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15 **UNITED STATES BANKRUPTCY COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**  
17 **SAN FRANCISCO DIVISION**

18 In re:

19 **HELLER EHRMAN LLP,**

20 Debtor.

Case No.: 08-32514

Chapter 11

**JOINT PLAN OF LIQUIDATION OF  
HELLER EHRMAN LLP**

**Confirmation Hearing**

Date: TBA

Time: TBA

Place: United States Bankruptcy Court  
235 Pine Street, 22nd Floor  
San Francisco, CA

Judge: Honorable Dennis Montali

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**Exhibits**

- Exhibit A - Assumed Contracts
- Exhibit B - Former Shareholders
- Exhibit C - Compromise and Settlement Agreement
- Exhibit D - Form of Release

1 **PRELIMINARY STATEMENT**

2 Heller Ehrman, LLP, the above-referenced debtor and debtor in possession (the “Debtor”)  
3 and the Official Unsecured Creditors’ Committee appointed in the Debtor’s case (the  
4 “Committee”) and together with the Debtor (the “Proponents”), hereby propose the following *Joint*  
5 *Plan of Liquidation*. (the “Plan”). All Creditors should review the Disclosure Statement, and its  
6 accompanying exhibits and other information, before voting to accept or reject the Plan.

7 The Plan sets forth a proposal for the resolution of all Claims and Interests against the  
8 Debtor. In sum, the Plan provides for the Debtor to continue its wind-down efforts after  
9 confirmation with its administration to be handled by a professional wind-down manager (the  
10 “Plan Administrator”) replacing the Dissolution Committee as the primarily responsible party.  
11 Confirmation of the Plan shall constitute and confirm the appointment of the Plan Administrator,  
12 including responsibility and authority to (a) exercise the rights, power, and authority of the  
13 Liquidating Debtor, under the applicable provisions of the Plan and bankruptcy and non-  
14 bankruptcy law, and (b) retain post-confirmation professionals to represent the Liquidating Debtor  
15 and assist the Plan Administrator in performing and implementing the Plan, including without  
16 limitation retaining professionals originally engaged by the Debtor and/or the Committee, and (c)  
17 otherwise implement the Plan, wind up the affairs of the Estate and close the Chapter 11 Case.

18 The Plan contemplates the liquidation of all Estate Assets for the benefit of the holders of  
19 Allowed Claims and Allowed Interests. The resulting funds, after payment of Plan Expenses, will  
20 be made available for distribution to holders of Allowed Claims and Allowed Interests in  
21 accordance with the terms of the Plan. The Plan Administrator’s operation of the Liquidating  
22 Debtor will be for the purpose of liquidating and monetizing Estate Assets, which consist primarily  
23 of the Retained Claims and Defenses.

24 From and after the Effective Date, the Liquidating Debtor, acting through the Plan  
25 Administrator, shall expeditiously seek to collect, liquidate, sell and/or reduce to Cash all Estate  
26 Assets, including, without limitation, through pursuit of the Retained Claims and Defenses, and  
27 use the proceeds thereof to fund the Plan.  
28

1 In addition, a Shareholder Liquidation Trust will be established (and a trustee appointed) to  
2 address one specific element of the continued wind-down – file transfer and destruction – as well  
3 as other matters of special importance to former shareholders of the Debtor’s partners. As set forth  
4 in the Disclosure Statement, the Proponents believe that the Plan will allow the holders of  
5 Unsecured Claims to receive a meaningful return on account of their Allowed Claims against the  
6 Debtor, depending on the outcome of litigation and the allowance of Claims.

7 With the Plan, Creditors will receive a Ballot for voting on the Plan, and a Disclosure  
8 Statement that provides information concerning the Debtor and the Plan. The Disclosure  
9 Statement includes a summary of the assets and liabilities of the Debtor, a summary of what  
10 Creditors and Interest Holders will receive under the Plan, a discussion of certain alternatives to  
11 the Plan, and a summary of the procedures and voting requirements necessary for confirmation of  
12 the Plan. You should thoroughly review both the Plan and Disclosure Statement before deciding  
13 whether you will accept or reject the Plan.

14 As more fully described in the Disclosure Statement, the Plan must be approved by the  
15 requisite number of Creditors and the Bankruptcy Court must find that it meets the applicable legal  
16 standards before the Plan can be confirmed. If the Plan is not confirmed, the Bankruptcy Court may  
17 order the case dismissed, or converted to a liquidating case under Chapter 7 of the Bankruptcy Code,  
18 or the Debtor or other parties in interest may propose a different plan.

19 The Debtor and the Committee believe that the Plan provides the best mechanism available  
20 for maximizing returns to Creditors and urge Creditors to vote in favor of the Plan.

## 21 **ARTICLE I**

### 22 **DEFINITIONS**

23 For purposes of this Plan, all capitalized terms used herein and not otherwise defined shall  
24 have the meanings set forth below. A term not defined in the Plan, but defined in the Bankruptcy  
25 Code or the Bankruptcy Rules, shall have the meaning ascribed to it in the Bankruptcy Code or the  
26 Bankruptcy Rules, unless the context clearly requires otherwise. The rules of construction used in  
27 section 102 of the Bankruptcy Code shall apply to construction of this Plan. The phrase “as soon  
28 as practicable” shall mean within ten (10) Business Days of the relevant date. Headings and

1 captions are utilized in this Plan for convenient reference only, and shall not constitute a part of  
2 this Plan for any other purpose.

3 1.1 **“Administrative Claim”** shall mean a Claim for an expense of administration of the  
4 Debtor arising during the period commencing on the Petition Date and ending on the Effective Date  
5 under sections 503(b), 1114(e)(2) or 546(c)(2) of the Bankruptcy Code and entitled to priority under  
6 section 507(a)(1) of the Bankruptcy Code, including, but not limited to, (i) any actual and necessary  
7 cost or expense of preserving the Estate of the Debtor or conducting the business of the Debtor, (ii)  
8 administrative expenses previously allowed by the Bankruptcy Court, (iii) administrative claims that  
9 are timely filed prior to the Administrative Claims Bar Date, (iv) any Tax Claims incurred by the  
10 Debtor after the Petition Date or relating to a tax year or period which occurs after the Petition Date,  
11 (v) any claim by a seller of goods for reclamation; (vi) Professional Fees, and (vii) all fees and  
12 charges assessed against the Debtor pursuant to 28 U.S.C. § 1930. For purposes of this Plan,  
13 Administrative Claims shall also include Cure Obligations.

14 1.2 **“Administrative Claims Bar Date”** shall mean the first Business Day that is thirty  
15 (30) days after the Effective Date pursuant to which Claimants must file a request for payment of  
16 any Administrative Claim that arose between the Petition Date and the Effective Date.

17 1.3 **“Administrative Claims Bar Date Order”** shall mean an order setting the  
18 Administrative Claims Bar Date, which order could be the Confirmation Order.

19 1.4 **“Allowed”** shall mean

20 With respect to any Claim (other than an Administrative Claim as set forth below):

21 (i) a Claim that appears in the Schedules, except a Claim that is listed as  
22 disputed, contingent or unliquidated, or for which a contrary proof of Claim has been filed;

23 (ii) a Claim for which a proof of Claim has been timely filed as of the Bar Date or  
24 Rejection Claim Bar Date, as applicable, and no objection thereto has been made on or before any  
25 applicable deadline, provided that, prior to any deadline imposed by this Plan or by the Bankruptcy  
26 Court to file objections to a given Claim, no Claim shall be treated as Allowed to the extent that it is  
27 filed by the holder of such Claim (i) in an amount greater than the amount listed for such Claim by  
28

1 the Debtor in its Schedules or (ii) asserting a priority higher than the priority listed for such Claim by  
2 the Debtor in its Schedules; or

3 (iii) a Claim that has been allowed, but only to the extent allowed (i) by a Final  
4 Order, (ii) under this Plan, or (iii) under any agreements entered into in connection with this Plan  
5 (and approved by the Bankruptcy Court) establishing the amount and nature of any Claim; and

6 With respect to an Administrative Claim, a request for payment that has been filed  
7 prior to the Administrative Claims Bar Date, and in accordance with either section 503(b) of the  
8 Bankruptcy Code or the procedures for filing requests for payment of an expense of administration  
9 set forth in the Administrative Claims Bar Date Order, and as to which either no objection has been  
10 made on or before any applicable deadline, or if an objection has been made, a claim has been  
11 allowed by Final Order.

12 1.5 **“Allowed Secured Claim”** shall mean that portion of an Allowed Claim (i) secured  
13 by a valid, perfected and enforceable Lien that is not subject to avoidance under bankruptcy or non-  
14 bankruptcy law, in an amount equal to the value, as determined by the Bankruptcy Court pursuant to  
15 sections 506(a) and 1129(b) of the Bankruptcy Code and Bankruptcy Rule 3012, of the interest of  
16 the holder of such Allowed Claim in the property of the Debtor, the Liquidating Debtor, or the  
17 Estate, securing such Allowed Claim, or (ii) in an amount equal to the amount subject to setoff by  
18 the holder of such Claim under section 553 of the Bankruptcy Code.

19 1.6 **“Allowed Unsecured Claim”** shall mean any Allowed Claim (including any  
20 Rejection Claim) that is not an Allowed Administrative Claim, an Allowed Secured Claim, an  
21 Allowed Priority Employee Claim, an Allowed Priority Tax Claim, or an Assumed Obligation.

22 1.7 **“Amended Complaint”** means the amended complaint in the Biggers Adversary  
23 filed on or about April 23, 2009, which added as defendants the Biggers Defendant Shareholder  
24 Class and the Non-Debtor Defendants. The Amended Complaint alleges (1) violation of the Federal  
25 Worker Adjustment and Retraining Notification (“WARN”) Act, 29 U.S.C. §§ 2101 *et seq.*; (2)  
26 violation of the California WARN Act; (3) failure to pay vacation in violation of California law; (4)  
27 waiting time penalties; (5) failure to pay wages under Washington law; (6) breach of contract as to  
28 the Washington and New York putative vacation class; (7) promissory estoppel as to the Washington

1 and New York putative vacation class; (8) failure to pay wages under Washington, D.C. and New  
2 York law; and (9) unfair business practices under California law.

3 1.8 “**Assumed Contract**” or “**Assumed Contracts**” shall mean each executory contract  
4 or unexpired lease assumed by the Debtor.

5 1.9 “**Assumption and Cure Order**” shall mean, with respect to any Assumed Contract,  
6 an order of the Bankruptcy Court approving the assumption of such executory contract or unexpired  
7 lease, and determining any Cure Obligation with respect thereto. The Confirmation Order may  
8 constitute an Assumption and Cure Order.

9 1.10 “**Available Cash**” shall mean the aggregate amount of all Cash held by the  
10 Liquidating Debtor as of the Effective Date.

11 1.11 “**Avoidance Actions**” shall mean all claims or causes of action arising under sections  
12 547 and 548 of the Bankruptcy Code.

13 1.12 “**Ballot**” shall mean the form for acceptance or rejection of the Plan distributed to  
14 those Creditors entitled to vote on the Plan, as such form may be approved by the Bankruptcy Court  
15 and which shall otherwise comply with the requirements of Bankruptcy Rule 3018(c).

16 1.13 “**Bank of America**” shall mean Bank of America, N.A.

17 1.14 “**Bank of America Preference Action**” shall mean that certain adversary proceeding  
18 styled as *Official Committee of Unsecured Creditors v. Bank of America, et al.*, Adv. No. 09-03071.

19 1.15 “**Bankruptcy Code**” shall mean Title 11 of the United States Code, §§ 101 et seq., as  
20 in effect on the Petition Date, as the same thereafter has been and may be amended, provided such  
21 amendments are in effect.

22 1.16 “**Bankruptcy Court**” shall mean the United States Bankruptcy Court for the  
23 Northern District of California (San Francisco Division), or such other court as may hereafter  
24 exercise jurisdiction over the Chapter 11 Case.

25 1.17 “**Bankruptcy Rules**” shall mean the Federal Rules of Bankruptcy Procedure, as in  
26 effect on the Filing Date, as the same thereafter has been and may be amended, and the Local Rules  
27 of the Bankruptcy Court to the extent applicable to the Chapter 11 Case.  
28

1           1.18    “**Bar Date**” shall mean, as applicable, (i) April 27, 2009, which was the date set by  
2 the Bankruptcy Court as the last date for filing a proof of Claim for a Claim that arose before the  
3 Petition Date for non-Governmental Units, or (ii) June 26, 2009 for Governmental Units.

4           1.19    “**Biggers Adversary**” shall mean that certain adversary proceeding now pending in  
5 the Bankruptcy Court styled as *Biggers, et al, v. Heller Ehrman, LLP*, Adv. No. 09-03058.

