

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

IN RE:           SAFEWAY HOMES OF LEXINGTON, LLC,  
                  A Mississippi Limited Liability Company,  
                  DEBTOR

CHAPTER 11  
Case No. 08-2577-EE

**DEBTOR'S DISCLOSURE STATEMENT**

Safeway Homes of Lexington, LLC, a Mississippi Limited Liability Company, Debtor herein, has prepared this Disclosure Statement and it is submitted on behalf of the Debtor. The Disclosure Statement must be approved by the Court, after Notice and a Hearing, prior to solicitation of acceptances for the Plan. The Debtor provides this Disclosure Statement to all of the known creditors in order to disclose information deemed by the Debtor to be material, important and necessary for the creditors to arrive at a reasonably informed decision in exercising rights to vote for acceptance of the Plan filed contemporaneously herewith. Debtor makes the following disclosures:

**I. INTRODUCTION**

**A. Reorganization and Disclosure**

On September 1, 2008, Safeway Homes of Lexington, LLC (the "Company"), a Mississippi Limited Liability Company, filed its voluntary petition for reorganization pursuant to Chapter 11 of the Bankruptcy Code.

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Pursuant to Chapter 11, a debtor may reorganize its business while continuing to operate. Attempts to collect pre-petition claims from a debtor and any attempts to foreclose upon its property are stayed during the pendency of the case.

The purpose of this statement is to provide the holders of claims against and equity interests in the Company adequate information about the Company and the Plan so they can make an informed judgment about the merits of approving the Plan. The Plan is the definitive, legally-binding document. YOU ARE ENCOURAGED TO READ THE PLAN AND TO CONSULT WITH YOUR COUNSEL ABOUT IT. This Disclosure Statement is meant to be helpful to you, but you should not rely on it alone. Certain capitalized terms used in this document are defined in the Plan or the Bankruptcy Code.

This Disclosure Statement has neither been approved nor disapproved by the Securities and Exchange Commission, and the Commission has not passed upon the accuracy or adequacy of any statements contained in this document. Court approval of this Disclosure Statement does not imply court approval of the Plan.

## **B. Voting on the Plan**

The Company has proposed the Plan of Reorganization (the "Plan") which accompanies this Disclosure Statement as the means for reorganizing its financial affairs and paying its creditors. Your vote on the Plan is important. The Company can implement the Plan only if it is confirmed by the Bankruptcy Court. The Plan can be confirmed only if, among other things, it is accepted by the holders of two-thirds in amount and more than one-half in number of the claims in at least one impaired class who actually vote on the Plan. In the event the requisite acceptances are not obtained from other impaired classes, the Court may nevertheless confirm the Plan if the Court finds that it is fair and equitable to the class or classes rejecting it.

Classes 3, 4, 11, and 12 (described below) are impaired, and holders of Allowed Claims, or holders in those classes of disputed claims which the Court has temporarily allowed for voting

purposes only, are entitled to vote. The creditors in Classes 3 and 4 have both secured claims and unsecured deficiency claims. They are entitled to vote in each capacity. You are not required to vote, but only those votes actually received by the Company's counsel on or before the date stated in the Court's Order accompanying this Disclosure Statement will be counted, either for or against the Plan. Holders of claims and interests in classes which are not impaired, and holders of claims which are not classified, are not entitled to vote.

The Court will hold a hearing on confirmation of the Plan and will then, among other things, determine the results of the vote. The date and time of that hearing also appear in the Court's order sent to you with this document.

Each creditor and equity holder will receive a Form W-9. It is important, in order to avoid delay in distributions under the Plan, that each recipient complete the Form W-9 with his social security or other tax identification number and return it promptly to the Company's counsel. Only by completion of the Form W-9 can it be determined whether you are subject to federal tax information reporting or back-up withholding.

## **II. HISTORY OF THE COMPANY**

### **A. Pre-bankruptcy History**

The Company was formed in November of 2004 by William O. Jenkins, Jr..

The Company is and always has been in the business of manufacturing and distributing modular homes in the Southeast Region of the United States. The primary customers for the modular homes are government entities and private developers.

The Company was initially capitalized by its parent company, Safeway Homes, LLC, a Mississippi Limited Liability Company. In addition, certain investors made investments in the

Company evidenced by the Company's promissory notes. Those notes remain largely unpaid.

The Company purchased a vacant manufacturing facility and the land on which it was situated for \$1,280,000.00, which was “seller-financed” by Fleetwood Homes of Mississippi, borrowed from the seller and secured by the property. The Company also purchased from Fleetwood Homes of Mississippi equipment sufficient to start limited production and began marketing a line of modular homes.

