

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge

Modesto, California

**December 12, 2024 at 2:00 p.m.**

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1. [24-90602-E-11](#)      **AMERICAN TRADERS, INC.**      **STATUS CONFERENCE RE:**  
[CAE-1](#)           **VOLUNTARY PETITION**  
           **10-11-24 [[1](#)]**

Debtor's Atty: Michael Jay Berger

Notes:

[MJB-1] Debtor in Possession's Ex Parte Application for Order Designating Responsible Individual filed 10/11/24 [Dckt 6]; Order granting filed 10/29/24 [Dckt 46]

[MJB-2] Motion for Authority to Use Cash Collateral on an Interim Basis filed 10/17/24 [Dckt 15]; Order granting in part filed 11/4/24 [Dckt 56]

[MJB-3] Debtor's Motion for Order Authorizing Payment of Wages and Related Expenses filed 10/17/24 [Dckt 18]; Order granting filed 10/28/24 [Dckt 36]

[MJB-4] Application of Debtor-In-Possession for Order Authorizing Debtor to Employ the Law Offices of Michael Jay Berger as its General Bankruptcy Counsel filed 10/17/24 [Dckt 10]; Order granting filed 11/25/24 [Dckt 71]

[MJB-2 and MJB-3] Application for Order Shortening Time for Hearings filed 10/17/24 [Dckt 22]; Order granting filed 10/19/24 [Dckt 28]

[CAE-1] Debtor's Initial Case Status Conference Report filed 11/27/24 [Dckt 72]

<b>The Status Conference is <span style="color: red;">xxxxxxx</span></b>
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**DECEMBER 12, 2024 STATUS CONFERENCE**

In this Chapter 11 Case the court has not authorized the use of cash collateral and the Debtor in Possession has ceased the operation of the hotel, the Bankruptcy Estate's sole business. The Debtor in

**December 12, 2024 at 2:00 p.m.**

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Possession filed a Status report on November 27, 2024. Dckt. 72. The Debtor in Possession confirms that operation of the business has ceased and no cash collateral has been used after November 8, 2024 (the expiration of the court's prior authorization).

The Debtor in Possession reports that the hotel property has a value of \$3,400,000 and the obligations secured by it total (\$3,229,852.09). The Debtor in Possession (though the reports says "Debtor"), as a fiduciary to the Bankruptcy Estate in exercising the powers of a bankruptcy trustee, intends to sell the hotel. The Debtor in Possession has an offer, but it is substantially short of paying the secured claims.

At the Status Conference, **XXXXXXX**

2. [24-90615-E-11](#)      JEA2, LLC  
[CAE-1](#)

**STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
10-17-24 [1]**

Debtor's Atty: Anthony Asebedo

Notes:

Operating Reports filed: 11/14/24

[RLL-1] Debtor in Possession's Application to Employ Reynolds Law, LLP, as Bankruptcy Counsel filed 11/7/24 [Dckt 17]; Order granting filed 11/8/24 [Dckt 20]

U.S. Trustee Report at 341 Meeting lodged 11/26/24

[CAE-1] Debtor in Possession's Initial Status Conference Statement filed 11/27/24 [Dckt 25]

<b>The Status Conference is <b>XXXXXXX</b></b>
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### **DECEMBER 12, 2024 STATUS CONFERENCE**

On November 27, 2024, JEA2, LLC, as the Debtor in Possession, filed a Status Conference Statement. Dckt. 25. The Debtor in Possession reports that the Bankruptcy Estate is continuing in the business of owning and leasing for agricultural purposes. At the Status Conference, **XXXXXXX**

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on attorneys of record, all creditors, and Office of the United States Trustee on October 17, 2024. By the court’s calculation, 56 days’ notice was provided. 42 days’ notice is required. FED. R. BANKR. P. 2002(b) (requiring twenty-eight days’ notice); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days’ notice for written opposition).

The Motion to Approve Disclosure Statement has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

<p><b>The Motion to Approve Disclosure Statement is <span style="color: red;">XXXXXXX</span> .</b></p>
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## REVIEW OF THE DISCLOSURE STATEMENT

Case filed: July 19, 2024

Background: This case involves the Debtor in Possession Art Buildings LLC, and is a single asset real estate case. The parcel of real property is commonly known as 3200 Atherstone Road, Turlock, CA 91582 (the “Property”). Debtor in Possession was formed in May 2021 and has been in the business of real estate investment.