6           1.20    “**Biggers Approval Order**” shall mean a Final Order of the Bankruptcy Court  
7 approving the Biggers Settlement Agreement under Bankruptcy Rule 9019, after notice and hearing  
8 to creditors and parties in interest, in accordance with applicable law and local rules, which shall be  
9 deemed to have occurred when 15 days have elapsed from the entry of the Bankruptcy Court’s order  
10 approving the Biggers Settlement Agreement (i) which order has not been reversed, stayed, modified  
11 or amended, (ii) as to which the time to or the right to appeal or seek reconsideration, review,  
12 rehearing, or certiorari has expired or been waived, and (iii) as to which no appeal or petition for  
13 reconsideration, review, rehearing, or certiorari is pending.

14           1.21    “**Biggers Defendant Shareholder Class**” means individuals Matthew Larrabee,  
15 Robert Hubbell, Steven Koppel, Marie Fiala, Mark Weeks, Lynn Loacker, Barry Levin, Kenneth  
16 Chernof, Lawrence Keeshan, Robert Rosenfeld, Peter Benvenuti, and Jonathan Hayden, on behalf  
17 of themselves and on behalf of the individuals listed on Exhibit 2 to the Settlement Agreement. The  
18 Biggers Defendant Shareholder Class comprises all shareholders of Heller Ehrman PCs as of  
19 September 26, 2008.

20           1.22    “**Biggers Class**” shall mean each former employee of the Debtor who meets the  
21 description of the Plaintiff Class Members set forth in Recital D to the Biggers Settlement  
22 Agreement attached hereto as **Exhibit C**.

23           1.23    “**Biggers Priority Employee Claim**” shall mean that portion of an Allowed Claim  
24 held by a member of the Biggers Class who does not exercise the Biggers Opt Out that is unsecured  
25 and is entitled to priority under sections 507(a)(4) of the Bankruptcy Code. Such claims relate  
26 primarily to claims under the WARN Act.  
27  
28

1           1.24    “**Biggers Opt Out**” shall mean that certain right of a member of the Biggers Class to  
2 opt out of the Biggers Class as set forth in Section 17 of the Biggers Settlement Agreement attached  
3 hereto as **Exhibit C**.

4           1.25    “**Biggers Opt Out Deadline**” shall mean Wednesday, December 2, 2009.

5           1.26    “**Biggers Settlement Agreement**” means that certain *Compromise and Settlement*  
6 *Agreement*, dated as of October 8, 2009, entered into by and between certain Plaintiff Class  
7 Representatives on behalf of the Plaintiff Class Members, on the one hand and the Debtor, the Non-  
8 Debtor Biggers Defendants, the Biggers Defendant Shareholder Class, and the Committee, on the  
9 other hand, and attached hereto as **Exhibit C**.

10          1.27    “**Biggers Settlement Release**” shall mean that form of Release attached hereto as  
11 **Exhibit D**, which a member of the Biggers Class can execute in order to receive the payments due  
12 to members of the Biggers Class after the Plan’s Effective Date but before final Bankruptcy Court  
13 approval of the Biggers Settlement Agreement.

14          1.28    “**Biggers Subordinated Unsecured Claim**” shall mean an Allowed Claim for that  
15 portion of a Biggers Unsecured Claim held by a member of the Biggers Class who does not exercise  
16 the Biggers Opt Out in an amount that is set forth in an exhibit to be sent to each member of the  
17 Biggers Class in connection with the solicitation of the member’s vote on this Plan. Such claims  
18 relate primarily to waiting time penalties.

19          1.29    “**Biggers Unsecured Claim**” shall mean shall mean an Allowed Claim for that  
20 portion of a Claim held by a member of the Biggers Class who does not exercise the Biggers Opt  
21 Out that is unsecured and is not an Administrative Claim, a Priority Tax Claim, a Priority Employee  
22 Claim, a Biggers Priority Employee Claim, a Biggers Subordinated Unsecured Claim, a Secured  
23 Claim, or an Assumed Obligation. Such claims relate primarily to claims under the WARN Act.

24          1.30    “**Business Day**” shall mean any day that is not a Saturday, a Sunday or other day on  
25 which banks are required or authorized by any federal, state or local law to be closed in the City of  
26 San Jose, California.

27          1.31    “**Cash**” shall mean cash and cash equivalents including, but not limited to, cash on  
28 deposit in the bank accounts of the Debtor or the Liquidating Debtor, as applicable, checks, wire

1 transfers, money orders, certificates of deposit, money market or similar investments, and other  
2 similar, readily, marketable securities or instruments.

3 1.32 **“Chapter 11 Case”** shall mean the Chapter 11 Case commenced by the Debtor upon  
4 the filing with the Bankruptcy Court of a voluntary petition under chapter 11 of the Bankruptcy  
5 Code.

6 1.33 **“Citibank”** shall mean Citibank, N.A.

7 1.34 **“Claim”** shall mean a claim against the Debtor within the meaning of section 101(5)  
8 of the Bankruptcy Code.

9 1.35 **“Claimant”** shall mean the holder of a Claim.

10 1.36 **“Claims Reserve Account”** shall mean an interest bearing bank account or money  
11 market account to be established and held in trust for the benefit of holders of Allowed Unsecured  
12 Claims by the Liquidating Debtor on or after the Effective Date for the purpose of holding the funds  
13 to be distributed under the Plan to Unsecured Creditors and for Plan Expenses, and any interest,  
14 dividends or other income earned upon the investment of such Claims Reserve Account.

15 1.37 **“Class”** shall mean a category or group of Creditors or Interest Holders which are  
16 substantially similar to the Claims or Interests of the other Creditors or Interests Holders in such  
17 Class, as designated by this Plan pursuant to sections 1122 and 1123 of the Bankruptcy Code.

18 1.38 **“Class Counsel”** means Blum & Collins LLP.

19 1.39 **“Class Proof of Claim”** means the Class Proof of Claim filed on behalf of all  
20 purported Plaintiff Class Members in the Biggers Adversary on or about March 27,2009 and the  
21 Amended Class Proof of Claim filed on April 3, 2009 and alleging substantially the same claims as  
22 alleged in the Biggers Adversary.

23 1.40 **“Committee”** shall mean the Official Committee of Unsecured Creditors appointed  
24 by the United States Trustee in the Debtor’s Chapter 11 Case.

25 1.41 **“Confirmation”** shall mean the approval of the Plan by and subject to the terms of  
26 the Confirmation Order.

27 1.42 **“Confirmation Date”** shall mean the date of Confirmation.  
28

1           1.43    **“Confirmation Hearing”** shall mean the duly noticed hearing held by the  
2 Bankruptcy Court on confirmation of the Plan pursuant to section 1128 of the Bankruptcy Code.  
3 The Confirmation Hearing may be adjourned by the Bankruptcy Court from time to time without  
4 further notice other than the announcement of the adjourned date at the Confirmation Hearing.

5           1.44    **“Confirmation Order”** shall mean the order of the Bankruptcy Court, confirming  
6 this Plan and providing for the effectuation of the transactions contemplated by this Plan in  
7 accordance with the terms and provisions hereof and thereof.

8           1.45    **“Contingent Claim”** shall mean any Claim for which a proof of Claim has been filed  
9 with the Bankruptcy Court but was not filed in a sum certain and which Claim has not been  
10 estimated, fixed or liquidated by the Bankruptcy Court at a sum certain as of the Effective Date.

11          1.46    **“Creditor”** shall mean any entity that holds a Claim that arose or is deemed to have  
12 arisen at the time of, before or after the Petition Date.

13          1.47    **“Cure Obligation”** shall mean, individually, any monetary amount payable to the  
14 non-debtor party to an Assumed Contract pursuant to section 365(b)(1) of the Bankruptcy Code as a  
15 condition to the assumption of such contract or lease and, collectively, all monetary amounts payable  
16 to all non-debtor parties to all Assumed Contracts.

17          1.48    **“Debt”** shall mean liability on a Claim.

18          1.49    **“Debtor”** shall mean Heller Ehrman, LLP, as debtor and debtor in possession in its  
19 Chapter 11 Case.

20          1.50    **“Disallowed Claim”** shall mean (i) a Claim or any portion thereof, that has been  
21 disallowed by a Final Order of the Bankruptcy Court; (ii) a Claim that has been listed in the  
22 Schedules at zero or as contingent, disputed, or unliquidated and as to which no proof of Claim has  
23 been timely filed or deemed timely filed with the Bankruptcy Court pursuant to the Bankruptcy  
24 Code, any Final Order of the Court, or other applicable law; or (iii) a Claim that has not been listed  
25 in the Schedules and as to which no proof of Claim has been timely filed or deemed timely filed with  
26 the Bankruptcy Court pursuant to the Bankruptcy Code, any Final Order of the Court, or other  
27 applicable law.  
28

1           1.51    **“Disclosure Statement”** shall mean the disclosure statement in support of the Plan,  
2 in the form approved by the Bankruptcy Court, disseminated by the Proponents to the holders of  
3 Claims against the Debtor in order to provide to such persons adequate information in accordance  
4 with section 1125 of the Bankruptcy Code, as such disclosure statement may be modified, amended  
5 or supplemented from time to time.

6           1.52    **“Dissolution Committee”** shall mean the Dissolution Committee formed under the  
7 Plan of Dissolution for the purpose of governing the affairs of the Debtor after September 26, 2008,  
8 currently comprised of Peter J. Benvenuti, Jonathan Hayden, Lynn Loacker, and Paul Sugarman.

9           1.53    **“Disputed Claim”** shall mean, with respect to a Secured Claim, an Administrative  
10 Claim, a Priority Tax Claim, a Priority Employee Claim or an Unsecured Claim, as applicable (i)  
11 any Claim or portion of a Claim as to which an objection to the allowance thereof has been  
12 interposed as of the Effective Date or any later deadline fixed under the Plan or by order of the  
13 Bankruptcy Court, which objection has not been withdrawn or determined by Final Order; (ii) any  
14 Claim for which a proof of Claim is required to be filed and no such Proof of Claim is filed or, if  
15 filed, is filed after the Bar Date; or (iii) any Contingent Claim or Unliquidated Claim. To the extent  
16 an objection relates to the allowance of only a part of a Claim, such Claim shall be a Disputed Claim  
17 only to the extent of the objection.

18           1.54    **“Disputed Claims Amount”** shall mean the aggregate amount of Disputed Claims  
19 that are fixed and absolute. For purposes of calculating distributions of Cash under the Plan, the  
20 amount of each Disputed Claim shall be based upon either (i) the face amount of such Creditor’s  
21 Disputed Claim (or the disputed portion thereof) as set forth in the Creditor’s filed proof of Claim or  
22 (ii) the amount at which the Bankruptcy Court may estimate such Disputed Claim.

23           1.55    **“Effective Date”** shall mean the first Business Day on which each of the conditions  
24 specified in Article VII of the Plan has been satisfied or duly waived.

25           1.56    **“Employee Benefit Plans”** shall mean any and all vacation or other paid leave  
26 policies, health, dental, flexible medical payment, pension, welfare, severance, retention, deferred  
27 compensation, and retirement plans, and life and disability insurance policies, established by the  
28 Debtor for the benefit of its employees, that are in effect as of the Effective Date, including, without

1 limitation, any severance and retention plans approved by the Bankruptcy Court pursuant to the  
2 Employee Retention Orders.

3 1.57 “**Employee Retention Orders**” shall mean that certain *Order (1) Authorizing Debtor*  
4 *And Debtor In Possession To (A) Pay And Honor Pre-Petition Employee Wages And Other*  
5 *Employee Obligations In The Ordinary Course Of Business, And (B) Continue Honoring Employee*  
6 *Obligations, Including Wages, Benefits On A Post-Petition Basis; And (2) Providing Related Relief*  
7 entered on or about December 30, 2008, and the *Order Approving Revised Non-Insider Employee*  
8 *Retention And Incentive Bonus Plan* entered on or about March 3, 2009.

9 1.58 “**Estate**” shall mean the bankruptcy estate of the Debtor pursuant to Bankruptcy  
10 Code section 541.

11 1.59 “**Estate Assets**” shall mean all property of the estate of the Debtor under section 541  
12 of the Bankruptcy Code including, all property, assets, equitable or legal rights or interests, contract  
13 rights, benefits, causes of action, claims, or any other thing tangible or intangible, of any kind  
14 whatsoever, owned or held by or on behalf of the Debtor in which the Debtor has any right, title or  
15 interest to the full extent provided under section 541 of the Bankruptcy Code including, without  
16 limitation, Available Cash, any Retained Claims and Defenses, and Avoidance Actions.

17 1.60 “**Exculpated Parties**” shall have the meaning assigned to it in Section 8.5 of this  
18 Plan.

