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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:
PROFESSIONAL FINANCIAL
INVESTORS, INC., *et al.*,

Debtors.

Chapter 11

Case No. 20-30604

(Jointly Administered)

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
CONFIRMATION OF SECOND AMENDED
JOINT CHAPTER 11 PLAN OF
PROFESSIONAL FINANCIAL INVESTORS,
INC. AND ITS AFFILIATED DEBTORS
PROPOSED BY THE DEBTORS AND
OFFICIAL COMMITTEE OF UNSECURED
CREDITORS AND SUPPORTED BY THE AD
HOC LLC MEMBERS COMMITTEE AND
THE AD HOC DOT NOTEHOLDERS
COMMITTEE (DATED MAY 20, 2021)**

Plan Confirmation Hearing:

Date: May 27, 2021

Time: 10:00 a.m. (Pacific Time)

Place: **Telephonic/Video Appearances Only**
450 Golden Gate Avenue, 16th Floor
San Francisco, CA 94102

Judge: Hon. Hannah L. Blumenstiel

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1 **I. INTRODUCTION**

2 This Plan¹ is the product of unprecedented cooperation between a highly-organized
3 investor body and the Debtors² and is overwhelmingly supported by the creditors who cast ballots.
4 Nearly 2,200 votes, representing over \$461 million in claims, were received prior to the May 13,
5 2021 voting deadline. Nearly 99.8% of those votes, representing over \$457 million in claims,
6 voted in favor of the Plan.³ In total, only five (5) ballots rejected the Plan, representing less than
7 \$1.5 million in claims.

8 This incredible level of Plan support is a testament to the hard work of numerous interested
9 parties in these Chapter 11 Cases. Perhaps most notably, since even before the commencement of
10 the Chapter 11 Cases, the investor body has played a critical role by organizing themselves to
11 ensure their interests were well-represented. In addition, the Official Committee of Unsecured
12 Creditors (the “OCUC”), and the Ad Hoc LLC Members Committee and Ad Hoc Committee of
13 Deed of Trust Holders (together the “Ad Hoc Committees” and, collectively with the OCUC, the
14 “Committees”) made extensive efforts to communicate with the respective constituencies
15 regarding the Plan and the voting process. These efforts included participating in several Zoom
16 meetings open to all Investors and in numerous other communications responding to Investor
17 inquiries regarding the Plan and the voting procedures. The Debtors themselves also fielded

18 ¹ The “Plan” shall refer to the *Second Amended Joint Plan of Professional Financial Investors, Inc. and its*
19 *Affiliated Debtors Proposed by the Debtors and Official Committee of Unsecured Creditors and Supported by the*
20 *Ad Hoc LLC Members Committee and the Ad Hoc DOT Noteholders Committee (Dated May 20, 2021)* filed
21 concurrently with this Memorandum. All capitalized terms used but not defined in this Memorandum shall have
22 the meaning given to them in the Plan. On March 21, 2021, the Proponents filed their *Joint Plan of Professional*
23 *Financial Investors, Inc. and its Affiliated Debtors Proposed by the Debtors and Official Committee of Unsecured*
24 *Creditors and Supported by the Ad Hoc LLC Members Committee and the Ad Hoc DOT Noteholders Committee*
25 as Dkt. No. 489 (the “Original Plan”). The Original Plan was superseded on April 9, 2021, when the Proponents
26 filed their *Amended Joint Plan of Professional Financial Investors, Inc. and its Affiliated Debtors Proposed by*
27 *the Debtors and Official Committee of Unsecured Creditors and Supported by the Ad Hoc LLC Members*
28 *Committee and the Ad Hoc DOT Noteholders Committee* as Dkt. No. 554 (the “First Amended Plan”). Later, the
First Amended Plan was superseded by the Plan.

24 ² A complete list of the Debtors and their respective chapter 11 case numbers may be found at
25 www.donlinrecano.com/pfi. The federal tax identification numbers of each of the Debtors is also available in the
26 bankruptcy petitions of each Debtor, also available at the Donlin Recano website.

26 ³ As of May 20, 2021, twenty-nine (29) total ballots have been received after the voting deadline and such ballots
27 are summarized on Exhibit B to the Burlacu Declaration (defined below). The Proponents believe that at least
28 several of these ballots likely would have arrived before the voting deadline but for delays in their delivery that
were outside of the sender’s control. The Proponents request that the Court permit all of these ballots to be
counted pursuant to the Tabulation Rules approved by this Court and that any election indicated on such ballots
be honored under the Plan.

1 numerous questions from Investors and other claimants and, through their conflicts counsel,
2 communicated extensively with the Debtor’s bank lenders to explain the details of the Plan and the
3 voting process. Ultimately, all those lenders that cast a ballot voted in favor of the Plan.

4 Meanwhile, only one (limited) objection to the Plan (the “Limited Objection”) was lodged
5 and the Proponents have addressed the bases of that objection through revisions to the Plan that
6 are discussed below. No other plan of reorganization or liquidation has been proposed in the
7 Chapter 11 Cases.

8 The Plan provides built-in flexibility in order to achieve a value-maximizing result. In that
9 regard, the Plan provides an option to place the Real Properties owned by the Debtors, either
10 directly or indirectly, into an operating company called “OpCo” (short for Operating Company)
11 which will, in turn, be owned by the PFI Trust, and managed by experts retained by the trustee of
12 the PFI Trust.

13 A second option under the Plan contemplates the Debtors’ selling the Real Properties prior
14 to the Effective Date, in which case there will be no need for an OpCo (and consequently an OpCo
15 will not be established) and the post-Effective Date corporate governance will be greatly
16 simplified.

17 As it stands the Debtors intend to pursue a sale of all or a substantial portion of their Real
18 Properties pursuant to proposed sale procedures that will soon be submitted to this Court for
19 approval. As such, the Proponents do not presently anticipate that the PFI Trust will be
20 overseeing the operation of a large number of the Real Properties as part of an OpCo structure
21 once the Effective Date occurs.

22 Investors and other unsecured creditors of the Debtors will, in exchange for their allowed
23 claims against any of the Debtors, become beneficiaries of the PFI Trust and will be entitled to
24 distributions on their allowed claims as set forth in the Plan. Under either option (*i.e.*, an OpCo or
25 a pre-Effective Date sale) a “Board of Advisors” (composed of investors in the Debtors) will have
26 certain duties and rights as the PFI Trustee attempts to best monetize the PFI Trust’s assets.

27 The Plan should be confirmed so that the PFI Trust (and, only in the unlikely event it is
28 necessary, the OpCo) can be established and the reorganization of the Debtors’ affairs can

1 commence. The Proponents request the Court to issue an order confirming the Plan in the form
2 attached hereto as Exhibit B.

3 This Memorandum is supported by the concurrently filed Declaration of Andrew
4 Hinkelman and Declaration of John Burlacu (the "Burlacu Declaration"), including the Final
5 Tabulation Results attached as Exhibit A to the Burlacu Declaration (the "Final Tabulation
6 Results"), as well as the facts, evidence, and pleadings of record in this case.

7 By this Memorandum, the Proponents respectfully request that the Court find that the Plan
8 meets all of the requirements of the Bankruptcy Code and enter an order confirming the Plan over
9 the Limited Objection.

10 II. FACTUAL BACKGROUND

11 Originally founded by Ken Casey ("Casey"), the Debtors comprise a group of related
12 entities that directly or indirectly own, manage and/or otherwise control various real properties in
13 California, including Marin and Sonoma Counties.⁴ Although touted and marketed to Investors as
14 a premier real estate investment and management firm, in fact, while the Real Properties do indeed
15 exist, the business was nothing more than a Ponzi scheme. After Casey's death in May 2020, new
16 management was installed, and the Debtors' prior fraudulent scheme was uncovered.

17 On July 16, 2020, certain creditors commenced an involuntary chapter 11 bankruptcy
18 action against PISF, Case No. 20-30579 (the "PISF Case") and this Court entered an order for
19 relief in the PISF Case on July 27, 2020.

20 Also on July 26, 2020, PFI commenced its bankruptcy case by filing a voluntary chapter
21 11 petition. On November 20, 2020, under authority granted by this Court, PFI commenced
22 involuntary petitions against 29 of its limited liability company and limited partnership affiliates
23 (collectively, the "November 2020 Debtors"). On December 11, 2020, this Court entered orders
24 for relief against the November 2020 Debtors. Between February 3-4, 2021, PFI filed involuntary
25 chapter 11 petitions against ten additional limited liability company affiliates (the "February 2021
26 Debtors"), and this Court subsequently entered orders for relief against the February 2021 Debtors

27 ⁴ Overall, the Debtors own either direct or indirect interests in approximately seventy (70) real property locations
28 (collectively, the "Real Properties"), primarily consisting of apartment buildings and office parks. A Schedule of
the Real Properties is attached to the Disclosure Statement as Schedule 1.

1 on February 18, 2021. All of the Debtors' Chapter 11 Cases are jointly administered under Case
2 No. 20-30604.

3 Following the revelation of the massive Ponzi scheme and the resulting bankruptcy filings,
4 the Proponents, together with the Ad Hoc Committees, have worked diligently to maximize
5 recoveries for the Debtors' Investors and other creditors. To this end, the Debtors and the
6 Committees, through months of open cooperation, information gathering and negotiation for the
7 benefit of all Investors, reached a global resolution, embodied in the Plan, aimed at: (i) mitigating
8 the damage inflicted by Casey (and others) having operated the Debtors as a Ponzi scheme; and
9 (ii) developing a level playing field that attempts to treat all aggrieved Investors equally and fairly.

10 To effectuate distributions to Investors and other creditors, the Plan provides for the
11 creation of the PFI Trust, which will own the Estates' assets (including indirectly owning any Real
12 Properties that remain in the Debtors' portfolio as of the Effective Date through the OpCo) and
13 will sell or otherwise dispose of those assets to generate cash, and then distribute that (and other)
14 cash to creditors (including to Investors). The PFI Trust also will own litigation claims against
15 third parties that may generate cash through prosecution or settlement of those claims. Cash will
16 be distributed by the PFI Trust to Investors and other creditors over time (as the PFI Trust collects
17 on the PFI Trust Assets and/or the OpCo upstreams operating profits from and/or sale proceeds
18 from the disposition of the Real Properties).

19 Critically, the Plan Proponents have ensured that Investors will continue to have an
20 advisory role in connection with certain key decisions that will be made by the PFI Trust by
21 creating the Board of Advisors (the "Board") to serve in connection with the PFI Trust. The
22 proposed PFI Trustee (Michael Goldberg) has been jointly selected by the Committees and the
23 Committees have also jointly selected the initial members of the Board.

24 In response to the Limited Objection,⁵ the Plan changed the definition of "Investor" from
25 what appeared in the First Amended Plan, to ensure that PFI LLC Members that also hold TIC
26 Interests do not have their membership interests cancelled.

27 _____
28 ⁵ On May 13, 2021, Christina Hariclia Ensign, as Trustee of the Amended and Restated Christina Hariclia Ensign
Trust dated August 15, 1996, and Felix Arts and Carol Sue Sproule, as Trustees of the Arts-Sproule Family Trust
dated December 3, 2018 filed the Limited Objection to the First Amended Plan as Dkt. No. 636.

1 **III. ARGUMENT**

2 Under the Bankruptcy Code, a plan “shall” be confirmed if all of the applicable
3 confirmation requirements set forth in Bankruptcy Code Section 1129 are satisfied. *See Brady v.*
4 *Andrew (In re Commercial Western Fin. Corp.)*, 761 F.2d 1329, 1338 (9th Cir. 1985). As
5 discussed below, the Plan satisfies all of the applicable confirmation requirements of Section 1129
6 and should therefore be confirmed.

7 **A. The Plan Complies With Bankruptcy Code Section 1129(a)(1).**

8 Bankruptcy Code Section 1129(a)(1) requires that a plan comply with the “applicable
9 provisions of this title.” *See* 11 U.S.C. § 1129(a)(1); *Resorts Int’l, Inc. v. Lowenschuss (In re*
10 *Lowenschuss)*, 67 F.3d 1394, 1401 (9th Cir. 1995). “The legislative history of
11 Subsection 1129(a)(1) suggests that Congress intended the phrase 'applicable provisions' in this
12 Subsection to mean provisions of chapter 11 that concern the *form* and *content* of reorganization
13 plans.” *Kane v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 843 F.2d 636, 648-49 (2d
14 Cir. 1988) (emphasis added). The two applicable provisions relating to the form and content of a
15 plan of reorganization are Bankruptcy Code Sections 1122 and 1123, which govern classification
16 of claims and interests and the contents of a plan, respectively. *See In re Texaco Inc.*, 84 B.R. 893,
17 905 (Bankr. S.D.N.Y. 1988), *appeal dismissed* 92 B.R. 38 (S.D.N.Y. 1988) (“In determining
18 whether a plan complies with Section 1129(a)(1), reference must be made to Code §§ 1122 and
19 1123 with respect to classification of claims and the contents of a plan of reorganization.”). As
20 demonstrated below, the Plan complies with both Bankruptcy Code Sections 1122 and 1123, and
21 thus satisfies the requirements of Subsection 1129(a)(1).

22 1. **The Plan Complies With The Classification Requirements Of Bankruptcy Code**
23 **Section 1122.**

24 Section 1122(a) of the Bankruptcy Code requires that each claim or interest within a class
25 be substantially similar to all other claims or interests within that class. *See* 11 U.S.C. § 1122(a).
26 Courts are afforded broad discretion to decide the propriety of classification in plans in light of the
27 facts of each case. *See Steelcase Inc. v. Johnston (In re Johnston)*, 21 F.3d 323, 327 (9th Cir.
28 1994). A plan proponent is afforded significant flexibility in classifying claims under § 1122(a)
provided there is a reasonable, non-discriminatory basis for the classification scheme and all

1 claims within a particular class are substantially similar. *In re Montclair Retail Ctr., L.P.*, 177
2 B.R. 663, 665 (B.A.P. 9th Cir. 1995) (citing *In re Johnston, supra*); *In re Rexford Properties LLC*,
3 558 B.R. 352, 361 (Bankr. C.D. Cal. 2016).

4 Here, the Plan's classification of Claims satisfies the requirements of Bankruptcy Code
5 Section 1122. The Plan sets forth nine separate and distinct classes of claims and interests in the
6 following classes:

- | | | | | |
|----|---------|--|---------|---------------------------|
| 7 | Class 1 | Non-Investor First-Priority
Lender Claims | Class 6 | TIC Claims |
| 8 | Class 2 | Non-Investor Other Secured
Claims | Class 7 | Other Unsecured Claims |
| 9 | Class 3 | Priority Claims | Class 8 | Other Subordinated Claims |
| 10 | Class 4 | DOT Noteholder Claims | Class 9 | Equity Interests |
| 11 | Class 5 | Non-DOT Investor Claims | | |

12
13 The foregoing classification scheme is appropriate because the Plan adheres to the
14 statutory requirements that the claims and interests within each class be substantially similar to all
15 other claims and interests in that class. Pursuant to the Plan's classification scheme secured debt is
16 classified separately from unsecured debt and each secured creditor position is placed in its own
17 sub-class (thereby reflecting its unique collateral).

