket No. 65.
[15] Docket No. 71.

16. The Debtors further told this Court that the pool of qualified buyers for Warden Station is "necessarily limited" by an unexecuted Utility Development Agreement with Bucksport Water System, Inc. (the "Water Agreement"), which caps water capacity at 3,000 residential units and carries an initial cost of $6,360,000 that any purchaser must assume at closing. The Disclosure Statement says nothing about the Water Agreement, its current status, or its effect on the value and marketability of Warden Station.

17. On June 26, 2026, Warden Station filed its *Motion for Authorization to Transfer Certain Real Property Free and Clear of Liens*[16] (the "Motion to Sell"), seeking approval of a sale of the Warden Station Property to Greenstead Capital I, LLC ("Greenstead") for $16,171,531.00. In the Motion to Sell, the Debtors represented that the purchase price "represents fair market value." The Court approved the Motion to Sell by order dated August 11, 2026.[17]

18. The sale never closed. Immediately after the sale hearing on July 29, 2026, Debtors' counsel informed undersigned counsel that Greenstead had backed out of the contract. No back-up buyer has been presented to this Court.

19. As of October 14, 2026, the Brokers will have been marketing Warden Station for more than 200 days and no replacement purchaser has emerged.

20. As of the date of this Objection, there is no pending motion to sell Warden Station. Instead, the Plan extends the deadline merely to file a sale motion to April 1, 2027, more than thirteen months (or 401 days) after the Petition Date, while DLP's claim continues to accrue interest, and real estate taxes, insurance, and other carrying costs continue to accrue against DLP's collateral.

[16] Docket No. 293.
[17] Docket No. 387.

21. The Debtors' own Liquidation Analysis values the Warden Station Property between $10,500,000 and $12,000,000.

III. IRREGULARITIES IN THE LIQUIDATION ANALYSIS

A. The Corrected BRD Liquidation Analysis

22. The Disclosure Statement represents that Exhibit B contains a hypothetical liquidation analysis for each Debtor (the "Liquidation Analysis") and that the Debtors' real estate professionals analyzed the hypothetical liquidation values.

23. As originally filed, the BRD liquidation analysis added, rather than subtracted, the $2,820,714 secured portion of secured debt, producing net assets available to unsecured creditors of $7,970,714 in the low case and $9,503,165 in the high case, and projected payouts to general unsecured creditors of 5.3% and 6.8%.

24. Two weeks later, the Debtors filed the corrected BRD analysis, which subtracts the $2,820,714 and reduces the projected payout to general unsecured creditors to 0.9% in the low case and 2.3% in the high case. The error overstated unsecured recoveries by more than five times in the low case and nearly three times in the high case.

B. Misrepresentation of the Status of Cash

25. The Liquidation Analysis states there is cash of $763,433 as of September 1, 2026 but fails to inform creditors of the following professional applications that the Debtors have sought to pay from said funds totaling $586,672.98.

Applicant	Docket No.	Amount
GreerWalker LLP	Docket No. 428	$32,977.00
Fox Rothschild LLP	Docket No. 441	$83,523.65
Rayburn Cooper & Durham P.A.	Docket No. 442	$31,529.30
GreerWalker LLP	Docket No. 443	$23,360.50
Fox Rothschild LLP	Docket No. 456	$37,916.03
IslandDundon LLC	Docket No. 457	$365,125.00
Robinson Gray Stepp & Laffitte, LLC	Docket No. 465	$4,016.50
Robinson Gray Stepp & Laffitte, LLC	Docket No. 466	$5,495.00
Robinson Gray Stepp & Laffitte, LLC	Docket No. 467	$2,730.00
TOTAL		$586,672.98

C. The Same $532,451 Is Counted in Multiple Estates

26. The Warden Station liquidation analysis shows that, after payment of secured debt of $11,422,328 and a 7% liquidation cost, the low case yields a deficit of $986,643, and only the high case yields any surplus, which the Debtors carry forward as $532,451.

27. The Holding Co. liquidation analysis then lists $532,451 as Holding Co.'s realized value in both the low case and the high case, even though the Warden Station low case produces no surplus at all. Holding Co. carries that amount through as the "[e]stimated net available for administrative costs," the "[e]stimated Net Available for Distribution to Priority Unsecured Creditors," and the "[e]stimated Net Available for Distribution to General Unsecured Creditors."