It became apparent by the spring of 2008, that the downturn in the housing market, the sudden death of one of its founders, Terry Jenkins, and other factors, that income would not be sufficient to meet all obligations on a timely basis. Although the Company investigated refinancing possibilities, it found that this was not a feasible alternative. On September 1, 2008, the Company voluntarily filed a petition under Chapter 11 of the Bankruptcy Code to afford the Company an opportunity to reorganize its debts under the provisions of the Code.

#### **B. Reasons for Filing Under Chapter 11**

The Company borrowed substantial sums to fund an expansion of its facilities to meet production requirements. Debt service and the high cost of raw materials rendered the Company cash short and unable to meet current and predicted obligations. When trade creditors put the Company on a C.O.D. basis and it became apparent that refinancing options were not feasible. Moreover, the high volume of inventory which needed to be sold and the continuing payroll obligations with insufficient cash flow, necessitated the cessation of plant operations. Therefore, the decision was made to file for relief under Chapter 11.

#### **C. Operations During Chapter 11**

The Company has been in Chapter 11 only a short time, during which it has continued to sell

its inventory and to solicit new orders. Earlier this year, after the sale of some 75% of its inventory, it was determined that, if sales continued at the current strengthening pace, plant operations would need to be restarted. As such, the plant reopened with a limited crew on July 1, 2009. Although sales were very slow during 2008 and early 2009, the current per-month-sales and are a strong indication of future success provided that the proposed Plan of Reorganization is approved and confirmed.

The Company, to conserve resources, laid off all but two employees, shortly before filing. In addition, the Board members have voluntarily foregone all compensation and the President, Dan Hobbs, has reduced his compensation which has been modified to reflect sales volume.

### **III. DESCRIPTION OF THE PROPERTY OF THE COMPANY**

The Company's most recent balance sheet is attached to this Disclosure Statement as Exhibit A. It identifies all of the assets of the Company.

The business of the Company is conducted from its plant in Lexington, Mississippi. The plant and offices are located on 30 acres of ground in an industrial area. The plant, a metal building, encompasses 103,000 square feet. Offices, built into and adjoining the plant, occupy 5,250 square feet. A complete line of specialized manufacturing equipment is in the plant.

### **IV. PENDING LITIGATION AND CONTROVERSIES**

The Company is not currently involved in any litigation or significant controversies.

### **V. EXPECTED OPERATIONS AFTER IMPLEMENTATION OF THE PLAN**

#### **A. General**

Under its Plan, as described below, the Company intends to sell its assets, consisting of all real property, equipment, vehicles, inventory, accounts receivable, rights, patents, trade names, tax

losses and tax credits and its interest in a life insurance policy, all of which are owned by the company of the parent company, and discontinue operations except in the limited capacity of receiving monthly payments from Steadfast, LLC, a company which intends to purchase all assets except for land, building, and equipment, which are being sold to a separate, unrelated entity, in consideration for Steadfast agreeing to operate the plant until such time as it is sold, assumption of all liabilities currently secured by finished goods inventories, assumption of responsibility for all deposits tendered by customers, assumption of the liability for the Class 5, 6, 7, 8, 9 and 10 claims, and a monthly payment by Steadfast to the Debtor of \$1,500.00 for a period of sixty months.

The financial obligations which necessitated the filing have been substantially restructured so that they can be repaid through the sale of assets and, in part, through the monthly payment received from Steadfast, LLC, over the next five years. The expected financial performance of the Company under the Plan is set forth in the Cash Flow Projection shown on Exhibit B to this Disclosure Statement. The Cash Flow Projection represents management's best estimate of the Company's future performance based upon the proposed agreements with the entities purchasing the assets of the company.

## **B. Management**

1. Dan Hobbs, 55 years of age, is the President of the Company. He was previously employed by Unified Brands, his last post being Director – Groen Product Line. He holds a B.S. in Civil Engineering from the University of Virginia and an MBA from Harvard.

2. Tommy Harkins, is a Director and has a long and successful history in construction and development.

3. Frank Pucilowski, is a Director and also has a long and successful history in construction

and development.

4. Ronald C. Smith, is a Director. He is an attorney with extensive corporate experience. He was previously general counsel to American Classifieds, one of the largest classified papers in the country. He also has extensive banking and real estate experience. He has a law degree from Mississippi College School of Law.

## **VI. DESCRIPTION OF THE PLAN**

A copy of the Plan is attached to this Disclosure Statement. In summary, the Plan provides for the creation of eleven classes of claims to be paid or provided for in the following manner:

Parties holding allowed administrative expense claims will be paid in full in cash on the Effective Date of the Plan, unless they have agreed to accept deferred payments.

Class 1: The first class of claims is Administrative Claims. Those Administrative Claims not paid as of the Effective Date will be paid (a) according to normal business terms on or after the Effective Date as may be agreed to between each such claimant and the Debtor; (b) in cash on the Effective Date if no such agreement exists and the Administrative Expense has been allowed by a Final Order; or (c) in cash at such time after the Effective Date as the Administrative Expense may be allowed by a Final Order, as the case may be.