18 Class 1 consists of the Non-Investor First-Priority Lender Claims, which are impaired
19 under the Plan. Each allowed Non-Investor First-Priority Lender Claim is deemed to be in its own
20 subclass. On or as soon as is reasonably practicable after the Effective Date, each Holder of a
21 Class 1 Claim will receive either: (i) in the event of a sale or refinance concerning the Collateral,
22 cash in the Allowed Amount of such Holder's Class 1 Claim that shall be immediately paid from
23 escrow in exchange for release of such Holder's Lien; or (ii) the return by the PFI Trust or OpCo,
24 as applicable, and subject to mutual agreement or court order, by deed in lieu of foreclosure,
25 surrender, or termination of any stay, of the Collateral securing such Class 1 Claim, without
26 representation or warranty by any Person; or (iii) (A) reinstatement of the maturity of such Class 1
27 Claim in the Allowed Amount as the maturity existed before any default, (B) payment of any
28 taxes, contractual legal fees, cost and other charges, and past due installments of principal or

1 interest, and (C) continuation thereafter of payments of principal, interest and other obligations
2 when and as the same come due. Treatment for the claims in Class 1 is different and distinct than
3 the treatment provided for the other secured classes of claims.

4 Class 2 consists of the Non-Investor Other Secured Claims, and each such claim is treated
5 as a separate sub-Class within Class 2. The claims in Class 2 are all unimpaired under the Plan.
6 On or as soon as is reasonably practicable after the Effective Date, each Holder of an Allowed
7 Class 2 Claim shall receive, at the PFI Trust's option: (i) Cash from the PFI Trust in the Allowed
8 amount of such Holder's Allowed Class 2 Claim; or (ii) the return by the PFI Trust of the
9 Collateral securing such Allowed Class 2 Claim, without representation or warranty by any Person
10 (and without recourse against any Person regarding such Non-Investor Other Secured Claim); or
11 (iii) (A) the cure of any default, other than a default of the kind specified in Bankruptcy Code
12 section 365(b)(2), that Bankruptcy Code section 1124(2) requires to be cured, with respect to such
13 Holder's Allowed Class 2 Claim, without recognition of any default rate of interest or similar
14 penalty or charge, and upon such cure, no default shall exist; (B) the reinstatement of the maturity
15 of such Allowed Class 2 Claim as the maturity existed before any default, without recognition of
16 any default rate of interest or similar penalty or charge; and (C) retention of its unaltered legal,
17 equitable, and contractual rights with respect to such Allowed Claim. Treatment for the claims in
18 Class 2 is different and distinct than the treatment provided for the other secured classes of claims.

19 Class 3 consists of Priority Claims, which are unimpaired under the Plan. The Plan
20 provides that each claimant in this Class shall receive full satisfaction for such claim by, or as
21 soon as reasonably practicable after, the later of the Effective Date or the date such claim in this
22 Class becomes Allowed. See 11 U.S.C. § 1129(a)(9)(A); see also In re Sullivan, 26 B.R. 677, 678
23 (Bankr. W.D.N.Y. 1982) (holding that it is improper to classify general unsecured claims and
24 priority claims together in the same class).

25 Class 4 consists of DOT Noteholder Claims, which are impaired under the Plan. For
26 purposes of distributions under the Plan, Holders of DOT Noteholder Claims in Class 4 are
27 considered to be in separate subclasses within Class 4 on a property by property basis (i.e., Class
28 4A is composed of all DOT Noteholder Claims relating to Real Property A, Class 4B is composed

1 of all DOT Noteholder Claims relating to Real Property B, etc.), and each such subclass for each
2 applicable Real Property is deemed to be a separate Class for purposes of the Plan.

3 Class 5 consists of the Non-DOT Investor Claims. These claims are impaired under the
4 Plan and the claimants in Class 5 shall receive, in full satisfaction, settlement, and release of and in
5 exchange for such Claims, (i) one (1) Class A PFI Trust Interest for each dollar of Allowed
6 Investor Restitution Claims held by the applicable Investor and one (1) Class B PFI Trust Interest
7 for each dollar of Allowed Investor Subordinated Claims, and (ii) the other consideration provided
8 for in the Investor Claims Special Provisions. These claims are classified separately because they
9 receive a different treatment under the Plan than the other classes comprised of unsecured claims.

10 Class 6 consists of the TIC Claims. Claims in Class 6 are impaired under the Plan and the
11 claimants in Class 6 shall receive, in full satisfaction, settlement, and release of and in exchange
12 for such Claims, one (1) Class A PFI Trust Interest for each dollar of Allowed TIC Claims held by
13 the applicable Holder. Alternatively, if the Holder of a TIC Claim makes a valid TIC Investor
14 Treatment Election, that Holder shall receive the treatment provided to Holders of Class 5 Non-
15 DOT Investor Claims, with one important exception regarding creditor claim aggregation. Claims
16 in Class 6 are classified separately from other types of Claims because they are receiving a
17 different treatment under the Plan than other types of Claims.

18 Class 7 consists of the Other Unsecured Claims. These claims are impaired under the Plan
19 and claimants in Class 7 shall receive, in full satisfaction, settlement, and release of and in
20 exchange for such Claims, one (1) Class A PFI Trust Interest for each dollar of Allowed Other
21 Unsecured Claims held by the applicable Holder. Class 7 Claims are classed separately because
22 they receive different treatment under the Plan than other classes comprised of unsecured Claims.

23 Class 8 consists of Other Subordinated Claims. These claims are impaired under the Plan
24 and retain only a residual right to receive Available Cash that remains in the PFI Trust after the
25 final administration of all PFI Trust Assets and OpCo Assets, and the complete satisfaction of all
26 senior payment rights within the PFI Trust Interests Waterfall, including satisfaction of all
27 Investor Subordinated Claims.

28

1 Class 9 consists of Equity Interests and is impaired under the Plan. Subject to any
2 Alternative Restructuring Transactions, Equity Interests will be deemed void, cancelled, and of no
3 further force and effect as of the Effective Date. Holders of Equity Interests shall not be entitled
4 to, and shall not receive or retain any property or interest in property on account of such interests.

5 As explained above, valid business, factual and legal reasons exist for the Plan's claim
6 classification scheme. Based on their security position, if any, their legal priority against the
7 Debtors' assets, and other relevant criteria, each of the stated Classes contains substantially similar
8 Claims in terms of the legal or factual rights of the members within a particular Class.
9 Accordingly, the Plan meets the requirements of Bankruptcy Code section 1122(a).

10 2. The Plan Contains All Mandatory Provisions And Certain Permissive Provisions
11 Set Forth In Bankruptcy Code Section 1123.

12 Bankruptcy Code Section 1123(a) sets forth mandatory requirements for a plan, and
13 Section 1123(b) identifies various permissive provisions that may be included in a plan, but which
14 are not required. The Plan proposed in this case complies with both Section 1123(a) and (b).

15 a. *Compliance With Bankruptcy Code Section 1123(a)(1) (Classification of*
16 *Claims).*

17 Bankruptcy Code Section 1123(a)(1) requires a plan to designate classes of claims and
18 interests, other than claims of a kind specified in Bankruptcy Code Section 507(a)(2)
19 (administrative expense claims, including Professional Fee Claims), Bankruptcy Code
20 Section 507(a)(3) (claims arising during the "gap" period in an involuntary case), and Bankruptcy
21 Code Section 507(a)(8) (priority tax claims). *See* 11 U.S.C. § 1123(a)(1); *see also In re Haardt*,
22 65 B.R. 697, 700 (Bankr. E.D. Pa. 1986); *accord In re Commercial W. Fin. Corp.*, 761 F.2d 1329,
23 1334 (9th Cir. 1985).

24 Section 1.1 of the Plan classifies the Claims and Equity Interests into nine separate
25 Classes. The Plan does not classify administrative claims, including professional fee claims,
26 involuntary gap claims or priority tax claims. Thus, the Plan satisfies the requirements of
27 Bankruptcy Code Section 1123(a)(1).

28 b. *Compliance With Bankruptcy Code Section 1123(a)(2) (Specification of*
Unimpaired Classes and Interests).

1 Bankruptcy Code Section 1123(a)(2) requires that a plan “specify any class of claims or
2 interests that is not impaired under the plan.” 11 U.S.C. § 1123(a)(2); *see also In re Smith*, 123
3 B.R. 863, 865 (Bankr. C.D. Cal. 1991).

4 Section 1.1 of the Plan sets forth the two classes whose rights are unimpaired by the Plan –
5 Class 2 (Non-Investor Other Secured Claims) and Class 3 (Priority Claims). The Plan thus
6 satisfies Bankruptcy Code Section 1123(a)(2).

7 *c. Compliance With Bankruptcy Code Section 1123(a)(3) (Specification of*
8 *Treatment of Impaired Classes and Interests).*

8 Bankruptcy Code Section 1123(a)(3) requires that a plan “specify the treatment of any
9 class of claims or interests that is impaired under the plan.” 11 U.S.C. § 1123(a)(3). In
10 accordance with Bankruptcy Code Section 1123(a)(3), Sections 2.2, 2.5, 2.6, 2.7, 2.8, 2.9, and
11 2.10 of the Plan specify the treatment of Classes 1, 4, 5, 6, 7, 8, and 9, respectively, all of which
12 are impaired under the Plan.

13 *d. Compliance With Bankruptcy Code Section 1123(a)(4) (Provide Same*
14 *Treatment For Each Claim or Interest Within a Class).*

14 Bankruptcy Code Section 1123(a)(4) requires that a plan “provide the same treatment for
15 each claim or interest of a particular class, unless the holder of a particular claim or interest agrees
16 to a less favorable treatment of such particular claim or interest.” 11 U.S.C. § 1123(a)(4). As set
17 forth in Sections 2.2 – 2.10 of the Plan, each claim or interest in each of the classes set forth in the
18 Plan will receive the same treatment as every other claim or interest in such class.

19 *e. Compliance With Bankruptcy Code Section 1123(a)(5) (Adequate Means*
20 *for Implementation of Plan).*

20 Bankruptcy Code Section 1123(a)(5) requires that a plan “provide adequate means for the
21 plan's implementation” and sets forth several examples of such adequate means. 11 U.S.C.
22 § 1123(a)(5).

23 The means for implementing the Plan are set forth throughout the Plan, but are primarily
24 described in Article IV of the Plan. On the Effective Date, among other things, Michael Goldberg
25 will become the PFI Trustee, the PFI Trust will be established and automatically vested with the
26 PFI Trust Assets, the Board will begin to serve its advisory function, the OpCo Assets (if any)
27 shall be assigned or otherwise transferred or conveyed to the OpCo, and PFI, PISF, the LLC/LP
28 Debtors, Professional Investors 28, LLC, and PFI Glenwood LLC shall be substantively

1 consolidated. The PFI Trust will then begin pursuing, collecting from, and/or monetizing the PFI
2 Trust Assets and the OpCo Assets and making Distributions from the proceeds of such assets to
3 the PFI Trust Beneficiaries.

4 *f. Compliance With Bankruptcy Code Section 1123(a)(6) (Amendment to
Corporate Charter).*

5 Section 1123(a)(6) requires a reorganizing debtor to amend its corporate charter to prohibit
6 the issuance of nonvoting securities. As set forth in Section 4.2.3 of the Plan, on the Effective
7 Date each of the Debtors will be dissolved automatically. Moreover, the Debtors' property assets
8 are expected to be sold within the next several months (and prior to the Effective Date). As such,
9 the requirement of Section 1123(a)(6) should not be applicable in this situation.

10 *g. Compliance With Bankruptcy Code Section 1123(a)(7) (Selection of
Trustee).*

11 Bankruptcy Code Section 1123(a)(7) requires that a plan:

12 contain only provisions that are consistent with the interests of
13 creditors and equity security holders and with public policy with
14 respect to the manner of selection of any officer, director, or trustee
under the plan and any successor to such officer, director, or trustee.

15 11 U.S.C. § 1123(a)(7). The Plan proposes that Michael Goldberg serve as the Initial PFI Trustee.
16 Mr. Goldberg was jointly selected by the Committees as the Initial PFI Trustee. He has served as
17 the court-approved sole director of Professional Financial Investors, Inc. and Professional
18 Investors Security Fund, Inc. since August 11, 2020. Mr. Goldberg chairs Akerman LLP's Fraud
19 and Recovery Practice, an experienced team of lawyers focused on unraveling high-profile
20 investor fraud, including Ponzi schemes. He has wide-ranging experience as a counsel, receiver or
21 other senior official in cases involving fraud. As such, Mr. Goldberg's appointment as the Initial
22 PFI Trustee satisfies the requirements of section 1123(a)(7).

23 As set forth in Section 8.4 of the PFI Trust Agreement, upon the resignation, death,
24 incapacity, or removal of a PFI Trustee, and after an affirmative vote of 2/3s of the members of the
25 Board of Advisors at a Non-Emergency Meeting, the Board of Advisors shall appoint a successor
26 PFI Trustee to fill the vacancy so created, subject to the approval of this Court so long as any of
27 the Chapter 11 Cases are pending. As such, the Plan's provisions regarding the appointment of
28 any successor PFI Trustee satisfy the requirements of section 1123(a)(7).

1 h. Section 1123(a)(8) Does Not Apply.

2 Bankruptcy Code Section 1123(a)(8) contains requirements applicable to individual debtor
3 cases which do not apply to this corporate debtor.

4 i. Compliance With Bankruptcy Code Section 1123(b) (Permissive Plan
5 Provisions).