19 1.61 “**Final Order**” shall mean an order or judgment of the Bankruptcy Court or other  
20 court of competent jurisdiction (i) which has not been reversed, stayed, modified or amended, (ii) as  
21 to which the time to or the right to appeal or seek reconsideration, review, rehearing, or certiorari has  
22 expired or been waived (without regard to whether the time to seek relief from a judgment under  
23 Bankruptcy Rule 9024 has expired), and (iii) as to which no appeal or petition for reconsideration,  
24 review, rehearing, or certiorari is pending.

25 1.62 “**Former Shareholders**” shall mean each of the individuals that held an equity  
26 interest in one of the Heller Ehrman PCs, each of whom is named on Exhibit B, attached hereto.

27 1.63 “**Heller Ehrman**” shall mean Heller Ehrman, LLP.  
28

1           1.64    **“Heller Ehrman PCs”** shall mean each of the six partners holding an equity interest  
2 in the Debtor, including but not limited to: Heller Ehrman (California), a Professional Corporation,  
3 Heller Ehrman White & McAuliffe (Washington), P.S., a Washington professional service  
4 corporation, Heller Ehrman White & McAuliffe (Oregon), P.C., an Oregon professional corporation,  
5 Heller Ehrman (Alaska), P.C., a professional corporation, Heller Ehrman (New York), a Professional  
6 Corporation, and Heller Ehrman (China), P.C., a District of Columbia professional corporation.

7           1.65    **“Initial Trust Corpus”** shall mean an amount to be agreed upon by the Debtor and  
8 the Committee no less than the amount reasonably sufficient to pay the estimated costs of file  
9 transfer and disposition.

10          1.66    **“Insured Malpractice Claim”** shall mean the Insured Portion of any Claim subject  
11 to a Malpractice Policy.

12          1.67    **“Insured Portion”** shall mean, with respect to any Malpractice Policy, the insurance  
13 coverage available for Insured Malpractice Claims thereunder.

14          1.68    **“Interest Holder”** shall mean, individually, each of the Heller Ehrman PCs, or their  
15 successors and assigns.

16          1.69    **“Interests”** shall mean any interests in the Debtor owned by the Heller Ehrman PCs,  
17 or their successors and assigns.

18          1.70    **“LEO Plan”** shall mean the Heller Ehrman LLP Retirement Plan (as Amended and  
19 Restated Effective January 1, 2007).

20          1.71    **“Lien”** shall mean a charge against or interest in property to secure payment of a debt  
21 or performance of an obligation.

22          1.72    **“Liquidating Debtor”** shall mean the Debtor as reorganized and reconstituted on and  
23 after the Effective Date.

24          1.73    **“Malpractice Claim”** shall mean any unsecured non-priority claim against the  
25 Debtor or any Former Shareholder, or any former employee of the Debtor arising out of alleged acts,  
26 errors, or omissions in connection with the rendering or failing to render professional legal services  
27 by the Debtor or other potential or actual liability or costs arising in connection therewith, whether  
28 or not covered by a Malpractice Policy.

1           1.74    **“Malpractice Costs and Expenses”** shall mean, as to any Malpractice Policy, (i) the  
2 aggregate fees, costs and expenses (including attorneys’ fees) arising from or related to the  
3 investigation, adjustment, defense and appeal of the Malpractice Claims applicable to such policy;  
4 and (ii) such other costs and expense of the Liquidating Debtor or the Plan Administrator allocable  
5 to such Malpractice Claims.

6           1.75    **“Malpractice Policy” or “Policies”** shall mean the policies of professional liability  
7 insurance issued to the Debtor, as such policies have been amended, modified, renewed or  
8 supplemented, from time to time.

9           1.76    **“MPC”** shall mean MPC Insurance, Ltd.

10          1.77    **“Net SIR”** shall mean the Self Insured Retention Amount less the Malpractice Costs  
11 and Expenses associated with such policy, provided however, that if Net SIR equals an amount less  
12 than zero, then Net SIR shall instead be deemed equal to zero.

13          1.78    **“New Plan Documents”** shall mean the First Amendment to Plan of Dissolution, the  
14 Shareholder Liquidation Trust Agreement, and such other documents as are deemed necessary to  
15 confirmation, to be filed with the Bankruptcy Court and served upon each of party requesting special  
16 notice and the Office of the United States Trustee, no later than ten (10) days prior to the date the  
17 Bankruptcy Court sets for objections to Confirmation.

18          1.79    **“Non-Debtor Biggers Defendants”** means the Heller Ehrman PCs.

19          1.80    **“Petition Date”** shall mean December 28, 2008, which is the date when the Debtor  
20 filed its voluntary petition pursuant to chapter 11 of the Bankruptcy Code.

21          1.81    **“Plaintiff Class Members”** means the Class Representatives and the persons listed  
22 on Exhibit A to the Biggers Settlement Agreement.

23          1.82    **“Plaintiff Class Representatives”** means Debora K. Biggers, Carl Goodman, Anna  
24 Scarpa, and Marjorie Norris, on behalf of themselves and on behalf of the individuals named on  
25 Exhibit A to the Biggers Settlement Agreement

26          1.83    **“Plan”** shall mean this joint chapter 11 plan of liquidation and any exhibits and  
27 schedules hereto and any documents incorporated herein by reference, as the same may from time to  
28 time be amended or modified as and to the extent permitted herein or by the Bankruptcy Code.

1           1.84    **“Plan Administrator”** shall mean Michael Burkart, who shall file a statement setting  
2 forth his qualifications and affiliations, including a disclosure of any potential conflicts of interest,  
3 pursuant to Bankruptcy Code section 1129(a)(5)(A)(i).

4           1.85    **“Plan Expenses”** shall mean all actual and necessary costs and expenses incurred  
5 after the Effective Date in connection with the administration of the Plan, including, but not limited  
6 to, (i) costs, expenses and legal fees incurred related to filing and prosecuting objections to Claims,  
7 (ii) the costs, expenses and legal fees incurred to investigate, litigate, estimate and settle the Retained  
8 Claims and Defenses (which shall include the Avoidance Actions), including, but not limited to,  
9 attorneys' fees, accounting fees, expert witness fees, and all costs relating to obtaining and  
10 distributing such recoveries, incurred by the Liquidating Trustee, (iii) the costs and expenses of  
11 administration of the Liquidating Debtor, including without limitation the fees and costs of the Plan  
12 Administrator; and (iv) all fees payable pursuant to section 1930 of Title 28 of the United States  
13 Code.

14           1.86    **“Plan of Dissolution”** shall mean that certain Plan of Dissolution of Heller Ehrman  
15 LLP, dated as of September 26, 2008.

16           1.87    **“Priority Employee Claim”** shall mean that portion of an Allowed Claim that is  
17 unsecured and that is entitled to priority under section 507(a)(4) of the Bankruptcy Code that is not a  
18 Biggers Priority Employee Claim.

19           1.88    **“Priority Tax Claim”** shall mean that portion of a Tax Claim, if any, entitled to  
20 priority in payment under section 507(a)(8) of the Bankruptcy Code.

21           1.89    **“Professional Fees”** shall mean all amounts allowed and awarded by the Bankruptcy  
22 Court for compensation for services rendered and reimbursement of expenses incurred by  
23 Professionals pursuant to sections 330(a) and 503(b) of the Bankruptcy Code.

24           1.90    **“Professionals”** shall mean those attorneys, accountants and other financial advisors  
25 employed by the Debtor (pursuant to section 327 of the Bankruptcy Code) or the Committee  
26 (pursuant to section 1103 of Bankruptcy Code) in the Chapter 11 Case and to be compensated for  
27 services rendered and reimbursed for expenses incurred pursuant to sections 330(a) and 503(b) of the  
28 Bankruptcy Code.

1           1.91    **“Pro Rata” or “Pro Rata Share”** shall mean, with respect to distributions on  
2 account of Allowed Claims, in the same ratio of an Allowed Claim in a particular Class to the  
3 aggregate of all Allowed Claims in that Class.

4           1.92    **“Rejected”** shall mean those executory contracts and unexpired leases which are  
5 rejected by the Debtor pursuant to section 365 or 1123(b)(2) of the Bankruptcy Code.

6           1.93    **“Rejection Claim”** shall mean any Allowed Claim under Bankruptcy Code section  
7 502(g) that arises under Bankruptcy Code section 365(g)(1) in favor of the non-debtor party to any  
8 executory contract or unexpired lease that is rejected by the Debtor pursuant to Bankruptcy Code  
9 sections 365(a) or 1123(b)(2).

10          1.94    **“Rejection Claim Bar Date”** shall mean the last date established by the Bankruptcy  
11 Court by which entities asserting a Rejection Claim against the Debtor must have filed a proof of  
12 Claim with respect to such Rejection Claim or be forever barred from asserting such Claim and/or  
13 sharing in any distribution hereunder in respect of such Claim. For contracts or leases rejected at  
14 least thirty (30) days prior to the Bar Date and for which no Rejection Claim Bar Date was  
15 previously fixed by the Court pursuant to Bankruptcy Rule 3002(c)(4), the Rejection Claim Bar Date  
16 shall be the Bar Date. For contracts and leases rejected pursuant to the Plan, the Rejection Claims  
17 Bar Date shall be thirty (30) days following the date upon which the Confirmation Order is entered.

18          1.95    **“Reserved Claims Pool”** shall mean the amounts which shall be funded on or after  
19 the Effective Date pursuant to Section 5.1 of this Plan for the purpose of holding as reserves the  
20 amounts of Administrative Claims (including amounts due for Professional Fees) which have not  
21 become Allowed Claims.

22          1.96    **“Reserved Claims Pool Account”** shall mean the bank account established by the  
23 Liquidating Trust into which the Liquidating Trustee shall deposit the amounts which constitute the  
24 Reserved Claims Pool.

25          1.97    **“Retained Claims and Defenses”** shall mean all claims, rights, interests, causes of  
26 action, defenses, counterclaims, cross-claims, third-party claims, or rights of offset, recoupment,  
27 subrogation or subordination held by the Debtor or its Estate against any party whether or not  
28

1 pending on the Effective Date, not otherwise released or settled before the Effective Date, including  
2 but not limited to those specifically set forth in Section VII.D of the Disclosure Statement.

3 1.98 **“Schedules”** shall mean the schedules of assets and liabilities and the statement of  
4 financial affairs filed by the Debtor with the Bankruptcy Court pursuant to section 521 of the  
5 Bankruptcy Code and Bankruptcy Rule 1007, as amended from time to time.

6 1.99 **“Secured Claim”** shall mean a Claim secured by a Lien on property of the Debtor, or  
7 the Estate, or secured by an amount subject to setoff under section 553 of the Bankruptcy Code, to  
8 the extent of the value of such Lien or right of setoff as determined under sections 506(a) or 1129(b)  
9 of the Bankruptcy Code, as applicable.

10 1.100 **“Settling Shareholder”** shall mean any Former Shareholder who timely makes the  
11 Shareholder Settlement Payment.

12 1.101 **“Shareholder Liquidation Settlement”** shall mean the binding agreement created  
13 by the Plan which shall be deemed entered into on the Effective Date by and between the Estate and  
14 any Former Shareholder who tenders the Shareholder Settlement Payment 14 days prior to the date  
15 set for the Confirmation Hearing.

16 1.102 **“Shareholder Settlement Payment”** shall mean a timely payment in good funds  
17 made by a Former Shareholder in an amount fixed by the Committee and disclosed to the Former  
18 Shareholder in an exhibit sent to each individual Former Shareholder in connection with the  
19 solicitation of votes on the Plan.

20 1.103 **“Shareholder Liquidation Trust”** shall mean that certain trust to be established and  
21 operated under sections 5.12, 5.13 and 5.14 of the Plan.

22 1.104 **“Shareholder Liquidation Trustee”** shall be an individual identified by the Debtor  
23 in a document filed with the Bankruptcy Court no later than ten (10) days prior to the date the  
24 Bankruptcy Court sets for objections to Confirmation.

25 1.105 **“Shareholder Liquidation Trust Agreement”** shall mean that Shareholder  
26 Liquidation Trust Agreement to be executed by the Debtor on the Effective Date substantially in the  
27 form of the document filed with the Bankruptcy Court no later than ten (10) days prior to the date  
28 the Bankruptcy Court sets for objections to Confirmation.

1 1.106 **“SIR Amount”** shall mean the unexpended portion of self-insured retention  
2 necessary to trigger a malpractice insurer’s obligation to fund a defense of a Claim or pay an amount  
3 agreed to or adjudged to be owing on account of an Insured Malpractice Claim.

4 1.107 **“Substantial Contribution Payment”** shall mean those certain payments to Blum  
5 Collins LLP to be made as contemplated in the Biggers Settlement Agreement attached hereto as  
6 **Exhibit C** in the event the Biggers Approval Order becomes a Final Order.

7 1.108 **“Uninsured Malpractice Claim”** shall mean any timely filed Malpractice Claim to  
8 the extent of the Uninsured Portion of the applicable Malpractice Policy or Malpractice Policies.

