

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Medley LLC,

Debtor.<sup>1</sup>

Chapter 11

Case No. 21-10526 (KBO)

**Re: Docket No. 244 and 284**

**NOTICE OF FILING OF EXHIBITS OF FIRST AMENDED COMBINED  
DISCLOSURE STATEMENT AND CHAPTER 11 PLAN OF MEDLEY LLC**

**PLEASE TAKE NOTICE** that, on July 6, 2021, the above-captioned debtor and debtor-in-possession (collectively, the “Debtor”), by their undersigned counsel, filed the *Combined Disclosure Statement and Chapter 11 Plan of Reorganization and Wind-Down of Medley LLC* [Docket No. 244] (the “Combined Disclosure Statement and Plan”).

**PLEASE TAKE FURTHER NOTICE** that, on August 2, 2021, the Debtor filed the *First Amended Combined Disclosure Statement and Chapter 11 Plan of Medley LLC* [Docket No. 284] (the “Amended Combined Disclosure Statement and Plan”).

**PLEASE TAKE FURTHER NOTICE** that, for the convenience of the Court and all parties in interest, the Exhibits to the Amended Combined Disclosure Statement and Plan are attached hereto as Exhibit 1.

**PLEASE TAKE FURTHER NOTICE** that a hearing to consider the adequacy of the information contained in the Amended Combined Disclosure Statement and Plan is scheduled for August 12, 2021 at 1:00 p.m. (Eastern Time) (the “Hearing”) before the Honorable Karen B. Owens. The Hearing will take place through Zoom only, unless otherwise directed by the Court.

<sup>1</sup> The last four digits of the Debtor’s taxpayer identification number are 7343. The Debtor’s principal executive office is located at 280 Park Avenue, 6<sup>th</sup> Floor East, New York, New York 10017.



Dated: August 5, 2021

**MORRIS JAMES LLP**

/s/ Eric J. Monzo

Jeffrey R. Waxman (DE Bar No. 4159)

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*Counsel to the Debtor and Debtor  
in Possession*

# Exhibit 1

**Exhibit A**

**Liquidation Analysis**

\$ actual	Chapter 7 Liquidation					Proposed Chapter 11					Notes
	Book Value	Recovery Estimate \$		Recovery Estimate %		Book Value	Recovery Estimate \$		Recovery Estimate %		
		Low	High	Low	High		Low	High	Low	High	
<b>Assets</b>											
Cash and Cash Equivalents	\$ 86,551	\$ 86,551	\$ 86,551	100%	100%	\$ 25,000	\$ 25,000	\$ 25,000	100%	100%	A
Other Assets	393,082	-	-	0%	0%	393,082	-	-	0%	0%	B
Deferred Tax Asset, net	835,877	500,000	500,000	60%	60%	835,877	500,000	500,000	60%	60%	C
Prepaid Expenses	603,620	-	-	0%	0%	603,620	-	-	0%	0%	D
Investment in Subsidiaries	(6,551,737)	-	-	nm	nm	(6,551,737)	1,000,000	1,750,000	nm	nm	E, I
<b>Total Assets</b>	<b>\$ (4,632,606)</b>	<b>\$ 586,551</b>	<b>\$ 586,551</b>	<b>nm</b>	<b>nm</b>	<b>\$ (4,694,157)</b>	<b>\$ 1,525,000</b>	<b>\$ 2,275,000</b>	<b>nm</b>	<b>nm</b>	
<b>Chapter 7 Administrative Claims</b>											
Chapter 7 Trustee Fees		\$ (17,597)	\$ (17,597)				\$ -	\$ -			F
Chapter 7 Professional Fees		(250,000)	(100,000)				-	-			G
Cash Flow During Orderly Wind Down		(1,100,000)	(800,000)				-	-			H
<b>Net Liquidation Adjustments</b>		<b>\$ (1,367,597)</b>	<b>\$ (917,597)</b>				<b>\$ -</b>	<b>\$ -</b>			
Medley Capital Plan Contribution		\$ -	\$ -				\$ 3,546,044	\$ 3,546,044			I
Remaining Medley LLC Proceeds		-	-				2,000	2,000			J
Residual Proceeds From Medley Capital LLC		-	-				782,338	1,310,381			K, I
Notes Trustee Fees		-	-				(716,375)	(716,375)			L
Liquidating Trust Fees/Expenses During Wind Down		-	-				(40,000)	(40,000)			M
<b>Cash Proceeds Available For Distribution</b>		<b>\$ (781,046)</b>	<b>\$ (331,046)</b>				<b>\$ 5,099,007</b>	<b>\$ 6,377,049</b>			