6 Bankruptcy Code Section 1123(b) describes various other provisions that are permitted in
7 a plan. The Plan contains a number of these provisions, all of which are intended to facilitate the
8 reorganization of the Debtors and payment to creditors. These include the following:

- 9 • In Article 1, the Plan treats the (i) Non-Investor First-Priority Lender Claims (Class 1), (ii) DOT Noteholder Claims (Class 4), (iii) Non-DOT Investor Claims (Class 5), (iv) TIC Claims, (Class 6), (v) Other Unsecured Claims (Class 7), (vi) Other Subordinated Claims (Class 8), and (vii) Equity Interests (Class 9) as impaired, but leaves the (i) Non-Investor Other Secured Claims (Class 2) and (ii) Priority Claims (Class 3) unimpaired, all as permitted by Section 1123(b)(1).
- 10 • In Article V, the Plan assumes all executory contracts and unexpired leases that are listed on the Schedule of Assumed Agreements assigns such contracts and leases to the PFI Trust or the OpCo, as appropriate, as permitted by Section 1123(b)(2) of the Bankruptcy Code.
- 11 • In Section 10.10, the Plan provides that (i) from and after the Effective Date, the PFI Trust may compromise and settle certain disputes about any Claims or about any PFI Trust Actions, without any further approval by this Court, subject to the terms and conditions of the PFI Trust Agreement and (ii) until the Effective Date, the Debtors expressly reserve the right to compromise and settle (subject to the approval of this Court) any Avoidance Actions and Causes of Action belonging to the Estates, as permitted by Section 1123(b)(3) of the Bankruptcy Code.
- 12 • Section 4.3.5(g) of the Plan provides that, under the conditions set forth therein, the PFI Trustee shall have the authority and right on behalf of the PFI Trust, without the need for this Court’s approval, to, among other things, sell, monetize, assign or otherwise dispose of the PFI Trust Assets or the OpCo Assets (including, without limitation, any Real Properties) or any part thereof or interest therein upon such terms as the PFI Trustee determines to be necessary, appropriate, or desirable, subject to the provisions of the PFI Trust Agreement, as permitted by Section 1123(b)(4) of the Bankruptcy Code.
- 13 • Bankruptcy Code section 1123(b)(5) provides that a plan may “modify the rights of holders of secured claims . . . or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims.” 11 U.S.C. § 1123(b)(5). As set forth in Article II of the Plan, the Plan modifies the rights of the holders of allowed Claims and Interests in Classes 1, 4, 5, 6, 7, 8, and 9. The Plan leaves unaffected the rights of the holders of allowed Claims in Class 2 and Class 3. Pursuant to the Plan, interests of PFI LLC Members in the PFI-Managed LLC and LP Interest Holders are automatically recharacterized as Class 5 Non-DOT Investor Claims (and are not treated as Equity Interests). This is permissible as this Court has entered an Order approving a stipulation that the Debtors were part of a “Ponzi scheme, *see* Dkt. No. 640, and limited partners or LLC members that invest in such a scheme actually receive restitution claims when they purchase their fraudulent LP

1 or LLC interest. *See Barclay v. Mackenzie (In re AFI Holding, Inc.)*, 525 E3d 700,
708-09 (9th Cir. 2008).⁶

2 **B. The Plan Proponents Have Complied With The Requirements Of Bankruptcy Code**
3 **Section 1129(a)(2) (Compliance With Applicable Provisions of Title 11).**

4 Bankruptcy Code Section 1129(a)(2) requires that the proponent of the plan also comply
5 with “the applicable provisions” of title 11. 11 U.S.C. § 1129(a)(2). The “applicable provisions”
6 of title 11 are Bankruptcy Code Section 1121 (dealing with who may file a plan) and Bankruptcy
7 Code Section 1125 (dealing with the solicitation of acceptances of a plan). *See In re Hoff*, 54 B.R.
8 746, 750-51 (Bankr. D.N.D. 1985); *In re Toy & Sports Warehouse, Inc.*, 37 B.R. 141, 149 (Bankr.
9 S.D.N.Y. 1984).

10 1. Compliance With Bankruptcy Code Section 1121(a) (Who May File a Plan).

11 Bankruptcy Code section 1121 allows a debtor to propose a plan at any time in a voluntary
12 bankruptcy case or an involuntary bankruptcy case. Bankruptcy Code section 1121 also allows a
13 creditor under certain circumstances to propose a plan. Here, the Proponents of the Plan are the
14 Debtors and the OCUC. Thus the proposal of the Plan complies with Section 1121(c).

15 2. Compliance With Bankruptcy Code Section 1125 (Post-petition Disclosure and
16 Solicitation).

17 One of the principal purposes of Bankruptcy Code Section 1129(a)(2) is to ensure that plan
18 proponents have complied with the requirements of Bankruptcy Code Section 1125 in the
19 solicitation of acceptances of a plan of reorganization. *See, e.g., In re Jeppson*, 66 B.R. 269, 296-
20 97 (Bankr. D. Utah 1986). Bankruptcy Code Section 1125(b) provides that a proponent may not
21 solicit acceptances of its plan unless, at or before the time of such solicitation, there is transmitted
22 to the claimant, or the authorized representative thereof, the plan or a summary of the plan and a
23 court-approved disclosure statement.

24 The Plan Proponents have fully complied with the mandates of Section 1125. Pursuant to
25 the Solicitation Procedures Order, the Court, among other things, (i) conditionally approved the
26 Disclosure Statement as containing adequate information within the meaning of Section 1125, (ii)
27 approved the Proponents’ Plan Summary, among other items, as part of the solicitation package to

28 ⁶ The fact that the PFI LLC Members and the LP Interest Holders actually have restitution claims means that including the PFI LLC Members and LP Interest Holders’ claims in Class 5 does not raise an absolute priority issue as such claims are not actually junior to Class 5.

1 be distributed for the solicitation of votes to accept or reject the Plan (the “Solicitation Package”),
2 and (iii) authorized the Proponents to post the Plan and Disclosure Statement on Donlin Recano’s
3 PFI website in a dedicated location, with instructions provided in the Solicitation Package for
4 accessing them, rather than including a hard copy of each in the Solicitation Package.
5 Subsequently, in compliance with Bankruptcy Rule 3017(d), between April 22-23, 2021, the Plan
6 Proponents transmitted the Solicitation Package to creditors and equity holders entitled to vote on
7 the Plan. The certificate of service regarding the distribution of the solicitation package has been
8 filed with this Court as Docket No. 608. The Solicitation Package provided notice of the
9 deadlines to (i) submit a ballot on the Plan and (ii) object to confirmation of the Plan.

10 The Plan Proponents have complied with the applicable provisions of the Bankruptcy
11 Code, the Bankruptcy Rules and the solicitation procedures approved by this Court, and thus the
12 Plan complies with the requirements of Bankruptcy Code Section 1129(a)(2).

13 **C. The Plan Satisfies the Other Consensual Plan Requirements of Section 1129(a), with**
14 **the Exception of Section 1129(a)(8) as to Certain Subclasses of Class 1.**

15 1. The Plan Has Been Proposed In Good Faith In Compliance With Bankruptcy Code
16 Section 1129(a)(3).

17 Bankruptcy Code Section 1129(a)(3) requires a plan to be “proposed in good faith and not
18 by any means forbidden by law.” 11 U.S.C. § 1129(a)(3). Good faith for purposes of Section
19 1129(a)(3) of the Bankruptcy Code also may be found where the plan is supported by key creditor
20 constituencies, or was the result of extensive arm’s-length negotiations with creditors. *In re*
21 *Eagle-Picher Indus., Inc.*, 203 B.R. 256, 274 (Bankr. S.D. Ohio 1996).

22 From the facts and the circumstances of this case, it is evident that the Plan Proponents
23 have proposed the Plan in good faith. Here, the Plan is the result of extensive negotiations
24 between the Debtors and the Committees. The Plan was jointly prepared and submitted by the
25 Debtors and the OCUC and is supported by the Ad Hoc Committees. Because the Plan was
26 heavily negotiated and reflects the input of key creditor constituencies, nearly 99.8% of voting
27 creditors accepted the Plan. For these reasons, it is clear the Plan was proposed in good faith
28 under Bankruptcy Code section 1129(a)(3).

1 2. The Plan Complies With The Requirements Of Bankruptcy Code
2 Section 1129(a)(4) (Payment for Services or Costs in Connection With the Case).
3 Bankruptcy Code Section 1129(a)(4) requires payments to estate professionals to be
4 approved by this Court or subject to this Court’s approval. Section 10.3 of the Plan provides that
5 all final requests for payment of Professional Fee Claims “must be made by application Filed with
6 the Bankruptcy Court.” Thus the Plan complies with Section 1129(a)(4).

7 3. The Plan Complies With Bankruptcy Code Section 1129(a)(5) Regarding the
8 Identity and Affiliations of Officers, Directors, and Insiders.
9 Pursuant to Bankruptcy Code Section 1129(a)(5)(A)(i), a proponent of a plan must disclose
10 the identity and affiliations of the debtor’s post-confirmation management. Exhibit B to the Plan
11 Supplement discloses the identity and affiliations of the PFI Trustee as well as each of the
12 members of the Board. Section 1129(a)(5) is thus satisfied.

13 4. The Plan Complies With Bankruptcy Code Section 1129(a)(6) Regarding
14 Governmental Regulatory Approval of Rates.
15 Section 1129(a)(6) requires that any regulatory commission with jurisdiction over the rates
16 of the debtor approve any changes in rates provided in the plan. *See* 11 U.S.C. § 1129(a)(6). This
17 is not applicable here; no such regulatory commission exists.

18 5. The Plan Satisfies the Requirements Of Bankruptcy Code Section 1129(a)(7)
19 (“Best Interests” Test).
20 The “best interests” test set forth in Section 1129(a)(7) requires that the plan proponent
21 demonstrate that:
22 with respect to each impaired class of claims or interests –
23 (A) each holder of a claim or interest of such class –
24 (i) has accepted the plan, or
25 (ii) will receive or retain under the plan on account of such claim or
26 interest property of a value, as of the effective date of the plan, that
27 is not less than the amount that such holder would so receive or
28 retain if the debtor were liquidated under chapter 7 of this title on
 such date

11 U.S.C. § 1128(a)(7). The “best interests” test focuses on individual dissenting creditors rather
than classes of claims. *See, In re Drexel Burnham Lambert Group*, 138 B.R. 723, 761 (Bankr.
S.D.N.Y. 1992). On its face, Section 1129(a)(7) only applies to impaired and classified claims or
interests. It does not, therefore, apply to unimpaired or unclassified claims.

1 In this case, more than ninety-nine percent (99%) of impaired claimants that voted
2 accepted the Plan, satisfying the best interests test under subpart (A)(i) above. However, some
3 claimants in Class 4 and Class 5 voted to reject the Plan and a number of impaired claimants that
4 were entitled to vote did not do so and are thus deemed to have rejected the Plan. For the
5 claimants that either voted to reject the Plan or are deemed to have rejected the Plan, the best
6 interests test needs to be satisfied under subpart (A)(ii) above.

7 Here, the liquidation analysis is simple and set forth in Exhibit C to the Disclosure
8 Statement [Docket No. 572]. The Plan assumes both the ultimate sale of the Real Properties and
9 pursuit of the Avoidance Actions, Causes of Action and Contributed Claims. Using two different
10 sets of assumptions regarding the success and expense of the foregoing, the Plan Proponents
11 believe that the Plan will provide holders of Allowed Class 4 and 5 Investor Restitution Claims⁷
12 (which, for investors, will be their claim remaining after “netting”), Allowed Class 6 TIC Claims,
13 and Allowed Class 7 Other Unsecured Claims with aggregate dividends over a period of years
14 totaling 35% for the low estimate and 50% for the high estimate.⁸

15 In contrast, the Proponents believe that the dividends realized in a Chapter 7 liquidation
16 would be substantially lower – primarily because of (a) the potentially accelerated pace of sales of
17 the Real Properties likely to occur in a Chapter 7 liquidation; and (b) the statutory fee due to the
18 Chapter 7 trustee for services in liquidating the assets. In addition, Conversion to chapter 7 of the
19 Bankruptcy Code would mean the establishment of a new claims bar date, which could result in
20 new Claims being asserted against the Estates, thereby diluting the recoveries of other Holders of
21 Allowed Claims. Significantly, the benefits of the Investor Claims Special Provisions, the terms
22 of which are substantially incorporated into the Plan, are available only under the Plan. The Plan
23 embodies a comprehensive, extensively negotiated settlement and compromise of myriad novel
24 and complex legal and factual issues relating to the Investors of the Debtors. In the event of

25 _____
26 ⁷ To the extent that any Class 5 claimants whose Claims are based on their status as a PFI LLC Member or as an LP
Interest Holder either voted to reject the Plan or are deemed to have rejected the Plan, such claimants have an
Investor Restitution Claim. See *In re AFI Holding, Inc.*, 525 E3d 708-09.

27 ⁸ The foregoing estimates do not take into account the potential effect of capital gains taxes that would be due upon
28 sale of the Real Properties by the PFI Trust, as the Plan Proponents’ examination of that subject is ongoing (and
as yet incomplete). Such taxes would reduce the foregoing projected percentage dividends.

1 conversion, the Chapter 7 trustee, Investors, and other creditors would have to confront the pursuit
2 of extensive litigation to resolve these and other issues, or would need to try to negotiate an
3 alternative settlement, all without the benefit of committee representation for creditors. This
4 process would be extremely time-consuming and costly, and would very likely reduce and delay
5 any recoveries available for creditors of the Estates. Accordingly, in a Chapter 7 liquidation, the
6 Proponents believe general unsecured creditors would receive substantially less over time: 25%
7 estimated low case and 35% estimated high case.

8 Another advantage of the Plan over a Chapter 7 liquidation is the likely ability of LLC and
9 LP investors to avoid paying pass-through capital gains taxes when the Real Properties are sold.
10 Such taxes are generally not expected to pass through to LLC and LP investors under the Plan.
11 Accordingly, the Proponents believe the Plan is likely to produce an outcome significantly better
12 than what could be expected in a Chapter 7 liquidation. Section 1129(a)(7) is therefore satisfied.

13 6. Each Class of Claims and Interests has Accepted the Plan, is Unimpaired, or May
14 be Crammed Down – Sections 1129(a)(8) and 1129(b).

15 Bankruptcy Code Section 1129(a)(8) requires that each class of claims and interests has
16 either accepted the plan or is not impaired under the plan. *See* 11 U.S.C. § 1129(a)(8). A class of
17 claims accepts a plan if holders of at least two-thirds in dollar amount and more than one-half in
18 number of claims of that class vote to accept the plan, counting only those claims whose holders
19 actually vote on the plan. *See* 11 U.S.C. § 1126(c). If a class of creditors or interests holders does
20 not accept the Plan, then section 1129(b) of the Bankruptcy Code provides that a plan may be
21 confirmed if it does not discriminate unfairly and is fair and equitable with respect to each class
22 that is impaired under the plan and has not accepted the Plan. *See* 11 U.S.C. § 1129(b).

23 The following analysis demonstrates that each Class has accepted the Plan, is not impaired
24 or satisfies the requirements for cram down confirmation:

25 Class 1 (Non-Investor First-Priority Lender Claims): Class 1 is impaired and entitled to
26 vote. As set forth in the Final Tabulation Results, each subclass of Class 1 that voted submitted a
27 ballot accepting the Plan. No subclass of Class 1 voted to reject the Plan, but twelve of the twenty
28 subclasses in Class 1 did not submit (or did not timely submit) a ballot as shown in Exhibit A to
the Burlacu Declaration. To the extent any subclass of Class 1 cannot be deemed to accept, the

1 Plan can nevertheless be confirmed with respect to any such subclass(es) because it satisfies the
2 requirements of section 1129(b)(1).

3 Under the Plan, no other Class is set to receive more favorable treatment than Class 1. In
4 addition, the Holders of all Class 1 Claims are substantially oversecured, based on the mortgage
5 balance for each of the Real Properties and the broker's opinion of value for each of the Real
6 Properties obtained by the Debtors prior to the bankruptcy cases [See Dkt. Nos. 296 and 414].
7 The Plan, therefore, does not unfairly discriminate against Class 1.