9 1.109 **“Uninsured Portion”** shall mean, with respect to any given Malpractice Claim, the  
10 Debtor’s out-of-pocket liability on such Malpractice Claim, if any, as determined by the Net SIR of  
11 the applicable Malpractice Policy.

12 1.110 **“Unliquidated Claim”** shall mean any Claim for which a proof of Claim has been  
13 filed with the Bankruptcy Court but was not filed in a sum certain, and which Claim has not been  
14 estimated, fixed or liquidated by the Bankruptcy Court at a sum certain as of the Effective Date.

15 1.111 **“Unsecured Claim”** shall mean any Claim that is not an Administrative Claim, a  
16 Priority Tax Claim, a Priority Employee Claim, a Biggers Priority Employee Claim, a Secured  
17 Claim, a Biggers Unsecured Claim, or an Assumed Obligation.

18 1.112 **“WARN Act”** means Federal Worker Adjustment and Retraining Notification Act,  
19 29 U.S.C. §§ 2101 *et seq.* and California Labor Code section 1400 *et seq.*

## 20 **ARTICLE II**

### 21 **CLASSIFICATION OF CLAIMS AND INTERESTS**

22 2.1 **Criterion of Class.** The following is a designation of Classes of Claims under the  
23 Plan. Administrative Claims and Priority Tax Claims have not been classified and are excluded  
24 from the following Classes in accordance with section 1123(a)(1) of the Bankruptcy Code. A Claim  
25 is classified in a particular Class only to the extent that (i) the Claim qualifies within the description  
26 of that Class, and is classified in a different Class to the extent that the remainder of the Claim  
27 qualifies within the description of that different Class, and (ii) the Claim, or any portion or Allowed  
28 amount of such Claim, is an Allowed Claim in that Class and has not been paid, released or



1 sharing in any distribution under the Plan. Holders of Administrative Claims based on liabilities  
2 incurred in the ordinary course of the Debtor's business following the Petition Date shall not be  
3 required to comply with the Administrative Claim Bar Date, provided that, (i) such holders have  
4 otherwise submitted an invoice, billing statement or other evidence of indebtedness to the Debtor in  
5 the ordinary course of business, and (ii) such Claims are not past due according to their terms.  
6 Holders of Administrative Claims based on reclamation, shall be Allowed in the amounts set forth in  
7 the Debtor's Reclamation Report.

8           **3.3 Claims for Professional Fees.** Each party seeking an award by the Bankruptcy  
9 Court of Professional Fees: (a) must file its final application for allowance of compensation for  
10 services rendered and reimbursement of expenses incurred through the Effective Date on or before  
11 the Administrative Claims Bar Date; and (b) if the Bankruptcy Court grants such an award, each  
12 such party will be paid in full in Cash by the Liquidating Debtor in such amounts as are allowed by  
13 the Bankruptcy Court as soon thereafter as practicable. All final applications for allowance and  
14 disbursement of Professional Fees must be in compliance with all of the terms and provisions of any  
15 applicable order of the Bankruptcy Court, including the Confirmation Order.

16           **3.4 Priority Tax Claims.** Each Allowed Priority Tax Claim, unless the holder of such  
17 Claim has agreed to a different treatment, shall receive at the option of the Liquidating Debtor the  
18 following: (i) payment in full by the Liquidating Debtor from Available Cash on the latest of: (a)  
19 the Effective Date, or as soon thereafter as practicable; (b) such date as may be fixed by the  
20 Bankruptcy Court, or as soon thereafter as practicable; (c) the tenth Business Day after such Claim is  
21 Allowed, or as soon thereafter as practicable; and (d) such date as the holder of such Claim and the  
22 Liquidating Debtor may agree, or (ii) deferred cash payments to the extent permitted by section  
23 1129(a)(9) of the Bankruptcy Code with interest on the unpaid portion of such Claim at the rate of  
24 five per cent (5%) per annum or at such other rate as may determined by the Court or agreed upon  
25 between the Liquidating Debtor and the appropriate governmental unit, provided that, in the event  
26 that the Liquidating Debtor elects payment option (ii), the Liquidating Debtor may prepay any or all  
27 such Claims at any time, without premium or penalty. In the event the Liquidating Debtor elects  
28

1 payment option (ii), each such holder shall receive, on account of such Claim, deferred Cash  
2 payments of a present value as of the Effective Date equal to the Allowed amount of such Claim.

#### 3 **ARTICLE IV**

#### 4 **TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS**

5 4.1 **Class 1 (Priority Employee Claims).** Class 1 shall consist of Priority Employee  
6 Claims. Class 1 Claims are impaired. Each holder of an Allowed Priority Employee Claim who is  
7 not employed by the Debtor as of the Effective Date of the Plan shall receive full payment of the  
8 Allowed amount of such Claim from Available Cash on or as soon as practicable after the later of (i)  
9 the Effective Date, or (ii) the date upon which the Bankruptcy Court enters a Final Order  
10 determining or allowing such Claim.

11 The Liquidating Debtor shall either pay or honor in the ordinary course of business, any  
12 Allowed Class 1 Priority Employee Claim for any employee who is employed by the Liquidating  
13 Debtor on the Effective Date of the Plan. Holders of Class 1 Claims who are members of the  
14 Biggers Class shall receive their distribution hereunder even if they Opt-Out of the Biggers  
15 Settlement.

16 4.2 **Class 2 (Biggers Priority Employee Claims).** Class 2 shall consist of Biggers  
17 Priority Employee Claims. Class 2 Claims are impaired. Each holder of an Allowed Biggers  
18 Priority Employee Claim who is not employed with the Debtor as of the Effective Date of the Plan  
19 shall receive full payment of the Allowed amount of such Claim from Available Cash only after  
20 the Biggers Approval Order becomes a Final Order, unless prior to the deadline for balloting on the  
21 Plan, such holder of a Class 2 Claim delivers to the Proponents a fully executed original Biggers  
22 Settlement Release, in which case such Claim shall be paid to the Claimant earlier (simultaneously  
23 with the payment of Class 1 Claims).

24 4.3 **Class 3 (Secured Claims of Bank of America and Citibank).** Class 3 shall consist  
25 of the Secured Claims of Bank of America and Citibank. The Class 3 Claim is impaired and is also  
26 a Disputed Claim. On the Effective Date, Bank of America and Citibank shall effect a payment of  
27 the principal and interest (but not attorneys fees and costs) then claimed to be owing to them on the  
28 Class 3 Claim by applying their cash collateral thereto, and then return to the Liquidating Debtor the

1 balance of collateral currently held by Bank of America and/or Citibank. The Bank shall retain all of  
2 its liens and cash collateral rights until receipt of the payments required hereunder. The Liquidating  
3 Debtor and the Bank shall make such customary arrangements and execute such customary  
4 documents, as mutually agreed upon, to effectuate a release of the Bank's security interests or liens  
5 in the Liquidating Debtor's assets upon receipt of the payments required hereunder. The Court shall  
6 retain jurisdiction to resolve any disputes which may arise in connection with the foregoing matters.  
7 Notwithstanding the foregoing, nothing in this Plan shall affect or diminish the Debtor's Retained  
8 Claims and Defenses against Bank of America or Citibank, nor shall it affect or diminish the  
9 Debtor's rights in the Bank of America Preference Action.

10           4.4     **Class 4 Claims (Insured Malpractice Claims).** Class 4 shall consist of Insured  
11 Malpractice Claims. Such claims are impaired. On the Effective Date, or as soon as practicable, in  
12 full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Class 4  
13 Insured Malpractice Claim, each Class 4 Insured Malpractice Claim shall be paid solely from the  
14 proceeds of any applicable Malpractice Policy, with respect to the Insured Portion of the Claim.  
15 Any Claim, or portion of a Claim, for the Uninsured Portion of any Malpractice Claim, including the  
16 Net SIR, shall be treated as a Class 5 Unsecured Claim. No holder of an Allowed Class 4 Claim  
17 shall receive any distribution from Available Cash on account of such Class 4 Claim.

18           4.5     **Class 5 (Unsecured Claims).** Class 5 shall consist of General Unsecured Claims,  
19 including but not limited to Biggers Unsecured Claims, Uninsured Malpractice Claims, and Claims  
20 for any Uninsured Portion. Class 5 Claims are impaired. Each holder of an Allowed Unsecured  
21 Claim shall receive, in exchange for and in full and final satisfaction of such Claim, including any  
22 post-petition interest at the annual rate of five per cent (5%) per annum, a Pro Rata Share of  
23 Available Cash, net of amounts reserved for Disputed Claims or Plan Expenses. To the extent that  
24 all Allowed Class 5 Unsecured Claims have been paid in full, including post-petition interest as set  
25 forth above, and funds remain in the Claims Reserve Account, such funds shall be used by the  
26 Liquidating Debtor to fund the expense of claims in Classes 6 and 7, as described below.  
27  
28

1 Holders of Class 5 Claims who are also members of the Biggers Class shall receive their  
2 distribution hereunder for the portion of such Claim that is not a Biggers Unsecured Claim even if  
3 they Opt-Out of the Biggers Settlement.

4 4.6 **Class 6 (Subordinated Biggers Unsecured Claims).** Class 6 shall consist of all  
5 Subordinated Biggers Unsecured Claims. Class 6 Claims are impaired. Once Allowed Class 5  
6 Claims are satisfied in full with interest, as described above, each holder of a Biggers Unsecured  
7 Claim shall receive, in exchange for and in full and final satisfaction of such Claim, including any  
8 post-petition interest at the annual rate of five per cent (5%) per annum, a Pro Rata Share of  
9 Available Cash, net of amounts reserved for Disputed Claims or Plan Expenses. To the extent that  
10 all Class 6 Biggers Subordinated Unsecured Claims have been paid in full, including post-petition  
11 interest as set forth above, and funds remain in the Claims Reserve Account, such funds shall be  
12 used by the Liquidating Debtor to fund the expense of claims in Class 7, as described below.

13 4.7 **Class 7 (Interests).** Class 7 consists of the Interests held by the Interest Holders. On  
14 the Effective Date, the Interest Holders shall have no ability to direct or control the affairs of the  
15 Liquidating Debtor, but shall retain their status as partners of the Liquidating Debtor. Interest  
16 Holders shall receive nothing under the Plan until the Allowed Claims of Classes 1 through 6 are  
17 paid in full, with interest at the rate of five percent simple interest, at which point all Available Cash,  
18 net of amounts reserved for Disputed Claims or Plan Expenses, shall be paid to the Interests Holders  
19 consistent with the extent of their Interests.

20 4.8 **Nonconsensual Confirmation.**

21 4.8.1 **Classes 1 through 6 Cramdown.** The Proponents hereby request confirmation  
22 of the Plan pursuant to section 1129(b) of the Bankruptcy Code on the basis that the Plan is fair and  
23 equitable and does not discriminate unfairly as to the holders of Class 1 through 6 Claims.

24 4.8.2 **Class 7 Cramdown.** The Proponents hereby request confirmation of the Plan  
25 pursuant to section 1129(b) of the Bankruptcy Code on the basis that the Plan is fair and equitable  
26 and does not discriminate unfairly as to the holders of Class 7 Interests.

1 **ARTICLE V**

2 **MEANS FOR IMPLEMENTATION OF THE PLAN**

3 The Plan shall be implemented on the Effective Date. In addition to the provisions set forth  
4 elsewhere in this Plan regarding means of execution, the following shall constitute the principal  
5 means for implementation of the Plan.

6 5.1 **Effective Date Transactions.** Without limiting the generality of the foregoing, and  
7 without altering or amending the terms of the Plan in any manner, on (or, where appropriate, after)  
8 the Effective Date, the following actions shall occur:

9 (i) The transactions contemplated under the Plan shall be consummated;

10 (ii) The Liquidating Debtor shall be capitalized with the Shareholder Settlement  
11 Payments, subject to the terms of the Shareholder Liquidation Settlement;

12 (iii) The Liquidating Debtor shall fund the Reserved Claims Pool Account with the  
13 funds necessary to establish the Reserved Claims Pool;

14 (iv) The Liquidating Debtor shall reserve such funds as are necessary to fund all  
15 anticipated Plan Expenses, including without limitation any anticipated litigation costs, prior to  
16 making any distributions pursuant to this Plan;

17 (v) To the extent that Cash is available, the Liquidating Debtor shall assume the  
18 Assumed Contracts and, when required under the terms of this Plan, satisfy any Cure Obligations,  
19 subject to any contract, legal and other rights and defenses;

20 (vi) To the extent that Cash is available, the Liquidating Debtor will make the  
21 Substantial Contribution Payment, to the extent the same has previously been authorized by the  
22 Bankruptcy Court;

23 (vii) Upon Confirmation, the Debtor shall execute the Shareholder Liquidation  
24 Trust Agreement and fund the Initial Trust Corpus; and

25 (viii) Upon Confirmation, the Debtor and the Shareholder Liquidation Trustee shall  
26 execute the New Plan Documents, and assume his or her responsibilities under the Plan.