28. The BRD liquidation analysis then includes the same $532,451 in BRD's high case total assets, which increases BRD's projected payout to its general unsecured creditors.

29. This treatment is wrong for at least three reasons. First, any value in Warden Station's membership interest is DLP's collateral under the Pledge Agreement and cannot flow to the unsecured creditors of Holding Co. or BRD. Second, Holding Co. is a guarantor of the Warden Station Loan, and Holding Co.'s Schedules list $10,838,000 in liabilities, so no value could pass

from Holding Co. to BRD until those liabilities are satisfied. Third, the low case surplus does not exist.

30. Holding Co.'s Schedules value its membership interest in Warden Station at $15,937,000, the Liquidation Analysis lists an estimated value of $5,099,000 for that investment, and the Holding Co. analysis realizes only $532,451. The Disclosure Statement does not reconcile these figures.

D. Warden Station Property

31. In June 2026, the Debtors represented to this Court that the $16,171,531 Greenstead purchase price "represents fair market value." Three months later, the Liquidation Analysis values the same property at $10,500,000 to $12,000,000. A decline of 26% to 35%. The Disclosure Statement does not explain this drop or reconcile the earlier representation with the current valuation.

32. The Liquidation Analysis uses secured debt of $11,422,328. The Disclosure Statement elsewhere describes the Warden Station Loan as $10,838,000, and DLP's amended proof of claim asserts $13,373,341.31 as of July 22, 2026. The Liquidation Analysis also ignores the postpetition interest, fees, and carrying costs that will accrue through any sale under the Plan's April 1, 2027 milestone. Using DLP's filed claim, even the high case produces no surplus for Holding Co. or BRD.

33. The Liquidation Analysis also assumes a 7% liquidation cost on Warden Station but does not address whether a Chapter 7 trustee would simply abandon the property to DLP, which is exactly what the Plan's own surrender alternative contemplates.

E. Holding Co.

34. The Disclosure Statement provides no distribution to Holding Co. unsecured

creditors despite stating in the Liquidation Analysis it has $532,451 in assets, does not identify those creditors, and does not account for DLP's guaranty claim. Holding Co.'s Schedules list $10,838,000 in liabilities, while the claims register reflects $13,120,060.89 in claims against Holding Co.

35. The Holding Co. analysis does not list Holding Co.'s unsecured liabilities, does not disclose that its sole asset is pledged to DLP, and does not state a recovery percentage supported by actual claims.

F. BRD Land & Investment

36. BRD's liabilities are stated three different ways: $116,996,798.11 in total liabilities in BRD's Schedules, $108,043,297.28 in unsecured debt in the Disclosure Statement, and $126,385,759 in unsecured liabilities in the Liquidation Analysis. The Disclosure Statement does not explain the differences or estimate allowed claims in any class.

37. The BRD analysis lists more than $14,000,000 in prepayments, deposits, and contract rights at estimated value but realizes little or nothing on account of them, without identifying the agreements or counterparties, whether deposits were forfeited upon the rejection of at least twenty four land purchase agreements, or the projected assignment fees for the four agreements the Debtors still hope to assign and for which the Debtors admit they received offers.

38. The BRD analysis relies on appraised values as of November 1, 2025, more than ten months before the Disclosure Statement was filed.

G. Yarbrough Farm, Clark Tract, and Other Line Items

39. The BRD analysis values Yarbrough Farm at an appraised value of $1,575,000 but assumes a high realized value of $2,000,000, 27% above the appraised value, without explanation,

while the Plan acknowledges that the Yarbrough Commercial Parcel has not yet been deeded to BRD.

40. The BRD analysis values the Clark Tract at $3,400,000 in both cases, but the Disclosure Statement states the price increases to $3,450,000 if the sale closes after October 1, 2026, and does not disclose whether the sale has closed or the amount of net proceeds after payment of DLP's secured claim.

41. The BRD analysis assumes lower Chapter 11 professional fees and lower Chapter 7 professional fees in the high case than in the low case, and notes that BRD will abandon a property whose debt exceeds its value, without identifying the property, the lienholder, or the basis for these assumptions. The analysis also does not address the $161,906.58 WMP Cash Bond or the distribution of the Pinewood Tract sale proceeds.