8 The Plan also satisfies the condition that it be fair and equitable with respect to secured
9 claims, as such condition is set forth in 11 U.S.C. § 1129(b)(2)(A). Under the Plan, the Liens of
10 the Holders of Class 1 Claims will continue to attach to their respective Collateral and all Class 1
11 claimants shall, on or as soon as is reasonably practicable after the Effective Date, receive either:
12 (i) in the event of a sale or refinance concerning the Collateral, cash in the Allowed Amount of
13 such Holder's Class 1 Claim immediately paid from escrow, (ii) the return, by deed in lieu of
14 foreclosure, surrender, or termination of any stay, of the Collateral securing such Class 1 Claim, or
15 (iii) past due installments of principal or interest and the continuation thereafter of payments of
16 principal, interest, and other applicable obligations, all as more fully set forth in the Plan.

17 Class 2 (Non-Investor Other Secured Claims) and Class 3 (Priority Claims): Class 2 and
18 Class 3 are unimpaired and each is thus conclusively presumed to have accepted the Plan. See 11
19 U.S.C. § 1126(f).

20 Class 4 (DOT Noteholder Claims):

21 Class 4 is impaired and entitled to vote. As set forth in the Final Tabulation Results, each
22 subclass of Class 4 that voted, submitted a ballot accepting the Plan. As set forth in Exhibit A to
23 the Burlacu Declaration, the following thirteen subclasses of Class 4, however, did not submit (or
24 did not timely submit) a ballot: 4A6, 4A8, 4A12, 4A14-4A19, 4A22, 4A32, 4B2, and 4B25. To
25 the extent any subclass of Class 4 cannot be deemed to accept, the Plan can nevertheless be
26 confirmed with respect to any such subclass(es) because it satisfies the requirements of section
27 1129(b)(1). No one has alleged that the Plan discriminates unfairly against Class 4 claims (or any
28 other claims) and the fact that of the 806 Class 4 ballots that were cast, only two voted to reject the

1 Plan clearly shows that Class 4 claimants do not feel they are the subject of such discrimination.⁹
2 The Plan also treats Class 4 claimants fairly and equitably. For those Class 4 claimants that have
3 not released their Lien, the Plan provides a means for their Lien to be preserved if such claimants
4 take the steps to do so set forth in the Plan. For those 762 Class 4 claimants that have released
5 their Lien, their claims are treated *pari passu* with the other classes of unsecured claims.

6 Class 5 (Non-DOT Investor Claims): Class 5 is impaired and entitled to vote. As set forth
7 in the Final Tabulation Results, Class 5 voted to accept the Plan pursuant to 11 U.S.C. § 1126(c).

8 Class 6 (TIC Claims): Class 6 is impaired and entitled to vote. As set forth in the Final
9 Tabulation Results, Class 6 voted to accept the Plan pursuant to 11 U.S.C. § 1126(c).

10 Class 7 (Other Unsecured Claims): Class 7 is impaired and entitled to vote. As set forth in
11 the Final Tabulation Results, Class 7 voted to accept the Plan. As such, Class 7 has accepted the
12 Plan pursuant to 11 U.S.C. § 1126(c).

13 Class 8 (Subordinated Claims): Class 8 is impaired and deemed to reject the Plan. The
14 Plan can nevertheless be confirmed because it satisfies the requirements of section 1129(b)(1) with
15 respect to Class 8. The Plan does not unfairly discriminate against Class 8 claimants because there
16 is no class of the same priority that receives better treatment under the Plan. Moreover, under the
17 Plan, (i) the Holders of Allowed Class 8 Claims retain a residual right to receive Available Cash
18 that remains in the PFI Trust after the final administration of all PFI Trust Assets and OpCo
19 Assets, and the complete satisfaction of all senior payment rights within the PFI Trust Interests
20 Waterfall, including satisfaction of all Investor Subordinated Claims and (ii) the only Class that is
21 junior to Class 8 under the Plan (Class 9 Equity Interests), receives nothing and all Equity Interests
22 are deemed void, cancelled, and of no further force and effect. As such, the Plan is fair and
23 equitable with respect to Class 8 Claims under the terms of 11 U.S.C. § 1129(b)(2)(B).

24 Class 9 (Equity Interests): Class 9 is impaired and deemed to reject the Plan. The Plan can
25 nevertheless be confirmed because it satisfies the requirements of section 1129(b)(1) with respect
26 to Class 9. The Plan does not unfairly discriminate against Class 9 claimants because there is no
27 other class of interests that receives better treatment under the Plan. Moreover, there is no class

28 ⁹ Of the timely Class 4 ballots received 797 voted to accept the Plan, 2 voted to reject, and 9 abstained.

1 junior to Class 9 under the Plan and, as such, the Plan is fair and equitable with respect to Class 9
2 Claims under the terms of 11 U.S.C. § 1129(b)(2)(C).

3 7. The Plan Complies With Bankruptcy Code Section 1129(a)(9).

4 Bankruptcy Code Section 1129(a)(9) provides generally that (i) administrative claims and
5 involuntary gap claims must be paid in full on the effective date of a plan, and (ii) priority tax
6 claims may be paid in full on the effective date of the plan or in installments over a period not
7 greater than five years. *See* 11 U.S.C. § 1129(a)(9).

8 The Plan satisfies the requirements of Section 1129(a)(9). Sections 2.1.1 and 2.1.3 of the
9 Plan provide that administrative claims and involuntary gap claims are to be paid in full on the
10 Effective Date. Meanwhile, Section 2.1.4 provides that priority tax claims shall be paid either on
11 the Effective Date or in regular installments over a period not exceeding five years.

12 8. The Plan Has Been Accepted By At Least One Impaired Class in Compliance With
13 Bankruptcy Code Section 1129(a)(10).

14 Bankruptcy Code Section 1129(a)(10) requires at least one class of impaired claims to
15 have accepted the Plan, determined without including any acceptance of the Plan by an insider
16 holding a claim in such class. *See* 11 U.S.C. § 1129(a)(10). Once a single impaired class accepts
17 a plan, section 1129(a)(10) is satisfied as to the entire plan, even in jointly-administered cases
18 involving a plan covering multiple debtors. *JPMCC 2007-C1 Grasslawn Lodging, LLC v.*
19 *Transwest Resort Props. (In re Transwest Resort Props.)*, 881 F.3d 724, 729 (9th Cir. 2018). As
20 discussed above and as set forth in the Final Tabulation Results, Classes 5, 6, and 7 are all
21 impaired and have accepted the Plan. In addition, Classes 1 and 4 are impaired and all subclasses
22 in Classes 1 and 4 that voted have voted to accept the Plan. Section 1129(a)(10) is thus satisfied.

22 9. The Plan is Feasible and in Compliance with Bankruptcy Code
23 Section 1129(a)(11).

24 Bankruptcy Code Section 1129(a)(11) requires that “[c]onfirmation of the plan is not likely
25 to be followed by the liquidation, or need for further financial reorganization, of the debtor or any
26 successor to the debtor under the plan, unless such liquidation is proposed in the plan.” 11 U.S.C.
27 § 1129(a)(11). This is sometimes referred to as the “feasibility test,” and requires the Court to
28 determine whether the Plan is workable and has a reasonable likelihood of success. *See In re*
Patrician St. Joseph Partners, 169 B.R. 669, 674 (Bankr. D. Ariz. 1994). Feasibility does not, nor

1 can it, require the certainty that a reorganized company will succeed. *See, e.g., United States v.*
2 *Energy Resources Co.*, 495 U.S. 545, 549 (1990); *In re WCI Cable, Inc.*, 282 B.R. 457, 486
3 (Bankr. D. Or. 2002) (“Guaranteed success in the stiff winds of commerce without the protection
4 of the Code is not the standard under § 1129(a)(11).”). The feasibility standard merely requires
5 the Court to determine whether a plan is workable and has a reasonable likelihood (*i.e.*, more
6 likely than not) of success. *In re Acequia, Inc.*, 787 F.2d 1352, 1364 (9th Cir. 1986).

7 Here, the Plan is feasible because it does not make pie in the sky promises, but instead only
8 provides for payment to creditors from the Available Cash and any additional proceeds from the
9 PFI Trust Assets with a projected potential dividend in excess of 30 cents on the dollar. Thus,
10 confirmation of the Plan is not likely to be followed by the need for further reorganization.

11 10. The Debtor Will Pay on or Before the Effective Date All Fees Payable Under 28
12 U.S.C. § 1930 in Compliance With Bankruptcy Code Section 1129(a)(12).

13 Bankruptcy Code Section 1129(a)(12) requires the payment of “[a]ll fees payable under
14 Section 1930 of title 28 [of the United States Code], as determined by the court at the hearing on
15 confirmation of the plan.” 11 U.S.C. § 1129(a)(12). The Plan complies with Section 1129(a)(12)
16 by providing in Section 10.4 that all U.S. Trustee fees payable pursuant to 28 U.S.C. Section 1930
17 shall be paid in full on or before the Effective Date.

18 11. Section 1129(a)(13) Regarding Retiree Benefits Does Not Apply.

19 Bankruptcy Code Section 1129(a)(13) requires a corporate debtor with a retirement plan to
20 continue funding retiree benefits. This does not apply in this case, where the Debtors did not have
21 a retirement plan pre-petition.

22 12. Section 1129(a)(14) Regarding Domestic Support Obligations Does Not Apply.

23 Bankruptcy Code Section 1129(a)(14) sets forth certain requirements with respect to the
24 payment of domestic support obligations by individual debtors. This does not apply here as the
25 Debtors are corporations, limited liability companies or limited partnerships.

26 13. Section 1129(a)(15) Does Not Apply.

27 Bankruptcy Code Section 1129(a)(15) sets forth certain requirements with respect to the
28 distributions to unsecured claimants in the event that a holder of an allowed unsecured claim

1 objects to the plan in an individual case. This section does not apply as the Debtors are
2 corporations, limited liability companies or limited partnerships.

3 14. The Plan Complies With Bankruptcy Code Section 1129(d) Because The Principal
4 Purpose Of The Plan Is Not To Avoid Taxes Or Applicable Securities Laws.

Bankruptcy Code Section 1129(d) provides:

5 Notwithstanding any other provision of this Section, on request of a
6 party in interest that is a governmental unit, the court may not
7 confirm a plan if the principal purpose of the plan is the avoidance
8 of taxes or the avoidance of the application of Section 5 of the
9 Securities Act of 1933 (15 U.S.C. § 77e).

10 11 U.S.C. § 1129(d). Here, the principal purpose of the Plan is not to avoid taxes or the securities laws.

11 No governmental party in interest has requested the denial of confirmation on any of the foregoing
12 grounds (or indeed on any grounds). Accordingly, the Plan satisfies Section 1129(d).

13 **D. Substantive Consolidation is Appropriate and Necessary to the Plan**

14 The Plan provides for substantive consolidation of the Debtors' and their non-debtor
15 affiliates' assets and liabilities for the purposes of distributions under the Plan. To help
16 accomplish this, on April 29, 2021, the Debtors filed their *Motion for Order of Substantive*
17 *Consolidation of Non-Debtor Affiliates Professional Investors 28, LLC and PFI Glenwood, LLC*
18 *with Debtors* (the "Subcon Motion"), which motion seeks to substantively consolidate LLC 28 and
19 PFI Glenwood with the Debtors' bankruptcy estate pursuant to the terms set forth in the Plan. No
20 objection to the Subcon Motion was filed prior to the May 13, 2021 deadline to do so.

21 Here, substantive consolidation of the Debtors with each other and of the Debtors with
22 LLC 28 and PFI Glenwood is clearly warranted. The primary purpose of substantive
23 consolidation "is to ensure the equitable treatment of all creditors." *Alexander v. Compton (In re*
24 *Bonham)*, 229 F.3d 750, 764 (9th Cir. 2000). Courts have permitted the consolidation of non-
25 debtor and debtor entities in furtherance of the equitable goals of substantive consolidation. *Id.* at
26 765. Two broad themes have emerged from substantive consolidation case law: in ordering
27 substantive consolidation, courts must (1) consider whether there is a disregard of corporate
28 formalities and commingling of assets by various entities; and (2) balance the benefits that
substantive consolidation would bring against the harms that it would cause. *Id.*

1 Although creditors generally may not have treated all of the Debtors and their non-debtor
2 affiliates as one legal entity, there is very substantial scrambling and commingling of assets and
3 liabilities between and among the Debtors themselves and between and among the Debtors and the
4 two non-debtor affiliates – Professional Investors 28, LLC (“LLC 28”) and PFI Glenwood LLC
5 (“PFI Glenwood”). As more fully described in the *Declaration of David Alfaro* filed on April 29,
6 2021 as Dkt. No. 595 (the “Alfaro Declaration”), (i) funds were transferred to-and-from based on
7 cash needs across the overall PFI Enterprise (as defined in the Alfaro Declaration, which
8 definition encompasses LLC 28 and PFI Glenwood) and every individual property within the PFI
9 Enterprise periodically received transfers to its bank accounts from PFI/PISF bank accounts and
10 periodically transferred cash to PFI/PISF bank accounts, (ii) the organizational structure and
11 movements of cash within the PFI Enterprise involved pervasive transfers of cash between and
12 across the property specific entity bank accounts and the PFI/PISF corporate bank accounts—
13 rendering the segregation of each investor’s dollars impossible, (iii) intercompany activity was
14 generally not transacted directly between the individual properties, but rather through the pooling
15 of funds at the PFI/PISF corporate level and then redistributing the cash needed to the individual
16 properties, (iv) funds were commonly commingled during the property purchasing cycle and
17 during each property’s operating cycle, and (iv) the investments and financial transactions specific
18 to LLC 28 and PFI Glenwood are inextricably entangled with those of the other entities within the
19 PFI Enterprise.¹⁰ These circumstances clearly show a disregard of corporate formalities and the
20 commingling of the assets of the Debtors, LLC 28, and PFI Glenwood.

21 Similarly, the evidence is overwhelming that the benefits of substantive consolidation
22 outweigh any harm that might be caused. The Plan represents a negotiated settlement between the
23 Debtors’ key Investor constituencies and substantive consolidation is a key component of that
24 settlement. Such consolidation is broadly supported by the Investors and the Debtors other
25 creditors as shown by the fact that no party objected to the SubCon Motion and that nearly 99.8%
26 of ballots cast voted to accept the Plan.

27
28

¹⁰ The entire Alfaro Declaration is hereby incorporated into this Memorandum as if fully set forth herein.

1 In addition, the only outside Investor in LLC 28 (The Belline Family Trust dated February
2 20, 2015) is party to a stipulation with the Debtors and the OCUC filed on May 12, 2021 as Dkt.
3 No. 628 (the “Stipulation”) in which it agrees, among other things, that it would not oppose
4 confirmation of the Plan and that it would vote its ballots pertaining to investments in the Debtors
5 in favor of the Plan. This Court entered an order approving the Stipulation on May 12, 2021 as
6 Dkt. No. 630 and the The Belline Family Trust timely voted its ballots to accept the Plan.

7 Similarly, the only outside Investor in PFI Glenwood, Peter Zabelin, timely voted his
8 ballots pertaining to investments in the Debtors in favor of the Plan.