Class 2: The second class of claims consists of the property taxes due to the Holmes County Tax Collector and will be paid in full upon the sale of the real property.

Class 3: The third class is the debt due to Fleetwood Homes of Mississippi. The current balance of this obligation is approximately \$1,296,057.00. The Plan will pay the net proceeds of the sale of the real property to Fleetwood in satisfaction of its claim. The lien of the Class 3 claimant shall attach to the proceeds of sale and the balance of the claim will be treated as an unsecured

claim.

Class 4: Class 4 is the claim of Madison County Bank, which is approximately \$398,191.00. Madison County Bank will be paid according to the Order Modifying Note entered by this Court on July 23, 2009, at Docket Number 181. The Plan will pay the net proceeds of the sale of the equipment securing its loan in satisfaction of its claim. The lien of the Class 4 claimant shall attach to the proceeds of sale and the balance of the claim will be treated as an unsecured claim.

Class 5: Class 5 is the claim of Bank of the South which is approximately \$143,523.00. Bank of the South will be paid according to the terms of the Note executed in favor of Bank of the South and such Note will be assumed by Steadfast as consideration for the sale of the assets other than Land, Building and Equipment to Steadfast, LLC.

Class 6: Class 6 is the claim of BankPlus which is approximately \$219,878.00. BankPlus will be paid according to the terms of the Note executed in favor of BankPlus and such Note will be assumed by Steadfast as consideration for the sale of the assets other than Land, Building and Equipment to Steadfast, LLC.

Class 7: Class 7 is the claim of M&T Bank which is approximately \$19,782.00. M&T Bank will be paid according to the terms of the Note executed in favor of M&T Bank and such Note will be assumed by Steadfast as consideration for the sale of the assets other than Land, Building and Equipment to Steadfast, LLC.

Class 8: Class 8 is the claim of Dan Hobbs which is approximately \$27,727.00. Dan Hobbs will be paid according to the terms of the Note executed in favor of Dan Hobbs and such Note will be assumed by Steadfast as consideration for the sale of the assets other than Land, Building and Equipment to Steadfast, LLC.

Class 9: Class 9 is the claim of Mark Sledge which is approximately \$8,384.00. Mark Sledge will be paid according to the terms of the Note executed in favor of Mark Sledge and such Note will be assumed by Steadfast as consideration for the sale of the assets other than Land, Building and Equipment to Steadfast, LLC.

Class 10: Class 10 is the claim of Madison County Bank which is approximately \$145,916.00. Madison County Bank will be paid according to the terms of the Note executed in favor of Madison County Bank and such Note will be assumed by Steadfast as consideration for the sale of the assets other than Land, Building and Equipment to Steadfast, LLC.

Class 11: Class 11 consists of the unsecured claims except those Class 12 claims and will be paid as follows: 1% of the Allowed Amount in cash on the Effective Date, 1% of the Allowed Amount in cash on the first anniversary of the Effective Date, 1% of the Allowed Amount in cash on the second anniversary of the Effective Date, 1% of the Allowed Amount in cash on the third anniversary of the Effective Date, 1% of the Allowed Amount in cash on the fourth anniversary of the Effective Date, and 1% of the Allowed Amount in cash on the fifth anniversary of the Effective Date, for a total of 6% to the Allowed Amount.

Class 12: Class 12 consists of All Allowed Unsecured Claims of Safeway Homes, LLC, Terry Jenkins, the Estate of Terry Jenkins, and William O. Jenkins, Jr., which total approximately \$1,251,600.00 and will not be paid unless all claims in Classes 1-11 have been paid in full.

## **VII. RISK FACTORS**

In deciding how to cast your vote, you should consider the following risk factors:

A. The current housing market is still unstable and may affect the ability of Steadfast, LLC, the purchaser of the Company's assets other than Land, Building, and Equipment, to honor its

obligations to the Company, which, in turn, will affect the ability of the Company to fulfill the terms of this Plan

B. The ability of purchasers to secure financing in the current credit market.

C. Interest rates are at historical lows and are likely to rise, further inhibiting the ability of purchasers to complete transactions.

The future financial performance of the Company is predicted in the Cash Flow Projection attached to this Disclosure Statement as Exhibit B. Although the predictions are based in part on the Company's history, certain assumptions have been made in preparing the projection. If the assumptions are incorrect, the actual performance of the Company will differ from the predicted performance. Among the assumptions are the following:

1. That Steadfast, LLC, will honor its agreement to assume the liability of certain debts of the Company and to make its monthly payment to the Company over the next sixty months.
2. That the purchaser of the Land, Building and Equipment will complete the purchase according to its Letter of Intent.