42. Finally, the Disclosure Statement never states what each class of each Debtor will receive under the Plan. Without a projected Plan recovery for each class, creditors cannot compare the Plan to the Chapter 7 alternative, and the Debtors' conclusory statement that the Plan provides a greater recovery is unsupported.

IV. THE DISCLOSURE STATEMENT DOES NOT COMPLY WITH SECTION 1125

43. Section 1125(a)(1) of the Bankruptcy Code requires that a disclosure statement contain "adequate information," which 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).

44. "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 Galeries 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”).

45. Courts evaluating adequacy consider, among other things, the events leading to the filing, the available assets and their value, the source of the information in the disclosure statement, the condition and performance of the debtor while in Chapter 11, the claims asserted against the estate, a liquidation analysis, the accounting and valuation methods used, the identity of those who will manage the debtor after confirmation, the estimated return to creditors under the plan, the risks posed to creditors, the actual or projected value of avoidance actions, and the existence and likely outcome of litigation. *In re Scioto Valley Mortg. Co.*, 88 B.R. 168, 170 (Bankr. S.D. Ohio 1988). The Disclosure Statement fails nearly every one of these measures.

V. OBJECTIONS TO THE DISCLOSURE STATEMENT

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

A. The Liquidation Analysis Is Unreliable and Counts the Same Value in Multiple Estates

47. As set forth above, the Liquidation Analysis counts the same $532,451 in the Holding Co. and BRD estates, attributes that value to Holding Co. in a scenario in which none exists, and ignores DLP’s pledge of the Warden Station membership interest. A liquidation analysis that overstates value and had to be corrected after filing cannot support the Debtors’ assertion that creditors will receive at least as much under the Plan as in a Chapter 7 liquidation,

and it does not give creditors the adequate information they need to make an informed decision on the Plan.

48. BRD may be the ultimate parent of Holding Co. and Warden Station, but the assets of a subsidiary do not flow up to its parent until the subsidiary's creditors, including its secured and guaranty creditors, are paid in full. The Disclosure Statement's representation that funds remaining after payment of Warden Station claims "will flow to Holding Co and to BRD" ignores both the Pledge Agreement and Holding Co.'s guaranty liability.

B. The Disclosure Statement and Plan Are Internally Inconsistent

49. The Disclosure Statement states that any WMP unsecured deficiency claim will be treated in Class 7, while the Plan places it in Class 10. The Disclosure Statement states that Class 11 shares pari passu with Class 8, the Holding Co. general unsecured class, while the Plan states that Class 11 shares pari passu with Class 9, the Warden Station general unsecured class.

50. The Disclosure Statement's summary of Class 2 omits the Plan's alternative surrender process, under which the Warden Station Property would be surrendered to DLP "in full and complete satisfaction" of DLP's secured claim, a provision that bears directly on DLP's rights under Section 1111(b) and on any deficiency claim.

51. Section 7.4 of the Plan states that "[a] preliminary analysis of Avoidance Actions is set forth in Article IV, Section 3 of the Disclosure Statement." No such analysis exists; that section merely restates the Liquidating Agent's authority.

52. Section 10.1 of the Plan vests all assets in the Debtors free and clear and "releases, cancels, and otherwise terminates all liens against assets," while the Class 2 treatment states that DLP retains its lien. The Disclosure Statement does not reconcile these provisions.

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

53. 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. The Plan now designates Mr. Hayes as the Liquidating Agent with "sole, autonomous decision making authority" over the Debtors after confirmation. The Disclosure Statement fails to mention any of these matters, how they may economically impact recoveries, his hourly rate, or the estimated cost of administering the estates and prosecuting litigation. It further fails to address Mr. Hayes' dual conflicting role as counsel for the Debtors and then serving as Liquidating Agent to pursue all causes of action related to misuse by Debtors of invested funds and 113 Promissory Notes.

54. The Disclosure Statement acknowledges that the Liquidating Agent will have authority to commence avoidance actions. However, the 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

55. 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.

E. The Disclosure Statement Fails to Disclose the Warden Station Sale Process and Its Cost to DLP

56. The Disclosure Statement devotes only a few sentences to the Warden Station sale history and provides no meaningful information about what the Brokers have done since Greenstead terminated its contract and no backup bidder was presented to the Court, how many parties remain interested, or why the Debtors need until April 1, 2027 merely to file a sale motion.