9 This level of support for the Plan by all the key Investors that would be most affected by
10 substantive consolidation is resounding evidence that the benefits that substantive consolidation
11 outweigh its potential harms.

12 IV. CONCLUSION

13 For the reasons stated above, the Plan meets all of the requirements of Bankruptcy Code
14 section 1129 and should be confirmed. The Plan Proponents request the Court to issue an order
15 confirming the Plan in the form attached hereto as Exhibit A.

16 Dated: May 20, 2021 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

17
18 By /s/ Ori Katz
19 Ori Katz
20 J. Barrett Marum
21 Attorneys for the Debtors

22 Dated: May 20, 2021 PACHULSKI STANG ZIEHL & JONES LLP

23
24 By /s/ Debra Grassgreen
25 Debra Grassgreen
26 John D. Fiero
27 Cia H. Mackle
28 Attorneys for the Official Committee of
Unsecured Creditors

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EXHIBIT A

(Proposed Order Confirming Plan)

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*Counsel to the Official Committee of
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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PROFESSIONAL FINANCIAL
INVESTORS, INC., *et al.*,

Debtors.

Chapter 11
Case No. 20-30604
(Jointly Administered)

**[PROPOSED] ORDER CONFIRMING
SECOND AMENDED JOINT CHAPTER 11
PLAN OF PROFESSIONAL FINANCIAL
INVESTORS, INC. AND ITS AFFILIATED
DEBTORS PROPOSED BY THE DEBTORS
AND OFFICIAL COMMITTEE OF
UNSECURED CREDITORS AND
SUPPORTED BY THE AD HOC LLC
MEMBERS COMMITTEE AND THE AD HOC
DOT NOTEHOLDERS COMMITTEE (DATED
MAY 20, 2021)**

Plan Confirmation Hearing:
Date: May 27, 2021
Time: 10:00 a.m. (Pacific Time)
Place: **Telephonic/Video Appearances Only**
450 Golden Gate Avenue, 16th Floor
San Francisco, CA 94102
Judge: Hon. Hannah L. Blumenstiel

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On May 27, 2021, at approximately 10:00 a.m., this Court held a hearing (the “Confirmation Hearing”) on confirmation of the *Second Amended Joint Plan of Professional Financial Investors, Inc. and its Affiliated Debtors Proposed by the Debtors and Official Committee of Unsecured Creditors and Supported by the Ad Hoc LLC Members Committee and the Ad Hoc DOT Noteholders Committee (Dated May 20, 2021)* filed on May 20, 2021 (as amended or modified to date, the “Plan”) by plan proponents Professional Financial Investors, Inc. (“PFI”) and its affiliated debtors and debtors in possession (collectively, with PFI, the “Debtors”)¹¹ and the Official Committee of Unsecured Creditors (the “OCUC” and together with the Debtors, the “Proponents”).

The Court, having considered the Plan, all declarations, pleadings, and evidence submitted in support of the Plan; the *Limited Objection of Christina Ensign, Felix Arts and Carol Sue Sproule to Confirmation of Chapter 11 Plan* filed on May 13, 2021, as Docket No. 636 (the “Limited Objection”); all other relevant facts, pleadings, and evidence of record in the Chapter 11 Cases; and the arguments of counsel at the Confirmation Hearing, issued detailed findings of fact and conclusions of law on the record at the Confirmation Hearing, which constitute the Court’s findings of fact and conclusions of law for the purposes of Federal Rule of Bankruptcy Procedure 7052, as made applicable to this contested matter by Federal Rule of Bankruptcy Procedure 9014, and which findings of fact and conclusions of law are incorporated herein by this reference.

For the reasons stated by the Court on the record at the Confirmation Hearing, and for good cause appearing therefore,

IT HAS BEEN DETERMINED BY THE COURT THAT:

A. Jurisdiction and Venue. This Court has jurisdiction to confirm the Plan pursuant to 28 U.S.C. §§ 1334 and 157. The Confirmation Hearing is a core proceeding under 28 U.S.C. § 157(b)(2)(L) and venue of the Bankruptcy Case in the Northern District of California is proper under 28 U.S.C. § 1408.

¹¹ A complete list of the Debtors and their respective chapter 11 case numbers may be found at www.donlinrecano.com/pfi. The federal tax identification numbers of each of the Debtors is also available in the bankruptcy petitions of each Debtor, also available at the Donlin Recano website.

1 **B. Notice of Confirmation Hearing.** Due and sufficient notice of the Confirmation
2 Hearing has been provided under the circumstances and under applicable rules and consistent with
3 the requirements imposed by this Court in its *Order (I) Approving the Plan Summary and*
4 *Conditionally Approving Disclosure Statement; (II) Scheduling Combined Hearing on Approval of*
5 *Disclosure Statement and Confirmation of Plan and Approving the Form and Manner of Service*
6 *of the Combined Hearing Notice; (III) Establishing Non-Investor Bar Dates for Filing Proofs of*
7 *Claim; (IV) Approving Form and Manner of Notice of Non-Investor Bar Dates; (V) Establishing*
8 *Procedures for the Solicitation and Tabulation of Votes on Plan; and (VI) Approving Related*
9 *Matters* entered on April 9, 2021, as Docket No. 575 (the “Solicitation Procedures Order”).

10 **C. Voting on Plan.** The Solicitation Procedures Order fixed May 13, 2021, at 4:00
11 p.m. Pacific Time as the deadline to submit ballots to accept or reject the Plan. The Proponents
12 have tabulated the ballots received, as evidenced by the Declaration of John Burlacu filed on May
13 20, 2021 as Dkt. No. [_____] (the “Burlacu Declaration”) and the Final Tabulation Results
14 attached as Exhibit A thereto (the “Final Tabulation Results”). As set forth in the Burlacu
15 Declaration, out of 2,193 timely ballots cast, a total of 2,188 voted to accept the Plan and only five
16 (5) voted to reject the Plan.

17 **D. Objections.** No formal objections to the Plan other than the Limited Objection
18 were filed.

19 **E. Compliance with Confirmation Requirements of Bankruptcy Code Sections**
20 **1123, 1129, 1181, 1190 and 1191.** The Plan, as modified by this Order, complies with the
21 applicable requirements of sections 1123, 1129, 1181, 1190, and 1191 of the Bankruptcy Code,
22 which set forth the conditions necessary for confirmation. In particular, the Plan is fair and
23 equitable pursuant to Bankruptcy Code sections 1191(b) and (c).

24 **F. Settlement of Claims and Controversies.** Pursuant to Bankruptcy Code sections
25 1123(a)(5), 1123(b)(3), and 1123(b)(6), as well as Bankruptcy Rule 9019, and in consideration for
26 the Distributions and other benefits provided under the Plan, the provisions of the Plan constitute a
27 good faith compromise and settlement of all claims and controversies relating to the rights that a
28 Holder of a Claim or an Equity Interest may have against any Debtor with respect to any Claim,

1 Equity Interest, or any Distribution on account thereof, as well as of all potential Intercompany
2 Claims, Intercompany Liens, and Causes of Action against any Debtor. The compromise and
3 settlement of all such claims or controversies are (i) in the best interest of the Debtors, the Estates,
4 and their respective property and stakeholders; and (ii) fair, equitable, and reasonable

5 **G.** Based upon the record of the Confirmation Hearing, all the proceedings held before
6 this Court in these Bankruptcy Cases, and the foregoing findings of fact and conclusions of law,

7 **IT IS HEREBY ORDERED THAT:**

8 **A. Confirmation of the Plan**

9 1. The Plan and each of its provisions (whether or not specifically approved herein) is
10 hereby APPROVED and CONFIRMED in all respects, as modified herein; *provided, however,*
11 that if there is any direct conflict between the terms of the Plan and the terms of this Order, the
12 terms of this Order shall control. All objections and responses to, and statements regarding, the
13 Plan, to the extent that they have not been withdrawn, waived, or settled prior to the entry of this
14 Order or are not cured by the relief granted herein, are hereby expressly overruled.

15 2. The Limited Objection is OVERRULED in its entirety.

16 **B. Conditions Precedent**

17 3. The Effective Date shall not occur and the Plan shall not be consummated unless
18 and until each of the conditions set forth in Section 8.1 of the Plan have been satisfied or duly
19 waived pursuant to Section 8.2 of the Plan

20 4. Notwithstanding Bankruptcy Rule 3020(e), and to the extent applicable,
21 Bankruptcy Rules 7062 and 9014, this Order is not subject to any stay, and the Plan shall become
22 effective at the option of the Debtors at any time in their sole discretion following (i) entry of this
23 Order, and (ii) satisfaction of the requirements set forth in the preceding paragraph 3 of this Order.

24 **C. Successors and Assigns**

25 5. The terms of this Order are binding on the Debtors, any and all holders of Claims
26 and Interests (irrespective of whether such Claims or Interests are impaired under the Plan or
27 whether the holders of such Claims or Interests accepted, rejected or are deemed to have acted or
28 rejected the Plan), any and all non-debtor parties to executory contracts and unexpired leases with

1 the Debtors and any and all entities who are parties to or are subject to the settlements,
2 compromises, releases, discharges and injunctions set forth in the Plan and the respective heirs,
3 executors, administrators, successors or assigns, if any, of any of the foregoing.

4 **D. Substantive Consolidation**

5 6. On the Effective Date, PFI, PISF, the LLC/LP Debtors, Professional Investors 28,
6 LLC, and PFI Glenwood LLC (collectively, the “Consolidated Estates”) shall be substantively
7 consolidated pursuant to sections 105(a), 541, 1123, and 1129 of the Bankruptcy Code. As a
8 result of such substantive consolidation, on the Effective Date, all property, rights and claims of
9 the Consolidated Estates and all Claims against the Consolidated Estates shall be deemed to be
10 pooled for purposes of distributions under the Plan and, in the PFI Trustee’s discretion, other
11 purposes. Further, as a result of such substantive consolidation, all claims between and among the
12 Consolidated Estates shall be cancelled, subject to any Alternative Restructuring Transactions;
13 provided, however, that (i) while all Debtors shall be substantively consolidated for purposes of
14 distribution to creditors, such that all Investors shall have claims against a single pool of the
15 Debtors’ consolidated assets, the actual substantive consolidation of entities, particularly for tax
16 purposes, shall be at the option of the Debtors or the PFI Trust, and subject to any Alternative
17 Restructuring Transactions, and (ii) any and all TIC Interests in the Real Properties that are held
18 by any Debtor shall not be substantively consolidated.

19 **E. Vesting of Assets**

20 7. On the Effective Date, and subject to Section 2.2 of the Plan, the PFI Trust shall be
21 automatically vested with all of the Debtors’ and the Estates’ respective rights, title, and/or interest
22 in and to all PFI Trust Assets, and the OpCo shall be automatically vested with all of the Debtors’
23 and the Estates’ respective rights, title and/or interest in and to all OpCo Assets. Except as
24 specifically provided in the Plan or this Order, in accordance with Bankruptcy Code section 1141,
25 the PFI Trust Assets, the OpCo Assets and any other assets shall automatically vest in the PFI
26 Trust and the OpCo, as applicable, free and clear of all Claims, Liens, or interests (including,
27 without limitation, any and all DOT Noteholders’ Deeds of Trust), subject only to the PFI Trust
28 Interests and the PFI Trust Expenses, as provided for in the PFI Trust Agreement, and such

1 vesting shall be exempt from any stamp, real estate transfer, other transfer, mortgage reporting,
2 sales, use, or other similar tax. The PFI Trustee shall be the exclusive trustee of the PFI Trust
3 Assets (including all ownership interests in the OpCo) for purposes of 31 U.S.C. § 3713(b) and 26
4 U.S.C. § 6012(b)(3), as well as the representative of the Estates appointed pursuant to Bankruptcy
5 Code section 1123(b)(3) regarding all PFI Trust Assets, the OpCo and the OpCo Assets. The PFI
6 Trust shall hold and distribute the PFI Trust Assets and shall collect and distribute all proceeds
7 from the operations and/or sale of the OpCo and the OpCo Assets in accordance with the
8 provisions of the Plan and the PFI Trust Agreement.

9 **F. Expungement of DOT Noteholder Liens**

10 8. The liens of the DOT Noteholders shall be expunged from the record of the Real
11 Properties, or the sale proceeds thereof, with such expungement to become effective with respect
12 to each Real Property, or the sale proceeds thereof, on the later of the thirtieth (30th) day after
13 entry of this Order or the date of entry of a final order adjudicating an Avoidance Action with
14 respect to a lien on any given Real Property or the sale proceeds thereof. Any DOT Noteholder
15 that wishes to challenge the expungement of its lien shall file an objection with this Court and
16 serve its objection on the PFI Trustee and counsel for the Proponents and Ad Hoc Committees no
17 later than twenty (20) days after entry of this Order. The Debtors or PFI Trustee, as applicable,
18 shall file the Avoidance Action no later than thirty (30) days after service of any such objection.

19 **G. Executory Contracts and Unexpired Leases**

20 9. On the Effective Date, the Debtors shall assume all executory contracts and
21 unexpired leases that are listed on the Schedule of Assumed Agreements, and shall assign such
22 contracts and leases to the PFI Trust or the OpCo, as appropriate. The Debtors shall have the right
23 to amend the Schedule of Assumed Agreements at any time prior to the Effective Date, in the
24 Debtors' reasonable discretion after consultation with each of the Committees. The Debtors shall
25 provide notice of any amendment to the Schedule of Assumed Agreements to the party or parties
26 to those agreements affected by the amendment.

27 10. On the Effective Date all executory contracts and unexpired leases of the Debtors
28 shall be rejected except for (i) executory contracts and unexpired leases that have been previously

1 assumed or rejected by the Debtors, (ii) all executory contracts and unexpired leases specified as
2 to be assumed in paragraph 7 above (including all contracts and leases set forth in the Schedule of
3 Assumed Agreements, as may be amended), and (iii) any agreement, obligation, security interest,
4 transaction, or similar undertaking that the Debtors believe is not executory or a lease, but that is
5 later determined by this Court to be an executory contract or unexpired lease that is subject to
6 assumption or rejection under Bankruptcy Code section 365.

7 11. Any Rejection Claim or other Claim for damages arising from the rejection under
8 the Plan of an executory contract or unexpired lease must be Filed and served no later than the
9 Rejection Claims Bar Date. Any such Rejection Claims that are not timely Filed and served will
10 be forever disallowed, barred, and unenforceable, and Persons holding such Claims will not
11 receive and be barred from receiving any Distributions on account of such untimely Claims. If
12 one or more Rejection Claims are timely Filed pursuant to the Plan, the PFI Trust may object to
13 any Rejection Claim on or prior to the Claim Objection Deadline. For the avoidance of doubt, the
14 Rejection Claims Bar Date established by the Plan does not alter any rejection claims bar date
15 established by a prior order of this Court with respect to any executory contract or unexpired
16 leases that was previously rejected in these Chapter 11 Cases.