27 5.2 **Revesting of Estate Assets.** Upon the Effective Date, the Liquidating Debtor shall  
28 be vested with all right, title and interest in the Estate Assets free and clear of all Claims and Liens,

1 other than any obligations under this Plan and other than any Estate Assets contributed to the  
2 Shareholder Liquidation Trustee.

3           **5.3 Replacement of Dissolution Committee/Continued Existence.** Upon the Effective  
4 Date, the Plan of Dissolution shall be deemed amended to replace the Dissolution Committee with  
5 the Plan Administrator, and the Dissolution Committee shall be relieved of its responsibilities for the  
6 Debtor. Nothing contained herein shall affect the Dissolution Committee's responsibility to  
7 administer the affairs of the Heller Ehrman PCs or their successors and assigns, which shall maintain  
8 their separate existence for all purposes under this Plan. The Liquidating Debtor, as represented by  
9 the Plan Administrator, shall be authorized to execute such other documents as are necessary and  
10 appropriate to carry out the provisions of this Plan, without the necessity of filing such documents  
11 with the Bankruptcy Court.

12           **5.4 Management of Liquidating Debtor by Plan Administrator.** On and after the  
13 Effective Date, and except for the duties of the Shareholder Liquidation Trustee as set forth in this  
14 Plan, the Plan Administrator shall be responsible for implementation of the Plan, including with  
15 respect to the management, control and operation of the Liquidating Debtor; provided, however, that  
16 nothing contained herein shall give the Plan Administrator authority over the administration of the  
17 LEO Plan, which shall be unaffected by the Plan. The Plan Administrator shall post a bond in favor  
18 of the Liquidating Debtor in an amount equal to not less than 125% of the amount of Estate Assets  
19 which are held in Cash at any time, and the bond may be proportionately reduced or increased from  
20 time to time, as required by the circumstances. The cost of such bond shall be paid from Estate  
21 Assets. The Plan Administrator shall be compensated on an interim basis at the rate of \$250 per  
22 hour, plus reasonable out of pocket expenses, including reimbursement of the premium for a  
23 professional E&O policy, paid monthly from Estate Assets without further order of the Bankruptcy  
24 Court. The Plan Administrator may petition the Court to modify the hourly rate two years after the  
25 Effective Date. Upon completion of all duties and concurrent with a motion for closure of the  
26 Chapter 11 Case, the Plan Administrator shall file a motion seeking approval of all fees and  
27 expenses previously paid as compensation by the Liquidating Debtor after the Effective Date.  
28

1           5.5     **Continued Business of Liquidating Debtor.** On and after the Effective Date, the  
2 Liquidating Debtor shall continue to engage in its wind-down operations and may use, acquire and  
3 dispose of the Estate Assets without supervision by the Bankruptcy Court and free of any restrictions  
4 under the Bankruptcy Code or the Bankruptcy Rules. The Liquidating Debtor will not continue or  
5 engage in the conduct of any trade or business, except to the limited extent necessary to accomplish  
6 the liquidation and distribution of the Estate Assets.

7           5.6     **Retained Claims and Defenses.** On and after the Effective Date, pursuant to section  
8 1123(b)(3) of the Bankruptcy Code, the Liquidating Debtor, acting through the Plan Administrator,  
9 shall retain and may enforce the Retained Claims and Defenses with all powers and authority of a  
10 debtor in possession or trustee under the Bankruptcy Code. Except as set forth below, the Plan  
11 Administrator may investigate Retained Claims and Defenses and may assert, settle or enforce any  
12 such claims or defenses without supervision by the Bankruptcy Court and free of any restrictions  
13 under the Bankruptcy Code or the Bankruptcy Rules. After the Effective Date, the Plan  
14 Administrator shall serve all creditors who were members of the Committee as of the Effective Date  
15 with notice of: (a) his intent to settle any affirmative claim to recover in excess of \$100,000.00 from  
16 any third party, and/or (b) to abandon any affirmative claim to recover in excess of \$100,000.00  
17 from any third party. The notice shall give creditors five business days to deliver to the Plan  
18 Administrator an objection to the proposed settlement or abandonment. In the event an objection is  
19 timely received, the Plan Administrator shall file a motion seeking approval of such settlement  
20 and/or such abandonment. The Committee members shall have no fiduciary duty or obligation to  
21 review or object to these notices. In the course of any ongoing investigations, the Plan  
22 Administrator shall have the right post-confirmation to utilize Bankruptcy Rule 2004 examinations,  
23 to be enforced pursuant to Bankruptcy Rule 2005.

24           To the extent any Retained Claims and Defenses are already pending on the Effective Date,  
25 the Plan Administrator as successor to the Debtor may continue the prosecution of such Retained  
26 Claims and Defenses. Without limiting the foregoing, the Plan Administrator, acting on behalf of  
27 the Liquidating Debtor, shall accede to and become the holder of all rights in and to any  
28 confidentiality agreements, joint defense agreements, and privilege agreements, as well as rights

1 pursuant to attorney-client privilege, attorney work product and any other or similar doctrine, of the  
2 Debtor and the Committee. Any proceeds received from or on account of the Retained Claims and  
3 Defenses shall constitute Estate Assets and shall vest entirely in the Liquidating Debtor.

4       **5.7 Avoidance Actions.** On and after the Effective Date, the Liquidating Debtor, acting  
5 through the Plan Administrator, shall retain and may enforce the Avoidance Actions with all powers  
6 and authority of a debtor in possession or trustee under the Bankruptcy Code. The Plan  
7 Administrator may investigate Avoidance Actions and may assert, settle or enforce any such claims  
8 or defenses. To the extent any Avoidance Actions (including the Bank of America Preference  
9 Action) are already pending on the Effective Date, the Plan Administrator as successor to both the  
10 Debtor and the Committee, may continue the prosecution of such Avoidance Actions. Any  
11 proceeds received from or on account of the Avoidance Actions shall constitute Estate Assets and  
12 shall vest entirely in the Liquidating Debtor.

13       **5.8 Claims Reserve Account.** On or as soon as practical following the Effective Date,  
14 the Claims Reserve Account shall be opened by the Plan Administrator and held by the Liquidating  
15 Debtor and funded by all Estate Assets not transferred to the Shareholder Liquidation Trust or  
16 deposited in the Reserved Claims Pool Account, which funds (minus Plan Expenses) shall be held  
17 for the benefit of holders of Classes 2, 5, 6, 7, and 8. Unless otherwise provided in the Confirmation  
18 Order, the Claims Reserve Account shall be invested by the Plan Administrator in a manner  
19 consistent with the objectives of section 345(a) of the Bankruptcy Code. All duties and obligations  
20 associated with the maintenance of the Claims Reserve Account, including but not limited to, any  
21 fees, taxes, tax reporting or filings with any governmental authority, shall be the sole responsibility  
22 of the Plan Administrator.

23       **5.9 Liquidating Debtor Litigation Budget.** Upon Confirmation, the Plan Administrator  
24 shall reserve an amount sufficient for the completion of the investigations started pre-confirmation,  
25 and to fund cost deposits to bring any Retained Claims and Defenses. The Plan Administrator may  
26 reserve additional funds post confirmation based on information available at the time in the exercise  
27 of his business judgment.  
28

1           **5.10 Liquidating Debtor Liquidation Budget.** Upon Confirmation, the Plan  
2 Administrator shall reserve the estimated amount of two years' U.S. Trustee fees, and a sufficient  
3 amount for estimated costs to be incurred by the Liquidating Debtor through the close of the case  
4 The Liquidating Debtor may reserve additional funds post confirmation based on information  
5 available at the time in the exercise of his or her business judgment.

6           **5.11 Shareholder Liquidation Settlement.** In connection with the solicitation of the  
7 Plan, each Former Shareholder will receive a separate exhibit detailing the Shareholder Settlement  
8 Payment, which is amount that the Estate will agree to accept in order to settle all known and  
9 unknown claims against such Former Shareholder. Each Shareholder who makes the Settlement  
10 Payment to the Debtor with his or her Ballot accepting the Plan fourteen days prior to the  
11 Confirmation Hearing shall receive on the Effective Date:

12                   (i) A release of the Debtor's known and unknown claims against the Shareholder,  
13 excepting any claims arising from or related (e.g. any claims necessary to avoid release of *Jewel v.*  
14 *Boxer* claims in the Dissolution Plan) to the doctrine of *Jewel v. Boxer*;

15                   (ii) The right to receive the benefits of and the protections and benefits provided  
16 in the Shareholder Liquidation Trust described below; and

17                   (iii) To the extent that the Liquidating Debtor is actively incurring attorneys fees  
18 and costs defending any Claims against the Estate that have also been made directly against a  
19 Former Shareholder, any Former Shareholder who timely makes a Shareholder Settlement Payment  
20 may elect to be defended in such action by counsel for the Liquidating Debtor upon the execution of  
21 such waivers of any conflicts of interest as are required by the Liquidating Debtor.

22           **5.12 Funding of the Shareholder Liquidation Trust.**  
23 On the Effective Date, the Shareholder Liquidation Trust shall be funded with the Initial Trust  
24 Corpus.

25           **5.13 Use of Shareholder Liquidation Trust Funds.** The funds in the Shareholder  
26 Liquidation Trust shall first be used to cover (a) the projected cost to complete the destruction and/or  
27 return of all client files in an organized manner in accordance with the requirements of applicable  
28

1 ethics rules, and (b) the costs of administering the Trust including compensation for the Shareholder  
2 Liquidation Trustee.

3 In his sole discretion, the Shareholder Liquidation Trustee shall have the power to use any  
4 excess funds from Settling Shareholders and/or from the liquidation of the MPC Equity to defend,  
5 settle or otherwise resolve any Malpractice Claims and/or other claims against Settling Shareholders.  
6 The Shareholder Liquidation Trustee shall make decisions with respect to whether to expend funds  
7 to defend, settle or otherwise resolve Malpractice Claims against Settling Shareholders based on the  
8 total amount of funds available in the Shareholder Liquidation Trust and the projected costs of  
9 completing all obligations under the Shareholder Liquidation Trust Agreement.

10 **5.14 Management of Shareholder Liquidation Trust.** So long as it does not prevent the  
11 Shareholder Liquidation Trustee from performing his duties, the Shareholder Liquidation Trustee  
12 shall be prohibited from expending any funds either directly or indirectly for the benefit of any  
13 Shareholder that is not a Settling Shareholder. Additionally, Liquidating Debtor shall make its  
14 personnel, software and systems reasonably available to the Shareholder Liquidation Trustee to the  
15 extent necessary to assist the Shareholder Liquidation Trustee in handling the records administration  
16 and disposal duties imposed upon him under the Plan and the Shareholder Liquidation Trust  
17 Agreement, at no cost to the Shareholder Liquidation Trust. The Shareholder Liquidation Trustee  
18 shall be compensated by charging a reasonable hourly rate on an interim basis by the Shareholder  
19 Liquidation Trust without further Order of the Court Bankruptcy Court, plus out of pocket costs,  
20 including the cost of appropriate E&O insurance.

21 Upon the completion of all duties, the Shareholder Liquidation Trustee shall file a motion to  
22 close the Shareholder Liquidation Trust, to turn over any excess funds to the Liquidating Debtor, and  
23 to be discharged as the Trustee. The Shareholder Liquidation Trustee shall file concurrently a  
24 motion seeking approval of all fees and expenses paid as compensation after the Effective Date by  
25 the Shareholder Liquidation Trust.

26 **5.15 Limitation of Liability of Plan Administrator and Shareholder Liquidation**  
27 **Trustee.** The Plan Administrator and the Shareholder Liquidation Trustee, and their officers,  
28 directors, attorneys, accountants, consultants, employees, agents and assignees, shall have no

1 liability for any error of judgment made in good faith other than as a result of gross negligence or  
2 willful misconduct. The Plan Administrator and the Shareholder Liquidation Trustee shall not be  
3 liable for any action taken or omitted in good faith and believed by him to be authorized within the  
4 discretion or rights or powers conferred upon them by this Plan or the New Plan Documents. In  
5 performing their duties hereunder, the Plan Administrator and the Shareholder Liquidation Trustee  
6 may consult with counsel selected by them, at the expense of the Liquidating Debtor or Shareholder  
7 Liquidation Trust, as applicable. No provisions of this Plan shall require any employee, officer or  
8 director of the Plan Administrator and the Shareholder Liquidation Trustee to expend or risk his own  
9 funds or otherwise incur personal financial liability in the performance of any of its duties under this  
10 Plan or in the exercise of any of the Plan Administrator and the Shareholder Liquidation Trustee's  
11 rights and powers. The Liquidating Debtor shall indemnify and hold the Plan Administrator  
12 harmless, and the Shareholder Liquidation Trust shall indemnify and hold the Shareholder  
13 Liquidation Trustee harmless, from and against any damages, costs, claims and other liabilities  
14 incurred in connection with their respective duties and responsibilities hereunder, other than those  
15 damages, costs, claims and other liabilities that result from such party's gross negligence or willful  
16 misconduct. The Plan Administrator may purchase errors and omissions insurance to cover potential  
17 liabilities that may be incurred in this case, and such cost shall be paid for by the Liquidating Debtor.