57. The Plan gives the Debtors until April 1, 2027 to file a sale motion, then a further thirty business days to seek auction procedures, and provides for surrender to DLP only if the auction fails to produce a purchaser acceptable to the Debtors in their "sole discretion and business judgment." The Disclosure Statement does not disclose the cost of that delay, including accruing interest on DLP's claim, real estate taxes, insurance, and professional fees, or whether any of those costs will be charged against DLP's collateral.

58. The Disclosure Statement does not disclose the Broker, auctioneer or closing fees that will incur against any speculative sale of the property which will result in less monies to creditors.

59. The Plan defines Net Sale Proceeds to deduct "any costs and expenses imposed under Section 506(c) of the Bankruptcy Code," but the Disclosure Statement does not disclose whether the Debtors intend to seek a surcharge against DLP's collateral, in what amount, or on what basis.

60. Although the Plan provides that DLP may credit bid, the Debtors reserve "all rights and arguments related to such credit bid," and the Disclosure Statement does not disclose what challenges the Debtors intend to raise to DLP's claim when Debtors do not contest DLP has a secured claim.

61. The Disclosure Statement does not disclose whether DLP will receive any payment of interest or other adequate protection during the extended marketing period, and does not disclose the status of the Water Agreement, which the Debtors told this Court was "a crucial component" of any sale.

F. The Disclosure Statement Omits Other Material Information

62. The Disclosure Statement provides no estimate of the aggregate amount of claims in any class, no projected recovery percentage for any class, and no projected timing of distributions, and it states that the Debtors "cannot estimate the length of time" needed to sell assets and conclude litigation.

63. The risk factors acknowledge DLP's stay relief motions, the cross collateralization dispute, and DLP's reservation of rights to postpetition interest and attorneys' fees, but do not quantify how any of those outcomes would affect recoveries.

64. The Plan's exculpation provision provides that the Debtors and their present employees, representatives, counsel, professionals, and agents "shall be deemed released" by "the holders of Claims and Equity Interests." That is a nonconsensual release of nondebtors by creditors, which is not permitted under *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204 (2024). The Disclosure Statement does not tell creditors that they are releasing claims, against whom, or whether they may opt out.

65. The Disclosure Statement states that the Debtors are "investigating" the assignment of certain DLP loans to DLP LendingCH, even though the assignment of the Warden Station mortgage was recorded in the Horry County Register of Deeds at Book 6858, Page 2504, and does not disclose the purpose of that investigation or its effect on DLP's treatment.

66. The Disclosure Statement does not disclose the estimated Liquidating Agent compensation, estimated administrative claims, or professional fees accrued to date.

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

67. A court may deny approval of a disclosure statement, even if it is not by itself deficient, if the debtor's plan has no hope of being confirmed. *In re Bermuda Bay, LLC*, 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)).

68. 11 U.S.C. § 1129 sets forth several requirements that must be met before a court can confirm a debtor's chapter 11 plan. A court must undertake an independent evaluation of a debtor's plan to ensure these requirements are met, even in the absence of objection. *In re Gyro-Trac (USA), Inc.*, 441 B.R. 470, 477 (Bankr. D.S.C. 2010) (citing *In re Landscaping Servs., Inc.*, 39 B.R. 588, 590 (Bankr. E.D.N.C. 1984); *In re Econ. Cast Stone Co.*, 16 B.R. 647, 650 (Bankr. E.D. Va. 1981)). The proponent of the plan, the debtor, bears the burden of showing that the plan

satisfies all the elements of section 1129. *Id.* The debtor must make this showing by a preponderance of the evidence. *Id.* (citing *In re Byrd Foods, Inc.*, 253 B.R. 196, 199 (Bankr. E.D. Va. 2000)).

69. Section 1129(a)(11) sets forth a requirement that in order to be confirmed, a debtor's plan must be feasible. That section states that the court may only confirm a plan if "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan." 11 U.S.C. § 1129(a)(11).