17 **H. Preservation of Causes of Action**

18 12. Except as otherwise provided in the Plan or the Order (including in the Investor
19 Claims Special Provisions), from and after the Effective Date, the PFI Trust will retain all rights to
20 institute, commence, file, pursue, prosecute, enforce, abandon, settle, compromise, release, waive,
21 dismiss, or withdraw, as appropriate, (a) any and all of the Debtors' or Estates' Causes of Action,
22 (b) Causes of Action that are Contributed Claims (whether existing as of the Petition Date or
23 thereafter arising), and (c) all Avoidance Actions, all as PFI Trust Actions, in each case in any
24 court or other tribunal, including in an adversary proceeding Filed in the Chapter 11 Cases, subject
25 to the requirements set forth in the Plan and the PFI Trust Agreement.

26 13. The PFI Trust shall have the exclusive right, power, and interest on behalf of itself,
27 the Debtors, the Estates, and the Contributing Claimants to, enforce, sue on, settle, compromise,
28 transfer, or assign (or decline to do any of the foregoing) any or all of the PFI Trust Actions

1 without notice to or approval from this Court, subject to the PFI Trust Agreement. In accordance
2 with the Plan, without any further notice to or action, order, or approval of this Court, from and
3 after the Effective Date, the PFI Trust may compromise and settle PFI Trust Actions, subject to
4 the PFI Trust Agreement.

5 14. The failure to specifically identify in the Disclosure Statement (including the
6 exhibits and schedules thereto) or the Plan any potential or existing Avoidance Actions or Causes
7 of Action as a PFI Trust Action shall not limit the rights of the PFI Trust to pursue any such
8 Avoidance Actions or Causes of Action. Unless a PFI Trust Action is expressly waived,
9 relinquished, released, compromised, or settled in the Plan or any Final Order (including this
10 Order), the Debtors have expressly reserved such PFI Trust Actions for later resolution by the PFI
11 Trust (including any Avoidance Actions or Causes of Action not specifically identified or of
12 which the Debtors may presently be unaware or that may arise or exist by reason of additional
13 facts or circumstances unknown to the Debtors at this time or facts or circumstances that may
14 change or be different from those the Debtors now believe to exist). As such, no preclusion
15 doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim
16 preclusion, waiver, estoppel (judicial, equitable, or otherwise), or laches will apply to any such
17 Avoidance Actions or Causes of Action upon or after Confirmation of the Plan based on the
18 Disclosure Statement, the Plan, or this Order, except when such Avoidance Actions or Causes of
19 Action have been expressly released. In addition, the right to pursue or adopt any claims alleged in
20 any lawsuit in which any Debtor, the PFI Trust, or the OpCo is a plaintiff, defendant, or an
21 interested party is fully reserved as against any Person that is not a Released Party, including the
22 plaintiffs or co-defendants in such lawsuits.

23 **I. Actions in Furtherance of the Plan**

24 15. The Proponents and the PFI Trustee are authorized to: (a) take any and all such
25 actions as may be necessary or appropriate to implement, effectuate, and consummate the Plan in
26 accordance with its terms as modified by this Order; and (b) execute any and all such documents
27 and instruments as may be required to effectuate the Plan.

28

1 **J. Releases**

2 16. Any releases contained in the Plan are approved in all respects. The
3 commencement or prosecution by any entity, whether directly, derivatively or otherwise, of any
4 claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or
5 liabilities released pursuant to the Plan are permanently enjoined.

6 **K. Non-Discharge of the Debtors; Property Free and Clear**

7 17. In accordance with Bankruptcy Code section 1141(d)(3)(A), the Plan does not
8 discharge the Debtors. Bankruptcy Code section 1141(c) nevertheless provides, among other
9 things, that the property dealt with by the Plan, including, without limitation, the Real Properties,
10 is free and clear of all Claims and Equity Interests against the Debtors, except as otherwise
11 provided with respect to the Non-Investor First-Priority Lenders in Section 2.2 of the Plan. As
12 such, no Person holding a Claim (other than the Non-Investor First-Priority Lenders as provided in
13 Section 2.2 of the Plan) or an Equity Interest may receive any payment from, or seek recourse
14 against, any assets that are to be distributed under the Plan other than assets required to be
15 distributed to that Person under the Plan.

16 **L. Injunction**

17 18. As of the Effective Date, all Persons are precluded and barred from asserting
18 against any property to be distributed under the Plan any Claims, rights, Causes of Action,
19 liabilities, Equity Interests, or other action or remedy based on any act, omission, transaction, or
20 other activity that occurred before the Effective Date except as expressly provided in the Plan or
21 this Order. The foregoing discharge, release and injunction are an integral part of the Plan and are
22 essential to its implementation.

23 19. Notwithstanding any provision in the Plan to the contrary or an abstention from
24 voting on the Plan, no provision of the Plan, or this Order: (i) releases any non-debtor person or
25 entity from any claim or cause of action of the SEC; or (ii) enjoins, limits, impairs, or delays the
26 SEC from commencing or continuing any claims, causes of action, proceedings, or investigations
27 against any non-debtor person or entity in any forum.

28

1 **M. Term of Injunctions or Stays**

2 20. Unless otherwise provided in the Plan, all injunctions or stays in the Chapter 11
3 Cases under Bankruptcy Code sections 105 or 362 or otherwise, and extant as of the Confirmation
4 Hearing (excluding any injunctions or stays contained in or arising from the Plan or the Order),
5 shall remain in full force and effect through and inclusive of the Effective Date and thereafter shall
6 automatically terminate unless otherwise ordered by this Court, at which time they are replaced
7 with the injunction set forth in Section J above.

8 **N. Payment of Statutory Fees**

9 All fees payable pursuant to 28 U.S.C. § 1930, shall be paid by the Debtors on or before
10 the Effective Date. All such fees that arise after the Effective Date shall be paid by the PFI Trust.

11 **O. Reference to and Validity and Enforceability of the Plan Provisions**

12 21. The failure to reference any particular provision in the Plan in this Order shall have
13 no effect on the binding effect, enforceability or legality of such provision and such provision
14 shall have the same binding effect, enforceability or legality as every other provision of the Plan.
15 Each term and provision of the Plan, as modified or interpreted by the Court, is valid and
16 enforceable pursuant to its terms.

17 **P. Notice of Entry of Confirmation Order**

18 22. Pursuant to Bankruptcy Rules 2002(f)(7) and 3020(c), the Debtors are hereby
19 directed to serve a notice of the entry of this Order, and if it has occurred, the Effective Date, on
20 all parties that received notice of the Confirmation Hearing, no later than 15 Business Days after
21 the date of this Order; *provided, however*, that the Debtors shall be obligated to serve the such
22 notice only on the record holders of Claims and Interests.

23 **Q. SEC Related Provisions**

24 23. Nothing in the Plan or this Order constitutes a determination as to whether any
25 claim by the SEC for disgorgement or civil penalties is entitled to be subordinated to payment of
26 general unsecured claims, notwithstanding the definition of Other Subordinated Claims in the
27 Plan. Further, the SEC shall retain the right, at any time after the Effective Date, to amend any
28 timely filed proofs of claim to assert such claims in specific dollar amounts.

1 **R. Retention of Jurisdiction**

2 24. This Court shall retain jurisdiction to the fullest extent permitted by the Plan and
3 applicable law to enforce, implement, interpret and resolve issues and disputes with respect to the
4 Plan and all matters related to the Plan.

5 ****END OF ORDER****

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Court Service List

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Registered ECF Participants only.

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
2 Including Professional Corporations
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3 J. BARRETT MARUM, Cal. Bar No. 228628
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9 Counsel for the Debtors

10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14
15 In re
16 PROFESSIONAL FINANCIAL
INVESTORS, INC., a California
17 corporation, *et al*,
18 Debtors.

Case No. 20-30604
(Jointly Administered)

Chapter 11

The Hon. Hannah L. Blumenstiel

**DECLARATION OF JOHN BURLACU
OF DONLIN, RECANO & COMPANY,
INC. REGARDING THE
SOLICITATION AND TABULATION OF
VOTES CAST ON THE SECOND
AMENDED JOINT CHAPTER 11 PLAN
OF PROFESSIONAL FINANCIAL
INVESTORS, INC. AND ITS
AFFILIATED DEBTORS PROPOSED BY
THE DEBTORS AND OFFICIAL
COMMITTEE OF UNSECURED
CREDITORS AND SUPPORTED BY
THE AD HOC LLC MEMBERS
COMMITTEE AND THE AD HOC DOT
NOTEHOLDERS COMMITTEE (DATED
MAY 20, 2021)**

Related to Docket Nos. 572, 575, and 578.

1 I, John Burlacu, declare, under penalty of perjury to the best of my knowledge,
2 information, and belief:

3 1. I am a Senior Director at Donlin, Recano & Company, Inc. ("DRC"), located at
4 6201 15th Avenue, Brooklyn, New York 11219. I am over the age of 18 years and competent to
5 testify.

6 2. I submit this declaration (the "Declaration") with respect to the solicitation of votes
7 and the tabulation of ballots cast on the *Amended Joint Chapter 11 Plan of Professional Financial*
8 *Investors, Inc. and its Affiliated Debtors Proposed by the Debtors and Official Committee of*
9 *Unsecured Creditors and Supported by the Ad Hoc LLC Members Committee and the Ad Hoc Dot*
10 *Noteholders Committee* [Docket No. 572], (amended, supplemented, or otherwise modified, the
11 "Plan"). Except as otherwise indicated, all facts set forth herein are based upon my personal
12 knowledge, information supplied to me by the Debtors or their advisors, including DRC, and my
13 review of relevant documents. If I were called to testify, I could and would testify competently as
14 to the facts set forth herein on that basis.

15 3. This Court authorized DRC's retention as the claims and noticing agent to the
16 above captioned debtors (the "Debtors") pursuant to the *Order Appointing Donlin, Recano &*
17 *Company, Inc. as Claims, Noticing, and Solicitation Agent and Administrative Advisor for New*
18 *Debtors* [Docket No. 535]. DRC was authorized to assist the Debtors in connection with, *inter*
19 *alia*, soliciting, receiving, and tabulating ballots accepting or rejecting the Plan.

20 **I. Service and Transmittal of Solicitation Packages and Related Information.**

21 4. On April 19, 2021, the Court entered the *Order (I) Approving the Plan Summary*
22 *and Conditionally Approving Disclosure Statement; (II) Scheduling Combined Hearing on*
23 *Approval of Disclosure Statement and Confirmation of Plan and Approving the Form and Manner*
24 *of Service of the Combined Hearing Notice; (III) Establishing Non-Investor Bar Dates for Filing*
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1 *Proofs of Claim; (IV) Approving Form and Manner of Notice of Non-Investor Bar Dates; (V)*
 2 *Establishing Procedures for the Solicitation and Tabulation of Votes on Plan; and (VI) Approving*
 3 *Related Matters* (the “Disclosure Statement Order”) [Docket No. 575] conditionally approving the
 4 Disclosure Statement (as defined in the Disclosure Statement Order) and establishing, among
 5 other things, certain solicitation and voting tabulation procedures with respect to the Plan. On
 6 April 20, 2021, the court entered the *Order Approving Ex Parte Motion for an Order Approving*
 7 *Modified Ballots for Class 1 and Class 6 to Vote* [Docket No. 578] approving modifications to the
 8 forms of Ballots in Classes 1 and 6. On May 7, 2021, the court entered the *Order Approving Ex*
 9 *Parte Motion for an Order Approving Relief Related to Solicitation Procedures for Amended Joint*
 10 *Chapter 11 Plan* approving the modification of the Class 7 Ballot and authorized certain other
 11 procedures related to solicitation.
 12

13 5. DRC worked with the Debtors and their advisors to solicit votes to accept or reject
 14 the Plan and to tabulate the Ballots of creditors voting to accept or reject the Plan in accordance
 15 with the Disclosure Statement Order. I supervised the solicitation and tabulation performed by
 16 DRC’s employees.
 17

18 6. Pursuant to the Plan and Disclosure Statement Order, Holders of Claims in Classes
 19 1, 4, 5, 6, and 7 (the “Voting Classes”) as of April 15, 2021 (the “Voting Record Date”), as set
 20 forth below, were impaired and entitled to vote to accept or reject the Plan. No other Classes were
 21 entitled to vote on the Plan.
 22

Class	Type of Claim
Class 1	Non-Investor First Priority Lender Claims
Class 4	DOT Noteholder Claims
Class 5	Non-DOT Investor Claims

Class	Type of Claim
Class 6	TIC Claims
Class 7	Other Unsecured Claims

7. On or around April 22, 2021, DRC posted links on the Debtors’ restructuring website maintained by DRC at <https://www.donlinrecano.com/Clients/pfi/Index> to provide parties with access to, among other documents, copies of the Disclosure Statement and Plan.

8. In accordance with the Disclosure Statement Order, commencing on April 22, 2021, DRC caused solicitation packages containing relevant Voting Class Ballot, among other informational documents (each, a “Solicitation Package”) to be distributed to holders of Claims in the Voting Classes as of the Voting Record Date. Proof of service of the Solicitation Packages and non-voting packages are set forth in the *Certificate of Service* [D.I. 608].

II. General Tabulation Process.

9. As specified in the Disclosure Statement Order, April 15, 2021 was established as the Voting Record Date for determining the holders of Claims in the Voting Classes entitled to vote to accept or reject the Plan.

10. Pursuant to the Disclosure Statement Order, DRC relied on the following information to identify and solicit holders of Claims in the Voting Class: (a) the Debtors’ Schedules of Assets and Liabilities and Statements of Financial Affairs filed with the Court; (b) the official claims register maintained by DRC as of February 21, 2021; (c) claims information pertaining to the Debtors’ chapter 11 case, as reflected in DRC’s internal database to which this information was loaded; and (d) other information and instructions provided by the Debtors and/or their advisors. Using this information, and with guidance from the Debtors and their advisors, DRC created a voting database reflecting the name, address, voting amount, and classification of

1 Claims in each Voting Class. Using this voting database and the form of Ballots approved under
2 the Disclosure Statement Order, DRC generated Ballots for holders of Claims entitled to vote to
3 accept or reject the Plan.

4 11. Ballots returned by online submission, regular mail, hand delivery, or overnight
5 delivery were received by personnel of DRC at its office in Brooklyn, New York. Ballots
6 received by DRC were processed in accordance with the Disclosure Statement Order. Upon
7 receiving Ballots, DRC took the following actions:

- 9 a. envelopes containing the Ballots were opened, and the contents were
10 removed and stamped with the date and time received. Each Ballot was
11 then scanned into DRC's system and sequentially numbered
(the "Sequence Number"); and
- 12 b. DRC then entered into a computer database all pertinent information from
13 each of the Ballots, including among other things, the date and time the
14 Ballot was received, the Sequence Number, the voting dollar amount, and
15 whether the creditor submitting the Ballot voted to accept or reject the Plan.

