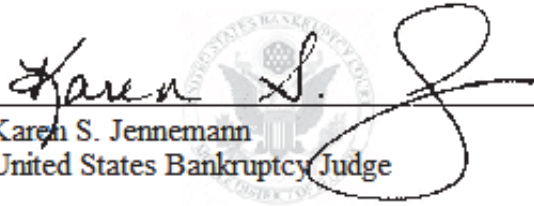


ORDERED.

Dated: June 26, 2020



Karen S. Jennemann
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
www.flmb.uscourts.gov

In re)	Case No. 6:17-bk-07975-KSJ
)	Chapter 11
Melbourne Beach, LLC,)	
)	
Debtor.)	
)	
)	

**ORDER PARTIALLY SUSTAINING
OBJECTIONS TO DISCLOSURE STATEMENT AND DIRECTING
CHAPTER 11 TRUSTEE TO FILE AN AMENDED DISCLOSURE STATEMENT**

This case came on for hearing on June 17, 2020, to consider objections filed by Creditors, Winn-Dixie Stores Leasing and Winn-Dixie Stores, Inc. (collectively “Winn-Dixie”) and Pirogee Investment Corporation and Yellow Funding, LLC (the “Disputed Owners”) to the Disclosure Statement filed by the Chapter 11 Trustee.¹ Having reviewed the pleadings and considering the positions of all interested parties, the Court sustains the objections.

Section 1125 of the Bankruptcy Code² requires a disclosure statement to contain adequate information, which means “information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books

¹ Winn-Dixie’s Objection is Doc. No. 726. Disputed Owners’ Objection is Doc. No. 743. Chapter 11 Trustee’s Disclosure Statement is Doc. No. 660.

² All references to the Bankruptcy Code refer to 11 U.S.C. §§ 101 *et. seq.*

and records, including a discussion of... a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan,...”³ Courts must consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information when determining whether a disclosure statement provides adequate information.⁴

This case involves primarily a two-party dispute between very informed parties, Brian West (“West”) and the Disputed Owners, of their competing ownership interests.⁵ Of the parties filing the ten remaining proofs of claims, *all* were filed by West or the Disputed Owners or their professionals/ predecessors. They fully know of the disputes between them; no further disclosures could influence their acceptance or rejection of the Chapter 11 Trustee’s proposed plan.

However, there are independent scheduled pre-petition creditors and tenants, like Winn-Dixie, who need to understand the parties’ dispute on a summary basis and understand with more detail the Liquidating Trustee’s administration of this case post-confirmation. These parties need no significant additional information or disclosure, just enough to understand the pros and cons of confirming the proposed plan.

Accordingly, it is:

ORDERED:

1. The objections to the Disclosure Statement (Doc. Nos. 726 and 743) are partially

SUSTAINED.

³ 11 U.S.C. § 1125.

⁴ *Id.*

⁵ A detailed history of this case is found in the Order Denying Disputed Owners’ Motion to Dismiss and Directing Appointment of a Chapter 11 Trustee. Doc. No. 383.

2. The Chapter 11 Trustee is directed to file an Amended Disclosure Statement by **July 31, 2020**.

3. The Amended Disclosure Statement should provide additional summary information to address:

- a. How the Liquidating Trustee will manage the center,
- b. How the Liquidating Trustee will market the center for sale and the expected time frame,
- c. When creditors are likely to be paid on their claims,
- d. How the process of assumption and assignment of leases will be handled; and
- e. A summary synopsis of the legal arguments of West and the Disputed Owners competing claims for ownership of the Debtor.

4. If the Disclosure Statement is timely filed, the Court will set a combined hearing on the Amended Disclosure Statement and Chapter 11 Plan for a future date.

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Attorney Samuel A. Miller is directed to serve a copy of this Order on interested parties who are non-CM/ECF users and file a proof of service within 3 days of entry of the Order.