70. In order to satisfy section 1129(a)(11), success of a debtor's plan does not have to be guaranteed; instead, the plan must "'present a workable scheme of organization and operation from which there may be a reasonable expectation of success.'" *Gyro-Trac*, 441 B.R. at 482–83 (quoting *In re Walker*, 165 B.R. 994, 1004 (E.D. Va. 1994)); *In re Grandfather Mt. Ltd. P'ship*, 207 B.R. 475, 485-86 (Bankr. M.D.N.C. 1996). The important consideration is whether, given the debtor's situation, the "things which are to be done after confirmation can be done as a practical matter." *Id.* In assessing feasibility, several factors may be relevant, including:

> The reorganized debtor's capital structure, the debtor's projected earning power, the current state of the economy, the ability of management and the likelihood that the current management will continue to work for the reorganized debtors, and any other factors the court finds relevant to the success of the debtor's plan.

Id. (citing *In re Radco Props., Inc.*, 402 B.R. 666, 679 (Bankr. E.D.N.C. 2009)).

71. Debtors' Plan is not feasible because it is a "wait and see" plan. The Plan does not propose a sale of the Warden Station Property. Instead, it gives the Debtors until April 1, 2027, merely *to file a motion* relating to an unidentified sale or auction process, more than thirteen months (or 401 days) after the Petition Date. There is no pending sale motion, no identified purchaser, and no purchase contract. The only Court-approved sale, to Greenstead for

$16,171,531.00, never closed, and the Brokers have marketed Warden Station for more than 200 days without producing a replacement purchaser. The Debtors' own Liquidation Analysis now values the Warden Station Property at $10,500,000 to $12,000,000, less than DLP's claim of $13,373,341.31 as of July 22, 2026. Even then, the Plan provides for surrender to DLP only if an auction fails to produce a purchaser acceptable to the Debtors in their "sole discretion and business judgment." In short, the Plan holds DLP at bay, without any disclosed interest or adequate protection payments, while the Debtors wait to see whether a buyer appears.

72. Courts consistently refuse to confirm such plans. In the "clear majority" of cases, bankruptcy courts have refused to confirm plans that keep creditors "on hold" without payments while the debtor seeks to sell real estate "which it has been unable to sell in years past," because such plans "are nothing more than speculative ventures which place all the risk on the respective secured creditors." *In re Calvanese*, 169 B.R. 104, 107–08 (Bankr. E.D. Pa. 1994). Courts analyzing these "wait and sell" plans "have appeared to almost uniformly conclude is that, unless an immediate sale or other development which will benefit an objecting creditor is not only clearly defined but also is imminently likely to transpire, the plan will be deemed infeasible." *Id.* at 109. That rule applies with full force to a liquidating plan such as this one, because "[e]ven liquidating plans must be feasible." *Id.* at 107.

73. The cases collected in *Calvanese* confirm the point. *See id.* at 108 (citing, among others, *In re Krueger*, 66 B.R. 463, 464–65 (Bankr. S.D. Fla. 1986) (refusing to confirm plan funded by a sale of real estate at an undetermined future time, where marketing efforts had not produced an offer sufficient to pay the mortgage); *In re Hoffman*, 52 B.R. 212, 214–15 (Bankr. D.N.D. 1985) (plan not feasible where funding sale was neither certain to occur within the two years provided nor certain to generate sufficient proceeds); and *In re Haardt*, 65 B.R. 697, 700–

02 (Bankr. E.D. Pa. 1986) (refinancing "as soon as feasible" after confirmation not feasible absent evidence of "why this Court should conclude that Debtor will be able to accomplish in the next one hundred twenty (120) days what she has not been able to do in the previous two (2) years")). The *Calvanese* court found only two cases confirming plans supported by future sales of real estate, and in each the court required "additional indicia of feasibility," such as an identified buyer with likely financing, or a proven track record of sales coupled with an alternative capital infusion. *Id.* at 108 n.1. The *Calvanese* court denied confirmation even though the debtor sought only about six months to sell, noting that at least one court had held that even 90 days was too long a "waiting period" for creditors under such a plan. *Id.* at 109.