18       **5.16 Dissolution of the Committee.** From and after the Effective Date, the Committee  
19 will be dissolved, except for the limited purpose of reviewing, analyzing, and if appropriate,  
20 objecting to Claims for Professional Fees incurred prior to the Effective Date. The members of the  
21 Committee shall have no further obligations or fiduciary duties of any kind after the Effective Date.

22       **5.17 Material default under the Plan.** Failure to make any payment required to be made  
23 under the Plan by the Liquidating Debtor, including but not limited to any regular amortized  
24 payments of principal and interest, or any payments due upon maturity, shall be considered a default  
25 under the Plan. If any default is not cured within 30 days after service of written notice of such  
26 default to the Liquidating Debtor, the U.S. Trustee, any affected Creditor, or any affected party in  
27 interest asserting such default may seek appropriate relief to enforce its rights under the Plan.  
28

1           5.18    **Cooperation.** Proponents of the Plan shall cooperate with one another in connection  
2 with any matter related to the consummation or implementation of this Plan.

3           5.19    **Payment of Plan Expenses.** All Plan Expenses may be paid by the Liquidating  
4 Debtor.

5           5.20    **Biggers Settlement Mechanism.** Pursuant to the Biggers Settlement Agreement,  
6 holders of Biggers Priority Claims and Biggers Unsecured Claims who do not Opt Out will have  
7 their Claims Allowed once the Biggers Settlement Order becomes a Final Order and a judgment is  
8 entered and becomes final. The Proponents expect this will occur some time after the Effective  
9 Date. Should a member of the Biggers Class prefer to not wait for the Biggers Approval Order to  
10 become a Final Order (and for entry of the judgment), such member can execute the Biggers  
11 Settlement Release attached hereto as Exhibit D and deliver the original to the Proponents prior to  
12 the expiration of the time for balloting on the Plan, in which case such class member shall be entitled  
13 to have their Biggers Priority Claim and Biggers Unsecured Claim paid earlier.

14           Even if a member of the Biggers Class elects to Opt Out of the Biggers Settlement by the  
15 Biggers Opt Out Deadline, such member shall still receive the treatment provided in the Plan for  
16 their Class 1 and Class 5 Claims that are not related to the WARN Act or waiting time penalties.

17           Once the Biggers Settlement Order becomes a Final Order, the Substantial Contribution  
18 Payment shall be owing, as set forth in the Biggers Settlement Agreement.

19           5.21    **Distribution Procedures.** No payments or distributions shall be made by the  
20 Liquidating Debtor on account of Disputed Claims unless and to the extent such Claims become  
21 Allowed Claims. The funds allocated to Disputed Claims will not be distributed, but will be held in  
22 the Claims Reserve Account by the Liquidating Debtor in accordance with this Plan pending  
23 resolution of such Disputed Claims. Except as otherwise agreed by the holder of a particular Claim,  
24 or as provided in this Plan, all amounts to be paid by the Liquidating Debtor under the Plan shall be  
25 distributed in such amounts and at such times as is reasonably prudent, in the form of interim and/or  
26 final distributions, with sufficient reserves established to satisfy any Disputed Unsecured Claims,  
27 Professional Fees and anticipated Plan Expenses. Unless otherwise provided in this Plan, all  
28 distributions to Creditors shall be: (i) in U.S. dollars by check, draft or warrant, drawn on a domestic

1 bank, or by wire transfer from a domestic bank, and (ii) by first-class mail (or by other equivalent or  
2 superior means as appropriate).

3           **5.22 Resolution of Disputed Claims** The Plan Administrator shall promptly move to file  
4 objections to Claims with the goal being that all objections be filed and served not later than one  
5 hundred and eighty (180) days following the Effective Date, provided that, such date shall not bar  
6 later objections. Unless otherwise provided in the Confirmation Order, the Liquidating Debtor shall  
7 be authorized to settle, or withdraw any objections to, any Disputed Claim following the  
8 Confirmation Date without further notice to Creditors or authorization of the Bankruptcy Court, in  
9 which event such Claim shall be deemed to be an Allowed Claim in the amount compromised for  
10 purposes of this Plan, provided however, that the Bankruptcy Court shall retain jurisdiction to hear  
11 and adjudicate the allowance or disallowance of Claims, as provided for in Article IX of this Plan.  
12 Nothing herein shall confer on the Liquidating Debtor the right to estimate undisputed, liquidated or  
13 non-contingent Claims; such Claims shall be allowed (or disallowed) as determined by the parties,  
14 or, alternatively, by the Bankruptcy Court if the parties are unable to agree on the amount of the  
15 Claim. Under no circumstances will any distributions be made on account of Disallowed Claims.

16           **5.23 Reserve Provisions for Disputed Claims.** The Liquidating Debtor shall implement  
17 the following procedures with respect to the allocation and distribution of Cash held in reserve for  
18 the benefit of holders of Disputed Claims that may become Allowed Claims:

19           (i) Cash respecting Disputed Claims shall not be distributed, but, if necessary,  
20 shall be withheld by the Liquidating Debtor, in an amount equal to the amount of the distributions  
21 that would otherwise be made to the holders of such Claims if such Claims had been Allowed  
22 Claims;

23           (ii) All holders of Allowed Claims shall be entitled to receive, if available, interim  
24 distributions under the Plan. No distributions may be made to the holders of Allowed Claims unless  
25 adequate reserves are established for the payment of Disputed Claims, and sufficient funds are also  
26 reserved for expected Plan Expenses;

27           (iii) For the purposes of effectuating the provisions of this Section 5.15 the  
28 Bankruptcy Court may estimate the amount of any Disputed Unsecured Claim pursuant to section

1 502(c) of the Bankruptcy Code, in which event the amounts so fixed or liquidated shall be deemed to  
2 be Allowed Claims pursuant to section 502(c) of the Bankruptcy Code for purposes of distribution  
3 under this Plan. In lieu of estimating the amount of any Disputed Claim, the Bankruptcy Court may  
4 determine the Disputed Claims Amount to be reserved for such Disputed Claim, or such amount may  
5 be fixed by agreement in writing with the holder thereof;

6 (iv) When a Disputed Claim becomes an Allowed Claim, there shall be distributed  
7 to the holder of such Allowed Claim, in accordance with the provisions of this Plan, Cash equal to a  
8 Pro Rata Share of the Cash set aside for such Claim, but in no event shall such holder be paid more  
9 than the amount that would otherwise have been paid to such holder if the Disputed Claim (or the  
10 Allowed portion of the Disputed Claim) had not been a Disputed Claim;

11 (v) Interim distributions may be made from time to time to the holders of  
12 Allowed Claims prior to the resolution by Final Order or otherwise of all Disputed Claims, provided  
13 that, such distributions are otherwise consistent with the terms of this Plan and the aggregate amount  
14 of Cash to be distributed at such time is practicable in comparison to the anticipated costs of such  
15 interim distributions;

16 (vi) No holder of a Disputed Claim shall have any Claim against the Cash reserved  
17 with respect to such Claim until such Disputed Claim shall become an Allowed Claim. In no event  
18 shall any holder of any Disputed Claim be entitled to receive (under the Plan or otherwise) any  
19 payment (x) which is greater than the amount reserved for such Claim by the Bankruptcy Court  
20 pursuant to this Section 5.15 or (y) except as otherwise permitted under this Plan, of interest or other  
21 compensation for delays in distribution. In no event shall the Plan Administrator have any  
22 responsibility or liability for any loss to or of any amount reserved under these provisions of this  
23 Plan;

24 (vii) To the extent a Disputed Claim ultimately becomes an Allowed Claim in an  
25 amount less than the Disputed Claims Amount reserved for such Disputed Claim, then the resulting  
26 surplus of cash shall be distributed among the holders of Allowed Claims of like Class until such  
27 time as each holder of an Allowed Claim has been paid the Allowed amount of its Claim.  
28

1           5.24    **Allocation of Distributions.** Distributions to any holder of an Allowed Claim shall  
2 be allocated first to the principal amount of any such Allowed Claim, as determined for federal  
3 income tax purposes, and then, to the extent the consideration exceeds such amount, to the remainder  
4 of such Claim comprising interest, if any (but solely to the extent that interest is an allowable portion  
5 of such Allowed Claim).

6           5.25    **Rounding.** Whenever any payment of a fraction of a cent would otherwise be called  
7 for the actual distribution shall reflect a rounding of such fraction down to the nearest cent.

8           5.26    **De Minimis Distributions.** Notwithstanding any other provision of this Plan,  
9 distributions of less than \$50.00 need not be made by the Liquidating Debtor on account of any  
10 Allowed Claim, provided that, distributions that would otherwise be made but for this provision shall  
11 carry over until the next date of a distribution until the cumulative amount to which any holder of an  
12 Allowed Claim is entitled is more than \$50.00, at which time the cumulative amount of such  
13 distributions shall be paid to such holder. Distributions that will not be made as of the date of a final  
14 distribution shall be treated as unclaimed distributions as provided in Section 5.27 of this Plan.

15           Notwithstanding any other provision of this Plan, at the point when the remaining funds in  
16 the Claims Reserve Account consist of an amount impracticable to distribute, the Liquidating Debtor  
17 may donate (or authorize the Plan Administrator to donate) such Cash to a nonprofit organization or  
18 organizations in this judicial district that are exempt pursuant to section 501(c) of the Internal  
19 Revenue Code (Title 26 of the United States Code).

20           5.27    **Disputed Payments.** In the event of any dispute between and among Creditors as to  
21 the right of any entity to receive or retain any payment or distribution to be made to such entity  
22 under the Plan, the Liquidating Debtor may, in lieu of making such payment or distribution to such  
23 entity, instead hold such payment or distribution until the disposition thereof shall be determined by  
24 the Bankruptcy Court.

25           5.28    **Unclaimed Property.** Creditors have the obligation to file change of address forms  
26 with the Court and to serve such changes of address on the Liquidating Debtor and its counsel. Any  
27 Claimant which fails to claim any Cash within 90 days from the date upon which a distribution is  
28 first made to such entity shall forfeit all rights to any distribution under the Plan, and shall not be

1 subject to the unclaimed property or escheat laws of any governmental unit. Upon forfeiture, such  
2 Cash (including interest thereon) shall be made available for re-distribution to other holders of  
3 Allowed Claims of like Class. Entities which fail to claim Cash shall forfeit their rights thereto and  
4 shall have no claim whatsoever against the Liquidating Debtor or the Plan Administrator, as  
5 applicable, or any holder of an Allowed Claim to whom distributions are made under this Plan,  
6 provided, however, that the Plan Administrator may but is not required to undertake reasonable  
7 efforts, in its business judgment, to locate creditors whose distributions are returned.

8       **5.29 Successor Plan Administrator or Shareholder Liquidation Trustee.** In the event  
9 any Plan Administrator resigns, dies, or is otherwise unable or unwilling to perform his or her duties  
10 under this Plan, the successor Plan Administrator shall be Paul D. Menzies. In the event Mr.  
11 Menzies is unable or unwilling to serve the successor shall be selected by the Office of the United  
12 States Trustee, after consultation with parties in interest, including unsecured creditors and Interest  
13 Holders or their successors, as appropriate. In the event any Shareholder Liquidation Trustee  
14 resigns, dies, or is otherwise unable or unwilling to perform his or her duties under this Plan, a  
15 successor shall be selected by the Office of the United States Trustee, after consultation with parties  
16 in interest, including Interest Holders or their successors, as appropriate.

17       **5.30 Setoffs.** Nothing contained in this Plan shall constitute a waiver or release by the  
18 Debtor of any right of setoff or recoupment that the Debtor or the Liquidating Debtor may have  
19 against any Creditor or Interest Holder.

20       **5.31 No Distributions on Late-Filed Claims.** Except as otherwise provided in a Final  
21 Order of the Bankruptcy Court, any Claim as to which a proof of Claim was first filed after the Bar  
22 Date shall be a Disallowed Claim, and no distribution shall be made to a holder of such a Claim,  
23 provided that, to the extent such Claim was listed in the Schedules (other than as contingent,  
24 disputed, or unliquidated), such Claim shall be treated as an Allowed Claim in the amount in which  
25 it was so listed.

26       **5.32 Withholding Taxes.** Pursuant to section 346(f) of the Bankruptcy Code, the  
27 Liquidating Debtor shall be entitled to deduct any federal, state or local withholding taxes from any  
28

1 Cash payments made with respect to Allowed Claims, as appropriate. The Liquidating Debtor shall  
2 comply with all reporting obligations imposed on it by any governmental unit.