	Claim Amount	Recovery Estimate \$		Recovery Estimate %		Claim Amount	Recovery Estimate \$		Recovery Estimate %		Notes
		Low	High	Low	High		Low	High	Low	High	
Administrative Claims	\$ 4,746,044	\$ -	\$ -	0%	0%	\$ 3,471,044	\$ 3,471,044	\$ 3,471,044	100%	100%	N
Class 1 Secured Claims	-	-	-	0%	0%	-	-	-	0%	0%	
Class 2 Priority Non-Tax Claims	1,681	-	-	0%	0%	1,681	1,681	1,681	100%	100%	
Class 3 Notes Claims	125,511,108	-	-	0%	0%	125,511,108	1,421,141	2,734,870	1%	2%	
Class 4 General Unsecured Claims	\$7,776,781 - \$18,117,488	-	-	0%	0%	\$7,776,781 - \$18,117,488	205,141	169,455	1%	2%	
Class 5 Intercompany Claims	TBD	-	-	nm	nm	-	-	-	0%	0%	
Class 6 Interests	-	-	-	0%	0%	-	-	-	0%	0%	
<b>Total</b>		<b>\$ -</b>	<b>\$ -</b>				<b>\$ 5,099,007</b>	<b>\$ 6,377,049</b>			

## Liquidation Analysis

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- A Reflects forecasted cash balance as of October 15, 2021 per latest cash flow projections
- B Assumes all existing receivables collected in the ordinary course of business and are reflected in the "Cash and Cash Equivalents" line item
- C Reflects collection of a \$500,000 tax refund owed to Medley LLC
- D Book value reflects accounting treatment for funding ongoing MDLY D&O insurance payments by Medley LLC
- E Reflects illustrative net proceeds realized from the potential sale of certain General and Limited Partnership interests of non-Debtor subsidiaries
- F Calculated at 3.0% of gross proceeds available for distribution
- G Estimate of fees payable to professionals to be retained during a Chapter 7 Liquidation
- H Reflects estimated costs to maintain operations with minimal staff and services for 3 to 4 months while the business is wound down
- I Reflects payments from Medley Capital (i) on the Effective Date to (a) the Debtor in an amount equal to all Allowed and estimated Administrative Claims and Professional Claims, and (b) the Liquidating Trust in an amount equal to the Initial GUC Funds; and (ii) after the Effective Date, from time to time through the Outside Date, comprising the Additional GUC Funds
- J Estimated remaining cash at Medley LLC on the Outside Date
- K Reflects the remaining cash proceeds from Medley Capital LLC after payment off all estimated obligations by the Outside Date
- L Reflects estimated Notes Trustee Fees
- M Reflects estimated fees payable by Liquidating Trust through the Outside Date
- N Reflects estimates subject to Bankruptcy Court approval

**Exhibit B**

**Organizational Chart**

### Organizational Chart



**Exhibit C**

**Non-Debtor Compensation Plan**

**Non-Debtor Compensation Plan**

1. Compensation Payment Schedule (each a “Compensation Payment” and collectively, the “Compensation Payments”)
  - a. 9/30/21: 33.3%
  - b. 12/31/21: 33.3%
  - c. Remainder at 1/31/22
  
2. Repayment Obligation
  - a. Employee is obligated to repay 50% of the immediately preceding Compensation Payment if employee
    - i. Voluntarily leaves Medley Capital prior to the completion of the investment advisory agreement with Sierra, or
    - ii. Is terminated by Medley Capital prior to the completion of the investment advisory agreement with Sierra “for cause”
  
  - b. Provided further, and for the avoidance of doubt there is no Repayment Obligation under 2(a)(i) if:
    - i. After the 9/30/21 payment, employee provides a 45 day notice for exit and stays for the full 45 days (or such shorter time period as determined by Howard Liao with a proportional reduction in salary for such employee, and subject to employee resignation not materially interrupting the business of Medley Capital or Medley LLC)
    - ii. After the 12/31/21 Compensation Payment, employee provides a 30 day notice for exit and stays for the full 30 days (or such shorter time period as determined by Howard Liao with a proportional reduction in salary for such employee, and subject to employee resignation not materially interrupting the business of Medley Capital or Medley LLC)
  
  - c. Employee is no longer eligible for further Compensation Payments once resignation notice is tendered
  
  - d. Repayment Obligations will not be applicable to employees with aggregate Compensation Payments of \$150,000 or less