16 12. In order for a Ballot to be counted as valid, the Ballot must have been properly
17 completed in accordance with the Disclosure Statement Order and executed by the relevant holder,
18 or such holder's authorized representative, and must have been actually received by DRC by 4:00
19 p.m. (Pacific Time) on May 13, 2021 (the "Voting Deadline"). All Ballots were to be delivered to
20 DRC as follows: (a) if by hand delivery, overnight courier, or United States Postal Service to
21 Professional Financial Investors, Inc., et al., c/o Donlin, Recano & Co., Inc., 6201 15th Avenue,
22 Brooklyn, New York 11219; (b) if by First Class Mail Professional Financial Investors, Inc., et al.,
23 c/o Donlin, Recano & Co., Inc., P.O. Box 199043, Brooklyn, New York 11219 or (c) if by using
24 the online vote portal, by visiting www.donlinrecano.com/clients/pfi/vote and entering the Unique
25 E-Ballot Identification number provided on the Ballot.
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1 13. All validly executed Ballots cast by holders of Claims in a Voting Class received
 2 by DRC on or before the Voting Deadline were tabulated as outlined in the Disclosure Statement
 3 Order.

4 14. DRC is in possession of the Ballots received by it, and copies of the same are
 5 available for review during DRC’s normal business hours at 6201 15th Avenue, Brooklyn, New
 6 York 11219.
 7

8 **III. The Voting Results.**

9 15. The summary results of the aforesaid tabulation of properly executed Ballots
 10 received on or before the Voting Deadline broken out by subclasses without consolidation are
 11 annexed hereto as **Exhibit A** (the “Summary Tabulation Results”). The results of the aforesaid
 12 tabulation of properly executed Ballots received on or before the Voting Deadline on a
 13 consolidated basis are set forth below.
 14

CLASS	TOTAL BALLOTS RECEIVED			
	Accept		Reject	
	AMOUNT (% of Amount Voted)	NUMBER (% of Number Voted)	AMOUNT (% of Amount Voted)	NUMBER (% of Number Voted)
Class 1 – Non- Investor First Priority Lender Claims ¹	\$233,404,855.99 (100.00%)	8 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 2 – Non Investor Other Secured Claims	Unimpaired under the Plan and not entitled to vote			

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27 ¹ For voting purposes each Allowed Non-Investor First Priority Lender Claim is deemed to be in its own
 28 subclass on a claimant-by-claimant basis. No subclasses in Class 1 voted to reject the Plan. Twelve
 subclasses in Class 1 did not submit a ballot, which subclasses are identified in Exhibit B attached hereto.

1 2 3	Class 3 – Priority Claims	Unimpaired under the Plan and not entitled to vote			
4 5	Class 4 – DOT Noteholder Claims ²	\$104,557,943.77 (99.15%)	795 (99.75%)	\$901,078.20 (0.85%)	2 (0.25%)
6 7	Class 5 – Non-DOT Investor Claims	\$344,874,126.16 (99.86%)	1,374 (99.78%)	\$481,825.15 (0.14%)	3 (0.22%)
8 9	Class 6 – TIC Claims	\$4,264,972.65 (100.00%)	7 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
10 11 12	Class 7 – Other Unsecured Claims	\$33,117,069.39 (100.00%)	9 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
13 14 15	Class 8 – Other Subordinated Claims	Impaired and deemed to reject the Plan.			
16 17	Class 9 – Equity Interests	Impaired and deemed to reject the Plan.			

18
19 16. A report of all Ballots received after the Voting Deadline is listed on **Exhibit B**.

20 17. Per the tabulation rules, the only TICs permitted to vote are (1) TICs who made the
21 TIC Investor Treatment Election (because they were considered Investors and therefore the Voting
22 Record Date did not apply to them), (2) TICs who had filed proofs of claim prior to the Voting
23 Record Date of 4/15/2021, or (3) TICs who filed a successful Rule 3018 Motion. Two Class 6
24 Ballots were excluded from the tabulation report (Ballot ID 1451 and 1456) and moved to the
25 defective Ballots list on **Exhibit C** as their claims were filed after the Voting Record Date. If the
26 two ballots that were excluded from the tabulation were counted in the tabulation for Class 6, the

27 ² For voting purposes, allowed DOT Noteholder Claims were deemed to be in their own subclass on a property by property
28 basis. No subclass in Class 4 voted to reject the Plan. Thirteen subclasses in Class 4 did not submit a ballot which
subclasses are identified in Exhibit A attached hereto.

1 voting results for Class 6 passing wouldn't change.

2 18. Nicholas Zabelin and Peter Zabelin each timely voted all of their respective ballots
3 to accept the Plan.

4 19. Carl and Anna Belline, husband and wife, in their individual capacities, as trustees
5 of The Belline Family Trust, as trustees of The Belline Family Trust dated February 20, 2015, and,
6 with respect to Carl Belline, as a partner in Belline, Feldman Partners, each timely voted all of
7 their respective ballots to accept the Plan.

8 20. Of the 806 Class 4 Ballots timely received, 762 of the Ballots selected to release
9 their lien which totals 95% of Class 4.

10 I declare under penalty of perjury that the foregoing is true and correct and to the best of
11 my knowledge, information and belief.

12 Dated: May 20, 2021

13 Brooklyn, New York

14 /s/ John Burlacu

15 John Burlacu, Senior Director
16 Donlin, Recano & Company, Inc.

EXHIBIT A

CLASS	TOTAL BALLOTS RECEIVED			
	Accept		Reject	
	AMOUNT (% of Amount Voted)	NUMBER (% of Number Voted)	AMOUNT (% of Amount Voted)	NUMBER (% of Number Voted)
Class 1 – Non-Investor First Priority Lender Claims - Heritage Bank of Commerce	\$3,453,217.78 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims - Poppy Bank	\$19,494,185.53 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims - Tri Counties Bank	\$56,579,314.43 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims - Chase Bank	\$75,978,068.18 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims - Banner Bank	\$3,786,590.05 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims - Homestreet Bank	\$12,322,279.12 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims - Pacific Western Bank	\$58,673,865.90 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims - Rafael Garden Apartments LLC	\$3,117,335.00 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)

Class 1 – Non-Investor First Priority Lender Claims – Five Star Bank ¹	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims – Federal Home Loan Mortgage Corp ²	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims – PNC Real Estate ³	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims – US Bank National Association ⁴	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims – Red Mortgage Capital LLC ⁵	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)

¹ As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 Five Star Bank

² As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 Federal Home Loan Mortgage Corp

³ As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 PNC Real Estate

⁴ As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 US Bank National Association

⁵ As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 Red Mortgage Capital LLC

Class 1 – Non-Investor First Priority Lender Claims – RedCapital Group ⁶	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims – Steven T Stenberg and Karen L Stenberg ⁷	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims – One United Bank ⁸	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims – AvidBank ⁹	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims – Opus Bank ¹⁰	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 1 – Non-Investor First Priority Lender Claims – First Foundation Bank ¹¹	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)

⁶ As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 RedCapital Group

⁷ As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 Steven T Stenberg and Karen L Stenberg

⁸ As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 One United Bank

⁹ As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 AvidBank

¹⁰ As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 Opus Bank

¹¹ As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 First Foundation Bank

Class 1 – Non-Investor First Priority Lender Claims – Pacific Premier Bank ¹²	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A – DOT Noteholder Claims - Professional Financial Investors, Inc.	\$4,163,821.56 (100.00%)	15 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A1 – DOT Noteholder Claims - Professional Financial Investors, Inc. (1 Hammondale Court, San Rafael, CA)	\$508,856.16 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A2 – DOT Noteholder Claims ¹³	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A3 – DOT Noteholder Claims - Professional Financial Investors, Inc. (107 Marin Street, Novato, CA)	\$1,936,197.70 (100.00%)	15 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A4 – DOT Noteholder Claims - Professional Financial Investors, Inc. (1129 3rd St., San Rafael, CA)	\$1,992,038.44 (100.00%)	14 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A5 – DOT Noteholder Claims - Professional Financial Investors, Inc. (117-121 Paul Drive, San Ragael, CA)	\$695,876.69 (100.00%)	10 (100.00%)	\$0.00 (0.00%)	0 (0.00%)

¹² As of the Voting Deadline DRC did not receive a Ballot from holder of Claims in Sub-Class 1 Pacific Premier Bank

¹³ There were no Claims in this Class

Class 4A6 – DOT Noteholder Claims - Professional Financial Investors, Inc. (1315 Lincoln Ave., San Rafael, CA) ¹⁴	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A7 – DOT Noteholder Claims - Professional Financial Investors, Inc. (1506 Vallejo Ave., Novato, CA)	\$600,450.28 (100.00%)	3 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A8 – DOT Noteholder Claims - Professional Financial Investors, Inc. (16914 Sonoma Hwy, Sonoma, CA) ¹⁵	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A9 – DOT Noteholder Claims - Professional Financial Investors, Inc. (17-23, 30-42 Clay Court, Novato)	\$973,950.71 (100.00%)	10 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A10 – DOT Noteholder Claims - Professional Financial Investors, Inc. (200 Gate 5 Road, Sausalito, CA)	\$4,583,934.40 (100.00%)	41 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A11 – DOT Noteholder Claims - Professional Financial Investors, Inc. (21-37 Duffy Place, San Rafael, CA)	\$2,487,254.20 (100.00%)	23 (100.00%)	\$0.00 (0.00%)	0 (0.00%)

¹⁴ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A6.

¹⁵ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A8.

Class 4A12 – DOT Noteholder Claims - Professional Financial Investors, Inc. (300 Entrada Dr., Novato, CA) ¹⁶	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A13 – DOT Noteholder Claims - Professional Financial Investors, Inc. (350 Ignacio Blvd., Suite 101, Novato, CA)	\$2,226,990.89 (100.00%)	33 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A14 – DOT Noteholder Claims - Professional Financial Investors, Inc. (350 Ignacio Blvd., Suite 102., Novato, CA) ¹⁷	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A15 – DOT Noteholder Claims - Professional Financial Investors, Inc. (350 Ignacio Blvd., Suite 103., Novato, CA) ¹⁸	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A16 – DOT Noteholder Claims - Professional Financial Investors, Inc. (350 Ignacio Blvd., Suite 200., Novato, CA) ¹⁹	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)

¹⁶ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A12.

¹⁷ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A14.

¹⁸ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A15.

¹⁹ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A16.

Class 4A17 – DOT Noteholder Claims - Professional Financial Investors, Inc. (350 Ignacio Blvd., Suite 201., Novato, CA) ²⁰	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A18 – DOT Noteholder Claims - Professional Financial Investors, Inc. (350 Ignacio Blvd., Suite 203., Novato, CA) ²¹	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A19 – DOT Noteholder Claims - Professional Financial Investors, Inc. (350 Ignacio Blvd., Suite 300., Novato, CA) ²²	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A20 – DOT Noteholder Claims - Professional Financial Investors, Inc. (353-359 Bel Marin Keys, Novato, CA)	\$715,452.79 (100.00%)	11 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A21 – DOT Noteholder Claims - Professional Financial Investors, Inc. (355 Boyes Blvd., Sonoma, CA)	\$977,003.84 (100.00%)	12 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A22 – DOT Noteholder Claims - Professional Financial Investors, Inc. (390 Woodland Ave., San Rafael, CA) ²³	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)

²⁰ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A17.

²¹ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A18.

²² As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A19.

²³ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A22.

Class 4A23 – DOT Noteholder Claims - Professional Financial Investors, Inc. (419 Prospect Drive, San Rafael, CA)	\$921,029.66 (100.00%)	9 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A24 – DOT Noteholder Claims - Professional Financial Investors, Inc. (461 Ignacio Blvd., Novato, CA)	\$761,758.68 (100.00%)	15 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A25 – DOT Noteholder Claims ²⁴	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A26 – DOT Noteholder Claims - Professional Financial Investors, Inc. (49 Ignacio Lane, Novato, CA)	\$1,712,302.17 (100.00%)	12 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A27 – DOT Noteholder Claims - Professional Financial Investors, Inc. (501 Alameda Del Prado, Novato, CA)	\$4,526,811.83 (100.00%)	56 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A28 – DOT Noteholder Claims - Professional Financial Investors, Inc. (515 B. Street, San Rafael, CA)	\$1,730,110.95 (100.00%)	5 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A29 – DOT Noteholder Claims - Professional Financial Investors, Inc. (7 Merrydale Road, San Rafael, CA)	\$627,630.06 (100.00%)	9 (100.00%)	\$0.00 (0.00%)	0 (0.00%)

²⁴

There were no Claims in this Class

Class 4A30 – DOT Noteholder Claims - Professional Financial Investors, Inc. (7200 Redwood Blvd., Novato, CA)	\$5,877,881.90 (100.00%)	22 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A31 – DOT Noteholder Claims - Professional Financial Investors, Inc. (885 Broadway, Sonoma, CA)	\$2,135,974.65 (100.00%)	19 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4A32 – DOT Noteholder Claims - Professional Financial Investors, Inc. (Merrydale View Apartments) ²⁵	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4B – DOT Noteholder Claims - Professional Investors Security Fund, Inc.	\$568,580.18 (100.00%)	5 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4B1 – DOT Noteholder Claims ²⁶	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4B2 – DOT Noteholder Claims - Professional Investors Security Fund, Inc. (461 Ignacio Blvd., Novato, CA) ²⁷	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Classes 4B3 - 4B23 – DOT Noteholder Claims ²⁸	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)

²⁵ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4A32.

²⁶ There were no Claims in this Class

²⁷ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4B2.

²⁸ There were no Claims in these Classes.

Class 4B24 – DOT Noteholder Claims - Professional Investors Security Fund, Inc. (461 Ignacio Blvd., Novato, CA)	\$508,856.16 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4B25 – DOT Noteholder Claims - Professional Investors Security Fund, Inc. (475 Ignacio Blvd., Novato, CA) ²⁹	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Classes 4B26 - 4B32 – DOT Noteholder Claims ³⁰	\$0.00 (0.00%)	0 (0.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4C – DOT Noteholder Claims - Professional Investors Security Fund I, A California Limited Partnership	\$2,333,398.98 (100.00%)	28 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4D – DOT Noteholder Claims - Professional Investors Security Fund I, A California Limited Partnership	\$1,349,741.25 (100.00%)	17 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4E – DOT Noteholder Claims - Professional Investors Security Fund VII, A California Limited Partnership	\$5,909,706.25 (100.00%)	1 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4F – DOT Noteholder Claims - Professional Investors Security Fund IX, A California Limited Partnership	\$8,940,469.93 (100.00%)	64 (100.00%)	\$0.00 (0.00%)	0 (0.00%)

²⁹ As of the Voting Deadline DRC did not receive any Ballots from holders of Claims in Sub-Class 4B25.

³⁰ There were no Claims in these Classes.