3           **5.33 Post-Effective Date Reports.** Following the Effective Date, the Liquidating Debtor  
4 shall prepare and submit to the Bankruptcy Court and the Office of the United States Trustee, post-  
5 confirmation reports for a revested debtor in the form suggested by the Office of the United States  
6 Trustee for Region 17. The first post-confirmation report shall be due within thirty (30) days  
7 following the end of the first calendar quarter from the Effective Date and shall be filed on a  
8 quarterly basis thereafter, unless otherwise agreed by the Liquidating Debtor and the Office of the  
9 United States Trustee.

10           **5.34 Post Effective Date Employment and Compensation of Professionals.** After the  
11 Effective Date, the Plan Administrator may retain any existing Professionals of the Committee or the  
12 Debtor without further employment agreements or orders. Additionally, after the Effective Date, the  
13 Plan Administrator and the Shareholder Liquidation Trustee may hire Professionals without the  
14 requirement that such Professionals file employment applications for Bankruptcy Court approval of  
15 their employment, whether on an hourly, contingency fee or other basis, and without requirement  
16 that such Professionals file applications for payment of post-Effective Date fees and expenses on an  
17 interim basis; provided, however, that no less frequently than every 180 days, such post-  
18 confirmation Professionals, and the Plan Administrator and the Shareholder Liquidation Trustee  
19 shall each file an application with the Bankruptcy Court seeking final approval of their respective  
20 fees and expenses as previously invoiced or paid on an interim basis, as the case may be. Such  
21 applications shall be served on the United States Trustee; provided, however, such applications need  
22 not be in the format required by the Local Rules of the Bankruptcy Court or the United States  
23 Trustee's Guidelines, but shall be sufficiently detailed to identify the hours worked, the rates charged  
24 and the work performed. In the case of fees or expenses paid on a basis which is not by billable  
25 hours, the application shall include such other, sufficiently specific information so that the  
26 Bankruptcy Court can otherwise determine the reasonableness of such fees and expenses.

27           **5.35 Final Decree.** Upon substantial consummation of the Plan, the Plan Administrator  
28 (after consultation with the Shareholder Liquidation Trustee) shall be authorized to file a motion for

1 the entry of a final decree closing the Chapter 11 case pursuant to section 350 of the Bankruptcy  
2 Code. Concurrently with the motion for entry of final decree, the Plan Administrator shall also file a  
3 report with the Court and the Office of the United States Trustee that sets forth the distributions  
4 made by the Liquidating Debtor pursuant to the Plan.

## 5 **ARTICLE VI**

### 6 **EXECUTORY CONTRACTS**

#### 7 **6.1 Executory Contracts and Unexpired Leases.**

8 **6.1.1 Assumption.** Upon the Effective Date, the Debtor will reject each of the  
9 Rejected except for any Assumed Contracts identified on **Exhibit B**, which shall be assumed. The  
10 Debtor reserves the right to make additions to Exhibit B up to 10 days prior to the date on which  
11 objections must be filed to the Plan with respect to the Confirmation Hearing. The Liquidating  
12 Debtor shall be responsible for all Cure Obligations with respect to the Assumed Contracts.

13 **6.1.2 Rejection.** Nothing contained herein shall constitute a waiver by the Debtor or  
14 the Liquidating Debtor of the right to contend that some or all of a Rejected Contract is not  
15 executory, or that it was not terminated earlier by agreement or operation of law. Any Rejection  
16 Claim arising from the rejection of an executory contract or unexpired lease pursuant to the Plan  
17 shall be filed within thirty (30) days of entry of the Confirmation Order, provided that such deadline  
18 is not applicable to any executory contract or unexpired lease rejected prior to the Effective Date and  
19 for which a different Rejection Claim Bar Date was previously fixed by the Bankruptcy Court  
20 pursuant to Bankruptcy Rule 3002(c)(4). The notice of entry of the Confirmation Order shall  
21 provide the Rejection Claim Bar Date for agreements rejected pursuant to the Plan. Any Rejection  
22 Claim not filed by the applicable Rejection Claims Bar Date shall be a Disallowed Claim and shall  
23 be forever barred as a Claim against the Debtor, the Liquidating Debtor, the Committee or any  
24 property of the Debtor and from sharing in any distribution under this Plan.

25 **6.2 Satisfaction of Cure Obligations.** The Liquidating Debtor shall satisfy any Cure  
26 Obligations for the Assumed Contracts by making a Cash payment equal to the lesser of the amount:  
27 (a) set forth in any other notice, motion or supplement to the Plan filed and served in connection  
28 with the Confirmation Hearing or as may be determined in an Assumption and Cure Order, or (b)

1 agreed to in writing between the Liquidating Debtor and the non-debtor parties to such contracts or  
2 leases. The Debtor shall attach a schedule of proposed Cure Obligations to the Disclosure Statement  
3 approved by the Court pursuant to section 1125 of the Bankruptcy Code. Objections, if any, to the  
4 Cure Obligations must be filed fourteen (14) days prior to the Confirmation Hearing. The  
5 Liquidating Debtor shall satisfy the Cure Obligations within ten (10) days from the date from which  
6 an Assumed Contract is assumed pursuant to section 365(b) of the Bankruptcy Code.

7           **6.3 Post-Petition Executory Contracts and Unexpired Leases.** Except as may be  
8 provided otherwise by the Confirmation Order, all agreements and stipulations entered into by the  
9 Debtor on or after the Petition Date, and all executory contracts and unexpired leases previously  
10 assumed by the Debtor on or after the Petition Date, shall remain in full force and effect following  
11 Confirmation to the extent and in the manner set forth in such agreements, stipulations and Assumed  
12 Contracts or leases, in each case as approved and authorized by the Bankruptcy Court, and as the  
13 same may have been amended, modified or transferred.

14           **6.4 Employee Benefit Plans.** Except as otherwise provided in the Plan, all Employee  
15 Benefit Programs for existing employees of the Debtor on the Effective Date shall be treated as  
16 “executory contracts” and shall be assumed pursuant to sections 365 and 1123(b)(2) of the  
17 Bankruptcy Code by operation of the Plan.

18           **6.5 Order Authorizing Assumption or Rejection.** The Confirmation Order (or if set  
19 forth in a separate order from the Confirmation Order, the Assumption and Cure Order applicable to  
20 such Assumed Contract) shall constitute an order of the Bankruptcy Court approving (effective only  
21 upon the occurrence of the Effective Date) the assumption or rejection, as the case may be, pursuant  
22 to sections 365 and 1123(b)(2) of the Bankruptcy Code of all executory contracts and unexpired  
23 leases under this Article of the Plan. The contracts and leases under this Article 6 will be assumed or  
24 rejected, respectively, only to the extent that such contracts or leases constitute executory contracts  
25 or unexpired leases.

1 **ARTICLE VII**

2 **CONDITIONS PRECEDENT**

3 7.1 **Conditions to Confirmation.** Confirmation of this Plan is conditioned upon the  
4 entry of an order confirming the Plan which shall, among other things, (1) decree that the Plan and  
5 the Confirmation Order shall supersede any Bankruptcy Court orders issued prior to the Effective  
6 Date that are inconsistent therewith; (2) authorize the implementation of the Plan in accordance with  
7 its terms; (3) contain findings supported by evidence adduced at the Confirmation Hearing that upon  
8 the occurrence of the Effective Date, that the Plan is proposed in good faith, that all actions  
9 contemplated by the Plan necessary to implement the restructuring contemplated by the Plan are  
10 authorized by all corporate action, and pursuant to section 1146(c) of the Bankruptcy Code the  
11 issuance of securities and the grant of liens and security interests pursuant to the Plan are not subject  
12 to any stamp, real estate, or transfer tax; (4) issue the injunction set forth in the Plan, effective as of  
13 the Effective Date; (5) decree that on the Effective Date, the reversion of assets in the Debtor  
14 contemplated by the Plan is or will be legal, valid and effective, and vest or will vest in the  
15 Liquidating Debtor good and marketable title to such property free and clear of all Liens, Claims,  
16 and Interests except as provided in the Plan; and (6) confirm the Plan and authorize implementation  
17 in accordance with its terms. If any of the foregoing terms and conditions is not met, the Proponents  
18 may, at their option, withdraw this Plan and, if withdrawn, this Plan shall be of no further force or  
19 effect.

20 7.2 **Conditions to Effective Date.** If no stay of the Confirmation Order is then in effect,  
21 this Plan shall become effective and the Effective Date shall occur upon the closing of the  
22 transactions contemplated herein, but no later than thirty (30) days after entry of the date that the  
23 Confirmation Order becomes a Final Order.

24 **ARTICLE VIII**

25 **EFFECTS OF CONFIRMATION**

26 8.1 **Binding Effect of Plan.** The provisions of the confirmed Plan shall bind the Debtor,  
27 the Liquidating Debtor, the Committee, and any Creditor or Interest Holder, whether or not such  
28 Creditor or Interest Holder has filed a proof of Claim or Interest in the Chapter 11 Case, whether or

1 not the Claim of such Creditor or the Interest of such Interest Holder is impaired under the Plan, and  
2 whether or not such Creditor or Interest Holder has accepted or rejected the Plan. All Claims and  
3 Debts shall be as fixed and adjusted pursuant to this Plan. With respect to any taxes of the kind  
4 specified in Bankruptcy Code section 1146(c), this Plan shall also bind any taxing authority, recorder  
5 of deeds or similar official for any county, state, or governmental unit or parish in which any  
6 instrument related to under this Plan or related to any transaction contemplated under this Plan is to  
7 be recorded.

8           **8.2 Revesting of Property Free and Clear.** Upon the Effective Date, title to all Estate  
9 Assets shall vest in the Liquidating Debtor for the purposes contemplated under the Plan and shall no  
10 longer constitute property of the Estate created for Heller Ehrman in its Chapter 11 Case pursuant to  
11 section 541 of the Bankruptcy Code. Except as otherwise provided by this Plan, and to the full  
12 extent allowed by sections 1141(b) and (c) of the Bankruptcy Code, upon the Effective Date, all  
13 Estate Assets shall be free and clear of all Claims, Liens and Interests, including Unsecured Claims.  
14 All Unsecured Claims against the Debtor or the Estate shall be of no further force or effect except  
15 with respect to the rights of holders of Allowed Claims to received payments or distributions as set  
16 forth herein. Following the Effective Date, the Liquidating Debtor may use, acquire or dispose of  
17 any such property free of any restrictions imposed by the Bankruptcy Court, the Bankruptcy Code or  
18 the Bankruptcy Rules and without further approval of the Bankruptcy Court or notice to Creditors,  
19 except as may otherwise be required under the Plan or the Confirmation Order. Except as otherwise  
20 expressly provided in the Plan or Confirmation Order, all rights or causes of action are hereby  
21 preserved and retained for enforcement solely and exclusively by and at the discretion of the  
22 Liquidating Debtor.

23           **8.3 Injunction.** On the Effective Date, and except as otherwise provided by the Plan, all  
24 entities who have held, hold or may hold Claims against or Interests in the Debtor or the Debtor's  
25 estate that arose prior to the Effective Date are permanently enjoined from: (a) commencing or  
26 continuing in any manner, directly or indirectly, any action or other proceeding of any kind against  
27 the Liquidating Debtor with respect to any such Claim or Interest; (b) the enforcement, attachment,  
28 collection or recovery by any manner or means, directly or indirectly, of any judgment, award,

1 decree, or order against the Liquidating Debtor or any assets or property of the Liquidating Debtor  
2 with respect to any such Claim or Interest; (c) creating, perfecting or enforcing, directly or indirectly,  
3 any Lien or encumbrance of any kind against the Liquidating Debtor or any property of the  
4 Liquidating Debtor with respect to any such Claim; (d) asserting, directly or indirectly any  
5 obligation against the Liquidating Debtor any property of the Liquidating Debtor with respect to any  
6 such Claim or Interest; and (e) any act, in any manner, in any place whatsoever, that does not  
7 conform to or comply with the provisions of the Plan with respect to such Claim or Interest. Except  
8 as otherwise provided in the Plan, no claims of the Debtor or Liquidating Debtor against any person  
9 or entity shall be discharged, released, or compromised pursuant to the Plan or Confirmation Order.

10       **8.4 Full and Final Satisfaction.** Commencing upon the Effective Date, the Liquidating  
11 Debtor shall be authorized and directed to distribute the amounts required under this Plan to the  
12 holders of Allowed Claims according to the provisions of the Plan. Upon the Effective Date, all  
13 Debts of the Debtor shall be deemed fixed and adjusted pursuant to this Plan and the Debtor, the  
14 Liquidating Debtor, the Committee, as applicable, shall have no further liability on account of any  
15 Claims or Interests except as set forth in this Plan. All payments and all distributions made by the  
16 Liquidating Debtor under the Plan shall be in full and final satisfaction, settlement and release of all  
17 Allowed Claims.