74. The parallels here are just as striking. As in *Calvanese*, the Debtors have marketed the property without success, the one approved sale collapsed, and DLP will receive nothing on its secured claim until a sale closes, if one ever does. *See id.* at 109. The Plan identifies no purchaser, no terms of sale, and no buyer financing. It does not even commit to a sale date; it commits only to a date to file a motion. No immediate sale is "clearly defined," and nothing suggests one is "imminently likely to transpire." *Id.* Nor does the record offer any of the "additional indicia of feasibility" that the few confirming courts required. *Id.* at 108 n.1. And the Debtors' own valuation leaves DLP with no equity cushion to absorb further delay. *Cf. id.* at 108 (noting that a debtor might be given a short period to sell without adequate protection only "when there is a considerable equity in mortgaged property and it can be sold within a short period of time").

75. The Plan's surrender alternative does not cure the defect. *Calvanese* faulted the plan there because it did not provide for a deed in lieu or friendly foreclosure if the sale failed, so that "after six months of being held at bay," the secured creditor might find itself "no closer to foreclosure (or in any way better off) than it was at the start of the case." *Id.* at 112; *see also id.*

(citing *Hoffman*, 52 B.R. at 215, for finding a future sale plan not feasible "especially in light of the debtor's failure to provide contingent treatment of secured creditor's claim if a sale never materializes"). Here, surrender is not triggered by a fixed sale deadline. It is triggered only if an auction, which the Debtors have a further thirty business days after the April 1, 2027 motion deadline to initiate, fails to produce a purchaser acceptable to the Debtors in their "sole discretion and business judgment." The Debtors therefore control whether and when DLP's remedy ever ripens, while interest, real estate taxes, insurance, and other carrying costs continue to erode DLP's collateral.

76. At bottom, the Plan rests on the Debtors' hope that the real estate market will improve and a buyer will emerge. "[S]heer optimism and hopefulness, without more, is not sufficient to support a finding of feasibility." *In re Om Shivai, Inc.*, 447 B.R. 459, 463 (Bankr. D.S.C. 2011) (citing *Gyro-Trac*, 441 B.R. at 483 ("It is not enough for a debtor to exhibit '[s]incerity, honesty and willingness' or make 'visionary promises' with respect to its plan.")). In *Om Shivai*, the debtor's "only hope of success [was] an improvement in the economy and an infusion of capital," and the court held that this was "not sufficient to support a finding that Debtor's Plan is feasible." *Id.* On that basis, the court denied both approval of the disclosure statement and confirmation of the plan. *Id.* The Debtors' only hope here is the same: an improved market and a purchaser who has not yet appeared.

77. Courts reach the same conclusion under the less demanding standard that governs relief from stay, which asks only whether there is "a reasonable possibility of a successful reorganization within a reasonable time." *United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Assocs.*, 484 U.S. 365, 376 (1988). Even under that standard, "[a] reasonable probability cannot be grounded solely on speculation, however, and a 'mere financial pipe dream' is insufficient to

meet the requirements of § 362(d)(2)." *In re L & M Props., Inc.*, 102 B.R. 481, 484 (Bankr. E.D. Va. 1989) (quoting *In re Dublin Props.*, 12 B.R. 77, 81 (Bankr. E.D. Pa. 1981)). In *L & M Properties*, the debtor's manager testified that he would "have to wait and see" how the business performed, and the court found that his testimony "amounted to nothing more than an expression of hope that a buyer or investor may be found." *Id.* at 483–84. The court adopted the reasoning of *Groundhog Mountain*: "The short of it is that the debtor is utilizing the . . . . stay, hoping that somewhere, someone will fund an arrangement or refinance the mortgage with the plaintiff. This is entirely too slim a reed upon which this Court should exercise its discretion and keep the plaintiff at bay while the debtor continues to pray." *Id.* at 484 (quoting *In re Groundhog Mountain Corp.*, 1 Bankr. Ct. Dec. (CRR) 923 (Bankr. S.D.N.Y. 1975)). Likewise, "[i]f all the debtor can offer . . . is the hope that sometime in the future some purchaser may appear on the horizon with a sufficiently substantial offer to support a plan of reorganization, it cannot be concluded that an 'effective' reorganization is likely." *In re Frye*, 323 B.R. 396, 401 (Bankr. D. Vt. 2005) (quoting *In re Boca Dev. Assocs.*, 21 B.R. 624, 630 (Bankr. S.D.N.Y. 1982)). The *Frye* court found the debtor's plan not feasible where the secured lender would be paid only from a refinancing or sale, the plan "contain[ed] no alternative provisions in the event that the refinancing or sales do not occur as projected," and the debtor had repeatedly failed to complete prior sale and refinancing efforts. *Id.* at 402. A sale-contingent plan that cannot clear the lower threshold for continuing the stay cannot satisfy section 1129(a)(11).