Class 4G – DOT Noteholder Claims - Professional Investors Security Fund XII, A California Limited Partnership	\$2,944,854.81 (100.00%)	26 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4H – DOT Noteholder Claims - Professional Investors Security Fund XIII, A California Limited Partnership	\$10,166,124.29 (100.00%)	74 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4I – DOT Noteholder Claims - Professional Investors Security Fund XIV, A California Limited Partnership	\$10,322,249.13 (95.60%)	74 (98.67%)	\$475,593.75 (4.40%)	1 (1.33%)
Class 4J – DOT Noteholder Claims - Professional Investors Security Fund XV, A California Limited Partnership	\$3,342,368.22 (100.00%)	33 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4K – DOT Noteholder Claims - Professional Investors Security Fund XVII, A California Limited Partnership	\$5,019,684.66 (100.00%)	47 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
Class 4L – DOT Noteholder Claims - Professional Investors Security Fund XVIII, A California Limited Partnership	\$12,996,582.35 (96.83%)	90 (98.90%)	\$425,484.45 (3.17%)	1 (1.10%)
Class 5 – Non-DOT Investor Claims	\$344,874,126.16 (99.86%)	1,374 (99.78%)	\$481,825.15 (0.14%)	3 (0.22%)
Class 6 – TIC Claims	\$4,264,972.65 (100.00%)	7 (100.00%)	\$0.00 (0.00%)	0 (0.00%)

Class 7 – Other Unsecured Claims	\$33,117,069.39 (100.00%)	9 (100.00%)	\$0.00 (0.00%)	0 (0.00%)
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EXHIBIT B

Professional Financial Investors

Late Ballots as of 5/20/2021

Class	Ballot ID	No.	Creditor Name	Amt	Indicated Amt	Variance	Vote	ACC	RJC	Accept Amt	Reject Amt	Date	Release	PFI Trust	TIC Election	Incorrect Amt
1A10	000114	1838	Name Intentionally Omitted	1,740,000.00			ACCEPT	0	0	0.00	0.00	5/14/21				
1A14	001532	3896	Name Intentionally Omitted	2,328,675.33	2,277,917.93	-50,757.40	ACCEPT	0	0	0.00	0.00	5/17/21				
1AD	002335	5188	Name Intentionally Omitted	3,214,417.31	3,212,620.15	-1,797.16	ACCEPT	0	0	0.00	0.00	5/17/21				
4A10	000337	3793	Name Intentionally Omitted	81,416.99			ACCEPT	0	0	0.00	0.00	5/18/21	Yes	Contribute		Changed
4A13	000644	3876	Name Intentionally Omitted	50,590.41			ACCEPT	0	0	0.00	0.00	5/14/21	Yes	Contribute		
4A20	000338	3793	Name Intentionally Omitted	198,453.90			ACCEPT	0	0	0.00	0.00	5/18/21	Yes	Contribute		Changed
4A26	001566	3951	Name Intentionally Omitted	303,542.47			ACCEPT	0	0	0.00	0.00	5/14/21	Yes	Contribute		
4A27	000645	3876	Name Intentionally Omitted	30,531.37			ACCEPT	0	0	0.00	0.00	5/14/21	Yes	Contribute		
4A9	000339	3793	Name Intentionally Omitted	305,313.70			ACCEPT	0	0	0.00	0.00	5/18/21	Yes	Contribute		Changed
4C	001364	2151	Name Intentionally Omitted	104,875.00			ACCEPT	0	0	0.00	0.00	5/17/21		Contribute		
4D	000271	1855	Name Intentionally Omitted	41,950.00			ACCEPT	0	0	0.00	0.00	5/14/21	Yes	Contribute		
4F	000910	188	Name Intentionally Omitted	62,925.00			ACCEPT	0	0	0.00	0.00	5/18/21	Yes	Contribute		Changed
4H	000273	1855	Name Intentionally Omitted	52,437.50			ACC & REJ	0	0	0.00	0.00	5/14/21		Contribute		
4I	000494	1515	Name Intentionally Omitted	26,218.75			ACCEPT	0	0	0.00	0.00	5/17/21	Yes	Contribute		
4K	000495	1515	Name Intentionally Omitted	52,437.50			ACCEPT	0	0	0.00	0.00	5/17/21	Yes	Contribute		
4L	001349	2128	Name Intentionally Omitted	146,825.00			ACCEPT	0	0	0.00	0.00	5/14/21	Yes	Contribute		
5	002808	7466	Name Intentionally Omitted	15,000.00	25,000.00	10,000.00	ACCEPT	0	0	0.00	0.00	5/17/21		Contribute		Changed
5	002602	1673	Name Intentionally Omitted	200,000.00	400,000.00	300,000.00	ACCEPT	0	0	0.00	0.00	5/14/21		Contribute		Changed
5	002532	1569	Name Intentionally Omitted	75,000.00	1,781,839.51	1,706,839.51	ACCEPT	0	0	0.00	0.00	5/14/21		Contribute		Changed
5	001983	4577	Name Intentionally Omitted	141,946.01	337,050.28	195,104.27	ACCEPT	0	0	0.00	0.00	5/14/21		Contribute		Changed
5	001994	4588	Name Intentionally Omitted	248,246.98			ACCEPT	0	0	0.00	0.00	5/18/21		Contribute		
5	002015	4610	Name Intentionally Omitted	68,116.66			ACCEPT	0	0	0.00	0.00	5/17/21		Contribute		
5	002800	7456	Name Intentionally Omitted	5,000.00	10,000.00	5,000.00	ACCEPT	0	0	0.00	0.00	5/17/21		Contribute		Changed
5	002101	4706	Name Intentionally Omitted	507,500.00	582,318.17	74,818.17	ACCEPT	0	0	0.00	0.00	5/17/21		Contribute		Changed
5	002176	4790	Name Intentionally Omitted	13,149.28			ACCEPT	0	0	0.00	0.00	5/14/21		Contribute		
5	002194	4809	Name Intentionally Omitted	1.00	170,000.00	169,999.00	ACCEPT	0	0	0.00	0.00	5/14/21		Contribute		Changed
5	002318	4954	Name Intentionally Omitted	25,375.00			ACCEPT	0	0	0.00	0.00	5/17/21		Contribute		
5	001255	1523	Name Intentionally Omitted	895,765.16			ACCEPT	0	0	0.00	0.00	5/14/21		Contribute		
6	001264	1627	Name Intentionally Omitted	1.00	400,000.00	399,999.00	ACCEPT	0	0	0.00	0.00	5/18/21		Contribute	Agree	

EXHIBIT C

**Professional Financial Investors
Defective Ballots as of 5/20/2021**

Key to Defect Codes:

- A- No signature indicated on ballot
- B- Non-original signature indicated on ballot
- C- Ballot received via facsimile, email, or other electronic transmission
- D- Ballot has been superseded by a subsequently filed Ballot
- E- Ballot/voting data is illegible
- F- Did not comply with Tabulation Rules
- G- Ballot received after the Voting Deadline
- H- Ballot revoked by written request
- I- Ballot revoked by Court order
- J- Ballot indicates neither acceptance nor rejection, or both acceptance and rejection
- K- Only signature page returned
- L- Multiple Intra-class ballots
- N- Ballot submitted on behalf of claims in a non-voting class
- O- Ballot submitted on behalf of claims under objection
- P- Ballot submitted on behalf of director, officer or other insider
- Z- Other Defect

Class	Ballot ID	No.	Creditor Name	Amt	Indicated Amt	Variance	Vote	ACC	RJC	Accept Amt	Reject Amt	Date	Codes	Release	PFI Trust	TIC Election	Incorrect Amt
4A3	001511	3870	Name Intentionally Omitted	109,912.93			ACCEPT	0	0	0.00	0.00	5/6/21	D	Opt-Out	Contribute		
4A30	001468	3794	Name Intentionally Omitted	101,771.23			ACCEPT	0	0	0.00	0.00	5/4/21	D	Yes	Contribute		
4A4	001533	3897	Name Intentionally Omitted	20,236.16			ACCEPT	0	0	0.00	0.00	5/3/21	D	Opt-Out	Contribute		
4D	000550	2167	Name Intentionally Omitted	49,291.25			ACCEPT	0	0	0.00	0.00	5/4/21	D	Opt-Out	Contribute		
4K	000551	2167	Name Intentionally Omitted	157,312.50			ACCEPT	0	0	0.00	0.00	5/4/21	D	Opt-Out	Contribute		
4L	001401	2207	Name Intentionally Omitted	209,750.00			ABSTAIN	0	0	0.00	0.00	5/10/21	AD				
5	002139	4753	Name Intentionally Omitted	230,268.56			ACCEPT	0	0	0.00	0.00	5/7/21	D		Contribute		
5	002415	277	Name Intentionally Omitted	100,000.00			ABSTAIN	0	0	0.00	0.00	4/30/21	D				
5	001037	876	Name Intentionally Omitted	28,565.91			ACCEPT	0	0	0.00	0.00	4/28/21	D				
5	002761	2029	Name Intentionally Omitted	50,000.00			ACCEPT	0	0	0.00	0.00	4/28/21	D				
5	001834	4408	Name Intentionally Omitted	130,027.59			ACCEPT	0	0	0.00	0.00	4/30/21	A		Contribute		
5	001841	4415	Name Intentionally Omitted	69,184.14			ACCEPT	0	0	0.00	0.00	5/7/21	A		Contribute		
5	002341	1632	Name Intentionally Omitted	200,000.00			ACCEPT	0	0	0.00	0.00	5/4/21	D				
5	002398	129	Name Intentionally Omitted	150,000.00			ACCEPT	0	0	0.00	0.00	5/10/21	D				
5	001097	1038	Name Intentionally Omitted	507,500.00			ABSTAIN	0	0	0.00	0.00	5/2/21	D				
5	002052	4649	Name Intentionally Omitted	126,875.00			ACCEPT	0	0	0.00	0.00	5/3/21	D		Contribute		
5	002063	4663	Name Intentionally Omitted	340,583.32			ACCEPT	0	0	0.00	0.00	4/28/21	D		Contribute		
5	002138	4752	Name Intentionally Omitted	29,450.26			ACCEPT	0	0	0.00	0.00	5/7/21	D		Contribute		
5	002140	4754	Name Intentionally Omitted	109,026.95			ACCEPT	0	0	0.00	0.00	5/7/21	D		Contribute		
5	002507	1318	Name Intentionally Omitted	370,000.00			ACCEPT	0	0	0.00	0.00	5/7/21	D		Contribute		
5	002200	4815	Name Intentionally Omitted	50,833.34			ACCEPT	0	0	0.00	0.00	5/6/21	D		Contribute		
5	000840	4835	Name Intentionally Omitted	508,333.32	694,594.63	592,927.97	ACCEPT	0	0	0.00	0.00	5/3/21	D		Contribute		Changed
5	001740	4306	Name Intentionally Omitted	406,666.66			ACCEPT	0	0	0.00	0.00	5/10/21	D		Contribute		
5	002311	4947	Name Intentionally Omitted	104,826.22			ACCEPT	0	0	0.00	0.00	5/7/21	A		Contribute		
5	002310	4946	Name Intentionally Omitted	330,604.16			ACCEPT	0	0	0.00	0.00	5/7/21	A		Contribute		
6	000463	327	Name Intentionally Omitted	542,652.73			ACCEPT	0	0	0.00	0.00	5/10/21	F				
6	001451	3352	Name Intentionally Omitted	1,200,084.68			REJECT	0	0	0.00	0.00	5/11/21	F				
6	001456	3604	Name Intentionally Omitted	826,193.00			REJECT	0	0	0.00	0.00	5/11/21	F				
6	002337	5191	Name Intentionally Omitted	932,652.25			ACCEPT	0	0	0.00	0.00	5/10/21	F				
6	002334	5110	Name Intentionally Omitted	643,500.00			ABSTAIN	0	0	0.00	0.00	5/13/21	A				
6	002339	1251	Name Intentionally Omitted	110,000.00			ABSTAIN	0	0	0.00	0.00	5/10/21	F				

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
2 Including Professional Corporations
ORI KATZ, Cal. Bar No. 209561
3 J. BARRETT MARUM, Cal. Bar No. 228628
MATT KLINGER, Cal. Bar No. 307362
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10 Counsel for Debtors

11 UNITED STATES BANKRUPTCY COURT

12 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

13 In re

14 PROFESSIONAL FINANCIAL
15 INVESTORS, INC., *et al.*¹

16 Debtors.

Case No. 20-30604
(Jointly Administered)

Chapter 11

**DECLARATION OF ANDREW
HINKELMAN IN SUPPORT OF
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
CONFIRMATION OF SECOND AMENDED
JOINT CHAPTER 11 PLAN OF
PROFESSIONAL FINANCIAL INVESTORS,
INC. AND ITS AFFILIATED DEBTORS
PROPOSED BY THE DEBTORS AND
OFFICIAL COMMITTEE OF UNSECURED
CREDITORS AND SUPPORTED BY THE
AD HOC LLC MEMBERS COMMITTEE
AND THE AD HOC DOT NOTEHOLDERS
COMMITTEE (DATED MAY 20, 2021)**

Judge: Hon. Hannah L. Blumenstiel

Date: May 27, 2021

Time: 10:00 a.m.

Place: **Telephonic/Video Appearances Only**
450 Golden Gate Ave., 16th Fl., Crtm. 19
San Francisco, CA 94102

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28 ¹ A complete list of the Debtors and their respective chapter 11 case numbers may be found at
www.donlinereco.com/pfi. The federal tax identification numbers of each of the Debtors is also
available in the bankruptcy petitions of each Debtor, also available at the Donlin Recano website.
SMRH:4820-9458-5578.2

1 I, Andrew Hinkelman, declare:

2 1. I am the Chief Restructuring Officer (“CRO”) of Professional Financial Investors,
3 Inc. (“PFI”) and Professional Investors Security Fund, Inc.

4 2. Except as otherwise noted, the matters described in this declaration are based upon
5 my personal knowledge, my review of relevant documents and my discussions with other parties
6 familiar with the Debtors, and if called as a witness, I would testify to such matters.

7 3. I submit this declaration in support of the *Memorandum of Points and Authorities*
8 *in Support of Confirmation of the Second Amended Joint Plan of Professional Financial Investors,*
9 *Inc. and its Affiliated Debtors Proposed by the Debtors and Official Committee of Unsecured*
10 *Creditors and Supported by the Ad Hoc LLC Members Committee and the Ad Hoc DOT*
11 *Noteholders Committee (Dated May 20, 2021)* (the “Memorandum”) filed by PFI and its affiliated
12 debtors and debtors in possession (collectively, with PFI, the “Debtors”) and the Official
13 Committee of Unsecured Creditors.

14 4. Unless otherwise stated, I give capitalized terms not defined in this Declaration the
15 meanings given to them in the Memorandum.

16 5. According to the Debtors’ books and records, The Belline Family Trust dated
17 February 20, 2015 is the only outside investor with a PFI LLC Member interest in Professional
18 Investors 28, LLC.

19 6. According to the Debtors’ books and records, Peter Zabelin is the only outside
20 investor with a PFI LLC Member interest in PFI Glenwood, LLC.

21 I declare under penalty of perjury under the laws of the United States of America that the
22 foregoing is true and correct. Executed on May 20, 2021, at Novato, California.

23
24 /s/ Andrew Hinkelman
25 Andrew Hinkelman
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