**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF VERMONT**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

In re:

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Chapter 11**

 **Debtor(s). Case # \_\_\_\_\_\_\_\_**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ORDER**

**Confirming Chapter 11 Plan**

            The debtor filed a plan of reorganization on [date] [and the Plan was amended on [date],] (hereafter referred to as “the Plan”); and

            A hearing was held to consider confirmation of the Plan on [date], at which the following attorneys appeared on behalf of the following parties: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and

\_\_\_\_\_\_\_\_\_\_\_\_\_ testified on behalf of the debtor [add names of any other parties who testified].

            Based upon the record before the Court, and arguments and evidence presented at the hearing(s) held in connection with the Plan, THE COURT HEREBY FINDS, pursuant to 11 U.S.C. § 1129(a),[[1]](#footnote-1)

(1)    the Plan complies with the applicable provisions of Title 11 of the United States Code;

(2)    the Plan proponent has complied with the applicable provisions of Title 11 of the U.S. Code;

(3)    the Plan has been proposed in good faith and not by any means forbidden by law;

(4)    any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the Plan, for services or for costs and expenses in or in connection with this case, or in connection with the Plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable;

 (5)   the Plan proponent has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as the director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint Plan with the debtor, or a successor to the debtor under the Plan; and the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and the Plan proponent has disclosed the identity of any insider who will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider;

(6)    any governmental regulatory commission with jurisdiction, after confirmation of the Plan, over the rates of the debtor has approved any rate change provided for in the Plan, or such rate change is expressly conditioned on such approval;

(7)    with respect to each impaired class of claims or interests-

(A)   each holder of a claim or interest of such class -

(i)    has accepted the Plan; or

(ii)   will receive or retain under the Plan an account of such claim or interest property of a value, as of the effective date of the Plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of Title 11 on such date; or

(B) if §1111(b)(2) applies to the claims of such class, each holder of a claim of such class will receive or retain under the Plan on account of such claim property of a value, as of the effective date of the Plan, that is not less than the value of such holder’s interest in the estate’s interest in the property that secures such claims.

(8)   with respect to each class of claims or interests -

(A) such class has accepted the Plan, or

(B) such class is not impaired under the Plan;

(9)   except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the Plan provides that -

(A)  with respect to a claim of a kind specified in § 507(a)(2) or 507(a)(3) of Title 11, on the effective date of the Plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim,

(B)  with respect to a class of claims of a kind specified in § 507(a)(1), 507(a)(4), 507(a)(5) or 507 (a)(6), or 507(a)(7), each holder of a claim of such class will receive

(i) if such class has accepted the Plan, deferred cash payments of a value, as of the effective date of the Plan, equal to the allowed amount of such claim; or

(ii)    if such class has not accepted the Plan, cash on the effective date of the Plan equal to the allowed amount of such claim, and

1. with respect to a claim of the kind specified in § 507(a)(8), the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding six years after the date of assessment of such claim, of a value, as of the effective date of the Plan, equal to the allowed amount of such claim;

(10) if a class of claims is impaired under the Plan, at least one class of claims that is impaired under the Plan has accepted the Plan, determined without including any acceptance of the Plan by any insider;

(11) confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the Plan, unless such liquidation or reorganization is proposed in the Plan;

(12) all fees payable under § 1930 of Title 28, as determined by the court at the hearing on confirmation of the Plan, have been paid or the Plan provides for the payment of all such fees on the effective date of the Plan; and

(13) the Plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in § 1114 of Title 11, at the level established pursuant to subsection (e)(1)(B) or (g) of § 1114 of Title 11, at any time prior to confirmation of the Plan, for the duration of the period the debtor has obligated itself to provide such benefits;

(14)  the Plan proponent has complied with [*Vt. LBR 3020-1(a)(1) through (3) for confirmation achieved through §1129(a)*;] [*OR*] [*Vt. LBR 3020-1(b) for “cram-down” confirmation achieved through §1129(b);*] and

[(15) *the Plan proponent may include here any specific rulings made at the hearing, recitation of objections filed and the resolution of each objection, unusual provisions of the Plan, or other directions to which all interested parties consent, e.g., with regard to retention of jurisdiction*.]

           Therefore, IT IS HEREBY ORDERED that the Plan is confirmed.

            IT IS FURTHER ORDERED that the Plan proponent or the disbursing agent defined in the Plan shall comply with Vt. LBR 3022-1 by filing the report of substantial consummation and the motion for final decree no later than 180 days after the entry of this Order confirming the Plan, unless the Court, for cause shown, extends the time upon motion filed and served within this 180-day period.

            IT IS FURTHER ORDERED that the Plan proponent or the disbursing agent defined in the Plan shall file with the Court and serve on the U.S. trustee an affidavit showing all cash disbursements for each month after confirmation of the case in a form acceptable to the U.S. trustee. The affidavit shall be in a form acceptable to the U.S. trustee and shall be due on the last day of the month after the month reported. The duty to file the monthly affidavit shall cease upon the entry of the final decree, the conversion of the case to another chapter under Title 11 of the United States Code, or the dismissal of the case. The affidavit shall disclose all disbursements for the reorganized debtor by stating the total amount of payments made in that month pursuant to the Plan, with a subtotal of payments for each class defined in the Plan. The affidavit will further disclose whether the total amount paid to each class complies with the terms of the Plan, is in a lesser amount, or whether there is a good faith dispute about the amount owed; the administrative expenses paid; and a total of cash disbursements made in the ordinary course of the debtor’s ongoing operations.

IT IS FURTHER ORDERED that the debtor shall pay a sum certain determined by the U.S. trustee, to the U.S. trustee, for fees due pursuant to 28 U.S.C. § 1930(a)(6), plus any applicable interest due pursuant to 31 U.S.C. § 3717, within fourteen (14) days of the entry of this Order and to continue to make timely quarterly payments to the U.S. trustee pursuant to 28 U.S.C. § 1930(a)(6) and pursuant to 31 U.S.C. § 3717, if applicable, until the entry of the final decree, the conversion of the case to another chapter under Title 11 of the United States Code, or the dismissal of the case.

**[***Include the following language only in a chapter 11 case in which the debtor does not qualify as a “small business debtor” or a subchapter V debtor***]** IT IS FURTHER ORDERED that, commencing with the effective date of the Plan, the debtor shall prepare and file with the Court quarterly post-confirmation reports (each, a “Post-Confirmation Report”), using the form promulgated by the U.S. trustee, unless the Court grants a motion, on notice to the U.S. trustee, to allow the debtor to use a different form or frequency (e.g., annually), . The debtor shall verify each Post-Confirmation Report and file it no later than twenty-one (21) days after the end of each reporting period until the Court enters the final decree or the case is dismissed or converted, unless the Court rules otherwise. The debtor shall serve the Post-Confirmation Reports on the United States (if a party in the case), the trustee (if any), the U.S. trustee, the chair of the creditors’ committee (if any), and all attorneys of record.

\_\_\_\_\_\_\_\_\_, 20\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Burlington, Vermont Colleen A. Brown

 United States Bankruptcy Judge

1. All statutory citations refer to Title 11, United States Code (the “Bankruptcy Code”), unless otherwise indicated. [↑](#footnote-ref-1)