Debtor in Possession’s sole equity security holder is Expert Equity Advisors, LLC. Satpreet Thiara is the Managing Member of Expert Equity and a 100% equity holder of Expert Equity Advisors, LLC.

The events that led to the filing of the Chapter 11 case by the Debtor in Possession was the pending foreclosure sale of the Property initiated by creditor Romspen California Mortgage LP (“Romspen”).

<b>Creditor/Class</b>	<b>Treatment</b>	
Class 1A: Romspen	<b>Claim Amount</b>	Debtor provides \$3,100,000.00, but Romspen filed a Proof of Claim for \$3,840,860.06.
	<b>Impairment</b>	Currently disputed Claim
	<p>Provided that the parties reach a plan treatment stipulation for an allowed secured claim for \$3,100,000.00 (“Allowed Secured Claim”), Debtor proposes to pay \$2,800,000.00 to Romspen through post-petition financing from Perfect Logistic Inc., (subject to this Court’s approval), and treat the remaining \$300,000.00 loan balance as a subordinated secured obligation and satisfy the \$300,000.00 over 24 months following the effective date of the Plan. Specifically, the \$300,000.00 will be paid in equal monthly consecutive installment payments of \$12,500.00 each, with the first payment due on the 1st day of the month following the effective date, followed by 23 payments thereafter, each in the amount of \$12,500.00 to pay the \$300,000.00 in full.</p> <p>Absent an agreement for allowance of Romspen’s claim for \$3,100,000.00, Debtor will object to Romspen’s claim. Once an agreement is reached, Debtor will file a motion for a secured post-petition financing.</p>	
Class 2A: Internal Revenue Service, Franchise Tax Board	<b>Claim Amount</b>	\$1,285.95
	<b>Impairment</b>	Unimpaired
	Pay in full in one lump-sum payment on the effective date.	
Class 2B: Perfect Logistic Inc.	<b>Claim Amount</b>	\$4,800,000.00
	<b>Impairment</b>	Unimpaired
	Pay in full in one lump-sum payment after the Property’s horizontal structure is finalized and the Property is sold later. Perfect Logistic Inc. is friendly creditor and the source of the post-petition financing for \$2,800,000, and consents to this proposed treatment by the Debtor.	
Class 2B: T&N Plumbing and Electrical	<b>Claim Amount</b>	\$469,000.00
	<b>Impairment</b>	Unimpaired
	Pay in full in one lump-sum payment after the Property’s horizontal structure is finalized and the Property is sold later. Debtor continues to use the services of T&N Plumbing and Electrical as its contractor for the Property, and T&N also agrees to the treatment proposed by the Debtor.	

Class 3: Interest Holders	<b>Claim Amount</b>	\$0
	<b>Impairment</b>	Unimpaired
	Debtor's 100% equity security interest holder is Expert Equity Advisors, LLC. Expert Equity Advisors, LLC does not hold a pre-petition or post-petition claim against the Debtor.	

#### A. C. WILLIAMS FACTORS PRESENT

- ☐ Y ☐ Incidents that led to filing Chapter 11
- ☐ Y ☐ Description of available assets and their value
- ☐ Y ☐ Anticipated future of Debtor
- ☐ Y ☐ Source of information for D/S
- ☐ Y ☐ Disclaimer
- ☐ Y ☐ Present condition of Debtor in Chapter 11
- ☐ Y ☐ Listing of the scheduled claims
- ☐ Y ☐ Liquidation analysis
- ☐ N ☐ Identity of the accountant and process used
- ☐ Y ☐ Future management of Debtor
- ☐ Y ☐ The Plan is attached

*In re A. C. Williams Co.*, 25 B.R. 173 (Bankr. N.D. Ohio 1982); *see also In re Metrocraft Pub. Servs., Inc.*, 39 B.R. 567 (Bankr. N.D. Ga. 1984).

#### **Romspen's Objection**

Romspen, Creditor with secured claim classified as Class 1A, is objecting to Debtor's proposed combined plan of reorganization for the following reasons:

1. Debtor in Possession has failed to provide "adequate information" as required by 11 U.S.C. § 1125(b), including:
  - a. Failing to provide information that led to filing the petition, and failing to substantiate any future objection to Romspen's claim. Opp'n 2:17-3:20, Docket 76.