78. The Debtors' burden also grows heavier with time. "The longer a debtor remains in bankruptcy, the more details a debtor must provide to the court to prove that the property is necessary and a reorganization is in prospect." *In re Washington*, No. 14-05589-DD, 2015 Bankr. LEXIS 637, at *9 (Bankr. D.S.C. Feb. 26, 2015) (citing *Timbers*, 484 U.S. at 376). These cases

have been pending since February 24, 2026. The Debtors are on their third disclosure statement, the Greenstead sale has failed, and the Plan would push the deadline merely to file a sale motion to more than thirteen months after the Petition Date. Yet the Disclosure Statement offers fewer details, not more. It does not explain why the Greenstead sale failed, how many parties remain interested, or why the Debtors need until April 1, 2027, and it concedes that the Debtors "cannot estimate the length of time" needed to sell assets.

79. Confirmation of this Plan "would merely allow Debtor to postpone the inevitable, and to gamble, with the [Bank]'s money, on the long shot possibility of a drastic improvement in the real estate market." *In re Griswold Bldg., LLC*, 420 B.R. 666, 704 (Bankr. E.D. Mich. 2009). As in *Griswold Bldg.*, the Debtors seek to foist all of the risk on DLP without disclosing any meaningful immediate or sufficiently amortized payments to offset that risk. Moreover, the Debtors have no "cushion" to cover the likely shortfall between the future value of the Warden Station Property and DLP's claim, which already exceeds the high end of the Debtors' own valuation. Because the Plan is a "wait and see" plan that cannot satisfy section 1129(a)(11), it is patently unconfirmable, and the Court should deny approval of the Disclosure Statement on that basis alone. *See Bermuda Bay*, 2009 WL 5218071, at *3.

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

81. The Plan provides that holders of Equity Interests "shall retain such Equity Interests" in the reorganized wind up entities, even though, under the Debtors' own corrected analysis, BRD's general unsecured creditors are projected to receive only 0.9% to 2.3%. 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 Disclosure Statement explains how the Plan can satisfy the absolute priority rule.

82. The Plan also cannot be confirmed to the extent it diverts value in DLP's pledged collateral to the unsecured creditors of Holding Co. and BRD, and to the extent it imposes nonconsensual releases of nondebtors in violation of *Purdue Pharma*. These defects further confirm that approval of the Disclosure Statement should be denied.

VI. RESERVATION OF RIGHTS

83. 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.

VII. CONCLUSION

For the foregoing reasons, DLP respectfully requests that the Court deny approval of the Disclosure Statement or, in the alternative, require the Debtors to file an amended disclosure statement that, at a minimum: (a) provides a corrected, separate liquidation analysis for each Debtor that eliminates the double counting of the $532,451 and accounts for the Pledge Agreement and Holding Co.'s guaranty; (b) discloses the basis, source, and preparer of all values; (c) reconciles the DLP debt figures and BRD's liabilities; (d) states the estimated claims and projected recovery for each class; (e) fully describes the Warden Station sale history, the Greenstead termination, and the Water Agreement, reconciles the $16,171,531 Greenstead "fair market value" representation with the current $10,500,000 to $12,000,000 valuation, and discloses the cost of

further delay; (f) identifies and quantifies potential avoidance actions and other causes of action; (g) discloses any intended surcharge or challenge to DLP's claim and credit bid rights; and (h) removes or fully discloses the nonconsensual releases; together with such other and further relief as this Court deems just and proper.

Dated: October 7, 2026

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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)

CERTIFICATE OF SERVICE

I, Esther McKean, hereby certify that on this 7th day of October 2026, I caused the foregoing DLP LENDING FUND LLC AND DLP CAPITAL LENDING CH LLC'S OBJECTION TO DISCLOSURE STATEMENT FOR JOINT SECOND AMENDED PLAN OF LIQUIDATION filed herewith to be served by this Court's CM/ECF System on all parties registered to receive electronic notice in these cases.

Dated: October 7, 2026.

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