D. Cash flow projections are less reliable the further into the future they run.

### **VIII. EXECUTORY CONTRACTS AND WARRANTIES**

The Company intends to reject all of its executory contracts which have not been either expressly rejected or assumed under specific terms prior to confirmation of the Plan.

Warranties on finished goods which have been produced prior to the Effective Date will not be honored by the Debtor.

## **IX. EFFECT OF PLAN ON COMPANY**

Confirmation of the Plan will have the effect of discharging the Company from all of its liabilities and obligations, except as expressly provided in the Plan. The reorganized Company shall be discharged and released from, and hold all of its property free of, all liabilities, liens, claims and obligations of any nature or description, excepting only claims, liens, liabilities and obligations provided for by the Plan. The terms of the confirmed Plan will bind the Company and all its creditors and stockholders.

## **X. FEASIBILITY AND COMPARISON OF PLAN TO LIQUIDATION UNDER CHAPTER 7**

The Plan provides for a payment of 6% of Class 11 unsecured claims and 0% to Class 12 unsecured claims over five years. The Company estimates, pursuant to the liquidation analysis below, that liquidation under Chapter 7 of the Code would result in a return to unsecured creditors of 0%.

### **Feasibility of the Plan**

The Debtor's Monthly Operating Reports provide current information on the Debtor's financial position and assets and liabilities. During the Case, the Debtor has remained current on all agreed protection payments. The Debtor believes that the proceeds from the sale of assets, collection of accounts receivable and future income is and will be sufficient to satisfy the Claims of Creditors as proposed in the Plan.

## Liquidation Analysis

If the Company were to liquidate, management predicts its assets and properties would produce funds as follows:

Real Property (based upon current market perception)	\$1,000,000.00
Less: Secured claim of	\$1,296,057.00
	(\$1,296,057.00)
Equipment (based upon the Company's review of several similar equipment)	\$200,000.00
Less: Secured claim of	\$398,191.00
	(\$398,191.00)
Furniture and Supplies	\$5,000.00
Receivables (At one-half of net book value)	\$26,684.00
Cash	\$7,822.00
Projected payment of Chapter 7 expenses (Trustee's fee, counsel, admin. exps.)	(\$20,000.00)
Chapter 11 expenses	(\$5,000.00)
Priority claims	<u>(\$40,000.00)</u>
	Total: (\$519,742.00)
Total available for distribution to unsecured creditors:	\$0.00
Unsecured claims [excluding insider claims but including deficiency on secured claims]	\$1,561,411.00
Projected return to unsecured creditors in liquidation:	0%.

## **XI. FEDERAL TAX CONSEQUENCES**

### **A. General**

Under the Internal Revenue Code of 1986, as amended (the “Tax Code”) and regulations promulgated thereunder (the “Regulations”), there are certain significant federal income tax consequences associated with the Plan. Certain of these consequences are discussed below. The tax consequences described below are subject to significant uncertainties because of (i) the complexity of the transactions contemplated by the Plan; (ii) the uncertainty as to the tax consequences of events in prior years; (iii) the differences in the nature of the Claims of various Claimants, their taxpayer status, residence and methods of accounting; (iv) prior actions taken by Claimants with respect to their Claims; and (v) the possibility that events or legislation subsequent to the date hereof could change the federal tax consequences of the transactions. There may also be state, local or foreign tax issues that may affect particular Claimants.

Holders of Claims and interests are urged to consult their tax advisors respecting the individual tax consequences of the transactions contemplated under or in connection with the Plan.

### **B. Material Tax Consequences to Claimants**

The tax consequences of the implementation of the Plan to a Claimant will depend in part on (i) whether the Claimant’s Claim constitutes a security for federal income tax purposes, (ii) whether the Claimant reports income on the accrual or cash basis, (iii) whether the Claimant receives consideration in more than one tax year, (iv) whether the Claimant is a resident of the United States, (v) whether the Claimant is a corporation, partnership, or an individual, (vi) whether all the consideration received by the Claimant is deemed to be received by that Claimant



Prepared and presented by:

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Attorney for Safeway Homes of Lexington, LLC

CERTIFICATE OF SERVICE

I, John D. Moore, do hereby certify that I have this day caused to be served via Notice of Electronic Filing, a true and correct copy of the above and foregoing to to the following:

Ronald H. McAlpin, Esq.  
Office of the United States Trustee  
100 West Capitol Street, Ste. 706  
Jackson, Mississippi 39269

This the 31<sup>st</sup> day of July, 2009.

s/John D. Moore  
JOHN D. MOORE

**EXHIBIT A**

Safeway Homes of Lexington, LLC BALANCE SHEET AS OF JULY 30, 2009

**See attached Balance Sheet**

**EXHIBIT B  
CASH FLOW PROJECTION**

**See attached Cash Flow Projection.**