- b. Failing to identify insiders. *Id.* at 3:21-4:28.
- c. Failing to provide factual support for Debtor in Possession's financial projections. *Id.* at 5:1-6:6.
- d. The Plan is unconfirmable on its face because Debtor has not reorganized and has no certain funding source. *Id.* at 6:7-22.

### **Debtor in Possession's Reply**

Debtor in Possession filed a Reply on December 9, 2024. Docket 78. Debtor in Possession states:

- 1. Debtor in Possession will be able to fund the Plan with its post-petition financing. *Id.* at 12-20. On this point, the principal of creditor Perfect Logistics, Inc., Davinder Sandhu, has submitted a Declaration in support of the Reply stating that Perfect Logistics has agreed to advance up to \$3,000,000 in post-petition financing. Decl. ¶ 3, Docket 80.
- 2. Debtor in Possession's insiders were disclosed. Reply 3:4-9.
- 3. Debtor in Possession's history and reason for filing have been disclosed. *Id.* at 3:11-26.
- 4. Debtor in Possession's valuation of the Property at \$9.5 million is supported by the evidence. *Id.* at 4:1-9.
- 5. Debtor in Possession hopes to continue negotiations with Romspen on the value of its claim. *Id.* at 4:11-21.

### **APPLICABLE LAW**

Before a disclosure statement may be approved after notice and a hearing, the court must find that the proposed disclosure statement contains "adequate information" to solicit acceptance or rejection of a proposed plan of reorganization. 11 U.S.C. § 1125(b).

"Adequate information" means information of a kind, and in sufficient detail, so far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of the holders of claims against the estate to make a decision on the proposed plan of reorganization. 11 U.S.C. § 1125(a).

Courts have developed lists of relevant factors for the determination of adequate disclosure. *E.g., In re A. C. Williams, supra.*

There is no set list of required elements to provide adequate information per se. A case may arise where previously enumerated factors are not sufficient to provide adequate information. Conversely, a case may arise where previously enumerated factors are not required to provide adequate information. *In re Metrocraft Pub. Servs., Inc.*, 39 B.R. 567 (Bank. N.D. Ga. 1984). "Adequate information" is a flexible

concept that permits the degree of disclosure to be tailored to the particular situation, but there is an irreducible minimum, particularly as to how the plan will be implemented. *Official Comm. of Unsecured Creditors v. Michelson*, 141 B.R. 715, 718–19 (Bankr. E.D. Cal. 1992).

The court should determine what factors are relevant and required in light of the facts and circumstances surrounding each particular case. *In re East Redley Corp.*, 16 B.R. 429 (Bankr. E.D. Pa. 1982).

The court begins its analysis with the statutory requirements of 11 U.S.C. § 1125 for a disclosure statement. Solicitation of an acceptance or rejection of a plan may be made with a written disclosure statement which was approved by the court. The disclosure statement must provide “adequate information.” The term “adequate information” is defined in 11 U.S.C. § 1125(a)(1) to be,

(1) “adequate information” means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan, but adequate information need not include such information about any other possible or proposed plan and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;...

Determination of whether there is “adequate information” is a subjective determination made by the bankruptcy court on a case by case basis. *In re Texas Extrusion Corp.*, 844 F.2d 1142 (5th Cir. 1988), *cert. denied* 488 U.S. 926 (1988). Non-bankruptcy rules and regulations concerning disclosures do not govern the determination of whether a disclosure statement provides adequate information. 11 U.S.C. § 1125(d); *Yell Forestry Products, Inc. v. First State Bank*, 853 F.2d 582 (8th Cir. 1988).

## **DISCUSSION**

### Adequate Information as to Case History

Debtor in Possession has stated the reason for filing the petition, namely that the investment was not generating income, and there was a foreclosure on the horizon. Disclosure statement 9:25-26; 8:19, Docket 60. The court finds the Disclosure Statement provides adequate information here.

### Adequate Information as to Insiders

Debtor in Possession has clearly identified the insiders, Expert Equity Advisors, LLC, and Satpreet Thiara who is the Managing Member of Expert Equity and a 100% equity holder of Expert Equity Advisors, LLC. The Statement also states there are no claims from the insider. Disclosure statement 13:24-26, Docket 60. The court finds the Disclosure Statement provides adequate information here.

### Adequate Information as to Financial Projections

Debtor in Possession has clearly identified its source of funding, namely the post-petition financing for \$2,800,000 from the Creditor Perfect Logistic Inc., which that creditor has agreed to. *Id.* at 13:17-22. Satpreet Thiara, the Managing Member of Debtor in Possession's 100% equity holder, has testified that Perfect Logistic Inc. has agreed in advance to that post-petition financing. Decl. ¶ 7, Docket 61. The court finds the Disclosure Statement provides adequate information here.