18       **8.5 Limitation of Liability.** The Debtor, the Liquidating Debtor, the Dissolution  
19 Committee and each of its members, the Committee, the Shareholder Liquidation Trustee, and their  
20 respective officers, directors, managers, employees, agents, and representatives (collectively, the  
21 “Exculpated Parties”), will neither have nor incur any liability to any entity for any action in good  
22 faith taken or omitted to be taken in connection with or related to the Chapter 11 Case the  
23 investigations of potential claims or the formulation, preparation, dissemination, implementation,  
24 Confirmation or consummation of the Plan, the Disclosure Statement, or any agreement created or  
25 entered into in connection with the Plan or incident to the Chapter 11 Case, provided that, this  
26 limitation will not affect or modify the rights of any holder of an Allowed Claim to enforce its rights  
27 under the Plan or the non-debtor party to an Assumed Contract to enforce its rights under the  
28 Assumed Contract, nor shall the foregoing exonerate any of the Exculpated Parties from any liability

1 that is determined that would otherwise result from an act or omission to the extent such act or  
2 omission is determined by Final Order to have constituted negligence or willful misconduct. In  
3 addition, notwithstanding any other provision of this Plan, no holder of a Claim or Interest, no other  
4 party in interest, none of their respective agents, employees, representatives, financial advisors,  
5 attorneys or affiliates, and no successors or assigns of the foregoing, shall have any right of action  
6 against any Exculpated Party for any act or omission in connection with, relating to or arising out of  
7 the Chapter 11 Case or the consideration, formulation, preparation, dissemination, implementation,  
8 Confirmation or consummation of the Plan, the Disclosure Statement, or any transaction or  
9 document created or entered into, or any other act taken or omitted to be taken, in connection  
10 therewith, except for: (a) the liability of any entity that would otherwise result from the failure to  
11 perform or pay any obligation or liability under the Plan or any contract, instrument, release or other  
12 agreement or document to be entered into or delivered in connection with the Plan, or (b) the liability  
13 of any entity that would otherwise result from any such act or omission to the extent that such act or  
14 omission is determined in a Final Order to have constituted negligence or willful misconduct. The  
15 Exculpated Parties do not include any Professionals.

## 16 ARTICLE IX

### 17 RETENTION OF JURISDICTION

18 From and after the Confirmation Date, the Bankruptcy Court shall retain such jurisdiction  
19 as is legally permissible, including, but not limited to, for the following purposes:

- 20 (i) To hear and determine any and all objections to the allowance of a Claim,  
21 actions to equitably subordinate a Claim, or any controversy as to the classification of a Claim in a  
22 particular Class under the Plan;
- 23 (ii) To administer or enforce the Plan;
- 24 (iii) To liquidate any Disputed Claims;
- 25 (iv) To hear and determine any and all adversary proceedings, contested matters or  
26 applications pending on the Effective Date;
- 27 (v) To hear and determine any and all motions for the rejection of executory  
28 contracts and unexpired leases and to fix and allow any Claims arising therefrom;

1 (vi) To hear and determine any and all applications by the Plan Administrator, the  
2 Shareholder Liquidation Trustee, or Professionals for an award of pre-Effective Date Professional  
3 Fees, and to consider the periodic final fee applications of Professionals post-Confirmation as  
4 provided in section 5.33, above, or to resolve any disputes concerning payment of post-Effective  
5 Date Professionals Fees or Plan Expenses;

6 (vii) To interpret and/or enforce the provisions of the Plan, and the injunction  
7 provided for in the Plan and to determine any and all disputes arising under or regarding  
8 interpretation of the Plan, or any other agreement, document or instrument contemplated by the Plan,  
9 including, without limitation, and claims asserted against the Plan Administrator or against  
10 Professionals engaged by him;

11 (viii) To enter and implement such orders as may be appropriate in the event  
12 Confirmation is for any reason stayed, reversed, revoked, modified or vacated;

13 (ix) To modify any provision of the Plan to the extent permitted by the Bankruptcy  
14 Code and to correct any defect, cure any omission, or reconcile any inconsistency in the Plan or in  
15 the Confirmation Order as may be necessary to carry out the purposes and intent of the Plan;

16 (x) To approve applications for Bankruptcy Rule 2004 Examinations and any  
17 enforcement orders necessary, including but not limited to pursuant to Bankruptcy Rule 2005;

18 (xi) To approve any compromise and settlements and/or abandonments of claims  
19 against third parties, which either the Plan Administrator in his sole discretion believes should be  
20 noticed to creditors, or which is the subject of an objection by a former Committee member;

21 (xii) To approve any sales of assets or claims pursuant to section 363 of the  
22 Bankruptcy Code, which the Plan Administrator in his sole discretion believes should be noticed to  
23 creditors;

24 (xiii) To approve interim and/or final distributions to creditors, including the  
25 approval of any publication notices, which the Plan Administrator in his sole discretion believes  
26 should be noticed to creditors; and

27 (xiv) To close the Chapter 11 Case when administration of the case has been  
28 completed.

1 **ARTICLE X**

2 **MISCELLANEOUS**

3 10.1 **Severability of Plan Provisions.** In the event that, prior to the Confirmation Date,  
4 any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void or  
5 unenforceable, the Bankruptcy Court shall, have the power to alter and interpret such term or  
6 provision to make it valid or enforceable to the maximum extent practicable, consistent with the  
7 original purpose of the term or provision held to be invalid, void or unenforceable, and such term or  
8 provision shall then be applicable as altered or interpreted. Notwithstanding any such holding,  
9 alteration or interpretation, the remainder of the terms and provisions hereof shall remain in full  
10 force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration  
11 or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide  
12 that each term and provision hereof, as it may have been altered or interpreted in accordance with the  
13 foregoing, is valid and enforceable pursuant to its terms.

14 10.2 **Governing Law.** Except to the extent that the Bankruptcy Code or other federal law  
15 is applicable, the rights, duties and obligations arising under this Plan shall be governed by, and  
16 construed and enforced in accordance with, the laws of the State of California.

17 10.3 **Headings.** The headings contained in this Plan are for convenience of reference only  
18 and shall not limit or otherwise affect in any way the meaning or interpretation of this Plan.

19 10.4 **Language Interpretation.** In the interpretation of this Plan, unless the context  
20 otherwise requires, references in this Plan to the singular shall be construed to include references to  
21 the plural and vice versa; words importing the singular shall be deemed to import the plural and vice  
22 versa; words denoting gender shall include all genders; references to sections, schedules, and  
23 exhibits shall mean sections, schedules, and exhibits of and to this Plan; references to part includes  
24 the whole, except where the context clearly requires otherwise “or” has the inclusive meaning  
25 represented by the phrase “and/or,” and the words “hereof,” “herein,” “hereunder,” and similar terms  
26 in this Plan refer to this Plan as a whole and not to any particular provision of this Plan.

27 10.5 **Exhibits.** All exhibits attached to this Plan or the Disclosure Statement are, by this  
28 reference, hereby incorporated into the Plan. The final version of all exhibits to the Plan and the

1 Disclosure Statement will be substantially in the forms attached hereto or thereto. The Proponents  
2 reserve the right to make non-substantive changes and corrections to such exhibits in advance of the  
3 Confirmation Hearing. If any exhibits are changed or corrected, the replacement exhibits will be  
4 filed with the Bankruptcy Court prior to the commencement of the Confirmation Hearing

5           **10.6 Exemption from Transfer Taxes:** Pursuant to the provisions of section 1146(c) of  
6 the Bankruptcy Code, the issuance, transfer or exchange of notes or equity securities under the Plan,  
7 the creation of any mortgage, deed of trust or other security interest, the making or assignment of  
8 any lease or sublease, the sale or other transfer of any assets by the Debtor or Liquidating Debtor to a  
9 third party, or the making or delivery of any deed or other instrument of transfer under, in  
10 furtherance of, or in connection with the Plan, including any deeds, bills of sale or assignments  
11 executed in connection with any of the transactions contemplated under the Plan, shall not be subject  
12 to any stamp, real estate transfer, mortgage recording, sales, or other similar tax.

13           **10.7 Notices.** All notices required or permitted to be made in accordance with the Plan  
14 shall be in writing and shall be delivered personally or by nationally recognized overnight or next-  
15 day courier service, first class mail or via facsimile with electronic confirmation of receipt as  
16 follows:

17                           If to the Debtor:  
18                           (By Mail or Facsimile)

19                           Shelley Salinero  
20                           Heller Ehrman LLP  
21                           333 Bush Street, 10<sup>th</sup> Floor  
22                           San Francisco, CA 94104  
23                           (415) 772-6463  
24                           (415) 772 6268 (Facsimile)

25                           With a copy to:

26                           John D. Fiero, Esq.  
27                           Teddy M. Kapur, Esq.  
28                           Pachulski Stang Ziehl & Jones LLP  
29                           1509 California Street, Suite 1500  
30                           San Francisco, CA 94111  
31                           (415) 263-7000  
32                           (415) 263-7010 (Facsimile)

1 If to the Committee:  
2 (By Mail or Facsimile)  
3 Thomas A. Willoughby, Esq.  
4 Felderstein, Fitzgerald, Willoughby & Pascuzzi, LLP  
5 400 Capital Mall, Suite 1450  
6 Sacramento, CA 95814  
7 (916) 329-7400  
8 (916) 329-7435 (Facsimile)

9 **10.8 Computation of Time Periods.** In computing any period of time prescribed or  
10 allowed by the Plan, the day of the act, event, or default from which the designated period of time  
11 begins to run shall not be included. The last day of the period so computed shall be included unless  
12 it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in the  
13 Bankruptcy Court, a day on which weather or other conditions have made the clerk's office  
14 inaccessible, in which event the period runs until the end of the next day which is not one of the  
15 aforementioned days.

16 **10.9 Defects, Omissions and Amendments.** The Proponents, with the approval of the  
17 Bankruptcy Court and without notice to all holders of Claims or Interests, insofar as it does not  
18 materially and adversely affect holders of Claims, may correct any defect, omission or inconsistency  
19 in the Plan in such manner and to such extent as may be necessary or desirable to expedite the  
20 execution of the Plan. The Plan may be altered or amended before or after Confirmation as provided  
21 in section 1127 of the Bankruptcy Code.

22 **10.10 Filing of Additional Documents.** The Proponents shall file with the Bankruptcy  
23 Court such agreements or other documents as may be necessary or appropriate to effectuate and  
24 further evidence the terms and conditions of the Plan.

25 **10.11 Successors and Assigns.** The rights, benefits and obligations of any entity named or  
26 referred to in this Plan shall be binding on, and shall inure to the benefit of, the heirs, executors,  
27 administrators, successors and/or assigns of such entity.

28 **10.12 Implementation.** Upon Confirmation, the Debtor and the Committee shall be  
authorized to take all steps and execute all documents necessary to effectuate the provisions  
contained in the Plan.

1           10.13 **Certain Actions.** By reason of entry of the Confirmation Order, prior to, on or after  
2 the Effective Date (as appropriate), all matters provided for under the Plan that would otherwise  
3 require approval of the owners, stockholders, shareholders, members, directors, managers, or  
4 officers of the Debtor under the Plan, including, without limitation, (i) the distribution of Cash  
5 pursuant to the Plan, (ii) the adoption, execution, delivery, and implementation of all contracts,  
6 leases, instruments, releases, and other agreements or documents related to the Plan, and (iii) the  
7 adoption, execution, and implementation of other matters provided for under the Plan involving the  
8 company or organizational structure of the Debtor, shall be deemed to have occurred and shall be in  
9 effect prior to, on or after the Effective Date (as appropriate), pursuant to the applicable general  
10 corporation, limited liability, or partnership law of the state in which the Debtor or the Liquidating  
11 Debtor is chartered, organized or incorporated, without any requirement of further action by the  
12 owners, stockholders, shareholders, members, directors, managers, or officers of the Debtor.

13           10.14 **Waiver of Ten (10) Day Stay.** The Proponents request as part of the Confirmation  
14 Order a waiver from the Bankruptcy Court of the ten (10) day stay of Bankruptcy Rule 3020(e) and,  
15 to the extent applicable, a waiver of the ten (10) day stay of Bankruptcy Rule 6004(g).

16 Dated: October 8, 2009

PACHULSKI STANG ZIEHL & JONES LLP

17  
18 By /s/ John D. Fiero  
19 John D. Fiero  
20 Attorneys for Heller Ehrman LLP,  
21 Debtor and Debtor in Possession

21 Dated: October 8, 2009

FELDERSTEIN, FITZGERALD, WILLOUGHBY  
& PASCUZZI, LLP

22  
23 By /s/ Thomas Willoughby  
24 Thomas Willoughby, Esq.  
25 Counsel to the Official Committee of  
26 Unsecured Creditors  
27  
28