The court notes that the property securing the Romspen secured claim is stated on Schedule A/B to have a value of \$9,500,000. Dckt. 26 at p. 5. The only creditor having a claim secured by that property is Romspen (who is effectively the Debtor's only substantial creditor). It appears curious to the court that the Debtor in Possession is arranging for only \$2,800,000 of financing for payment of the Romspen secured claim, and then is seeking to subordinate the balance (whether it be the \$300,000 the Debtor in Possession computes or the \$1,000,000 that Romspen computes) to the post-petition funding.

#### The Disclosure Statement Fails Because the Plan is Unconfirmable

It appears that the Disclosure Statement clearly discloses to Creditor what the Plan proposes and how Debtor proposes to perform it. Creditor disagrees that such Plan will be confirmed. Such dispute is for a confirmation hearing.

Moreover, the court does not agree the Plan is unconfirmable on its face. The Plan provides for Romspen's claim in full, if determined to be in the amount of \$3,100,000. The source of the funds to pay Romspen's claim have been clearly presented. That claim amount may require an Objection to Claim or an evidentiary hearing, but either outcome does not render the Plan unconfirmable on its face.

#### Business Operations Post-Confirmation

It is not clear in the Disclosure Statement what the Debtors post-confirmation business operations for this single asset real estate case will be. While the Disclosure Statement states that the Debtor will be obtaining post-confirmation financing (since the Estate's assets do not generate any income) to partially fund the Plan (for which Creditor Romspen is to subordinate its lien), it does not state whether there will be a sale of the property in the next three, or six, or twelve months, or whether the Debtor plans of fully constructing a high-rise apartment complex.

At the hearing, **XXXXXXX**

~~On its face the Disclosure Statement shows that adequate information has been provided pursuant to 11 U.S.C. § 1125(b).~~

~~Therefore, the Disclosure Statement is approved. The court shall issue an order approving the Disclosure Statement, which shall also set the following dates and deadlines:~~

- A. Art Buildings LLC, the "Plan Proponent" Debtor in Possession, shall serve the approved Disclosure Statement, proposed Plan, notice of confirmation hearing, a copy of this order approving the disclosure statement, and ballot on or before **XXXXXXX**.



- B. Ballots shall be returned to counsel for the Plan Proponent on objections to confirmation, if any, filed and served on or before **XXXXXXX**.
- C. The Ballot Tabulation Summary, evidence in support of confirmation, and Responses to objections to confirmation, if any, shall be filed and served on or before **XXXXXXX**.
- D. The Confirmation Hearing shall be conducted at **XXXXXXX**.

4. [24-90618-E-11](#)      **JEFFERY ARAMBEL**      **STATUS CONFERENCE RE:**  
[CAE-1](#)      **VOLUNTARY PETITION**  
10-17-24 [\[1\]](#)

Debtor's Atty: Chris D. Kuhner

Notes:

Operating Reports filed: 11/25/24

[FWP-1] Plan Administrator's Motion for Relief from the Automatic Stay and Waiver of 14-Day Stay filed 11/7/24 [Dckt 14]; Order granting filed 11/25/24 [Dckt 29]

[CDK-1] Application for Employment of Counsel for Chapter 11 Debtor and Debtor-In-Possession filed 11/8/24 [Dckt 20]; Order granting filed 11/8/24 [Dckt 22]

Trustee Report at 341 Meeting lodged 11/26/24

[COR-1] Motion for Relief from Automatic Stay [creditor SBN V Ag I LLC] filed 11/26/24 [Dckt 31], set for hearing 12/12/24 at 10:00 a.m.

[CAE-1] Status Conference Statement filed 11/27/24 [Dckt 35]

<b>The Status Conference is continued to <b>XXXXXXX</b></b>
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### **DECEMBER 12, 2024 STATUS CONFERENCE**

Jeffery Arambel, as the Debtor in Possession and fiduciary to the Bankruptcy Estate, filed a Status Conference Statement on November 27, 2024. Dckt. 35. In it he reports that the Debtor in Possession (not the Debtor) intends to hire real estate professionals for the marketing and sel of real property of the Bankruptcy Estate. At the Status Conference, **XXXXXXX**