### 3. Incentive Pool

- a. In the event that an employee voluntarily leaves or is terminated for cause, 75% of the forfeited Compensation Payments and/or proceeds from Repayment Obligations committed or paid by the Company, if any, are contributed to a pool (the "Performance Compensation Pool") and the remaining 25% will be returned to the Company. The application of the forfeited Compensation Payments and/or proceeds from Repayment Obligations committed or paid by Sierra will be at Sierra's sole discretion.
- b. The Performance Compensation Pool will be distributed to employees that (i) remain with Medley Capital through the planned exit date for such employee, and (ii) (a) if Distributable Value<sup>1</sup> to the Liquidating Trust on 3/31/22 is equal to or greater than the midpoint (the "Midpoint") between the "Low Case" and "High Case" as set forth in the Medley LLC & Medley Capital winddown projections (the "Projections"), then 100% of the Performance Compensation Pool will be distributed to employees or (b) if Distributable Value on 3/31/22 is between the Low Case and the Midpoint as set forth in the Projections, then the percentage of the Performance Compensation Pool distributed to employees will equal the percentage of Distributable Value achieved between the Low Case and Midpoint as set forth in the Projections. For the avoidance of doubt, if Distributable Value on 3/31/22 is below the Low Case as set forth in the Projections, then there will be no distribution to employees from the Performance Compensation Pool. The foregoing is subject to: (i) confirmation of mechanics for guaranteeing distributable value amounts to the Liquidating Trust, and (ii) Committee sign-off on the Wind-Down Budget to be filed with the Plan Supplement.
- c. For executives Howard Liao, Rick Allorto, Dean Crowe, and David Richards (collectively, the "Executives"), 15% of each Compensation Payment (the "Holdback") will be deferred to April 7, 2022. Payment of the Holdback to the Executives on April 7, 2022 will be contingent on Distributable Value as of 3/31/22 being equal to or greater than the Low Case as set forth in the Projections. If Distributable Value as of 3/31/22 exceeds the Midpoint as set forth in the Projections, the Executives will receive 20% of any Distributable Value in excess of the Midpoint, subject to an Executives aggregate cap of \$1M.

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<sup>1</sup> "Distributable Value" shall be the aggregate amounts shown in the Projections for the line items "Investment in Subsidiaries" and "Residual Proceeds from Medley LLC".

- d. Employee allocations of the Performance Compensation Pool is based on the employee's third Compensation Payment as a percentage of the aggregate third Compensation Payment paid to employees
- e. With approval of the Oversight Committee, proceeds from the Performance Compensation Pool can be used for new hires or temporary help if recommended by management.

4. Compensation for Employees after the third Compensation Payment

- a. If the Oversight Committee determines employees are required to wind-down the Company after the third Compensation Payment and continued employment is cash-flow positive to Medley Capital and the Liquidating Trust, employees may be offered continued employment at a new annual base salary that is equal to the employee's base salary plus Compensation Payments. Employment must be offered for a minimum of 30 days.

5. Liquidating Trustee Cooperation

- a. Employee retention letters for the Executives will include the following:
  - i. Executives will provide reasonable cooperation with the Liquidating Trustee (e.g., access to books and records, interviews for causes of action pursuits).
  - ii. The reasonable cooperation will not materially interfere with the Executives' normal job responsibilities.
  - iii. To the extent that cooperation will require employees other than the Executives, the Executives will coordinate with the applicable employees to facilitate such cooperation.

6. August 2021 Deferred Compensation Payments

- a. As an act of good faith, the Committee does not object to projected August deferred compensation payments of \$652K on account of 2020 work.

**Exhibit D**

**Form of Sierra Commitment Letter**

Medley LLC  
Medley Capital LLC  
SIC Advisors LLC  
100 Park Avenue  
New York, NY 10017

Attention: Richard Allorto

## COMMITMENT LETTER

Ladies and Gentlemen:

Reference is made to that certain Term Sheet dated July 21, 2021 (the “Term Sheet”) filed by debtor Medley LLC (the “Debtor”) as Docket No. 276 in its chapter 11 case, *In re Medley LLC*, No. 21-10526 (KBO) (Bankr. D. Del. Mar. 7, 2021) (the “Chapter 11 Case”) pending before the Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

The Term Sheet represents an agreement in principle among the Debtor, Medley Capital LLC (“Medley Capital”) and the Official Committee of Unsecured Creditors (the “Committee”) on the terms of an amended version of the Debtor’s *Combined Disclosure Statement and Chapter 11 Plan of Reorganization and Wind-Down of Medley LLC* [Docket No. 244] (as filed, the “Plan and Disclosure Statement”, and as amended to incorporate the terms of the Term Sheet, the “Amended Plan and Disclosure Statement”, or the “Amended Plan”, as the context shall so require).

The Term Sheet provides for, *inter alia*, the wind-down of the operations of the Debtor over a period of time. During this period, the Debtor’s non-debtor investment adviser subsidiaries are to remain operating, fully-staffed and adequately capitalized in order to continue to fully perform under their existing investment advisory contracts for the benefit of certain clients including Sierra Income Corporation (“Sierra”) and generate revenue for the ultimate benefit of the Debtor’s estate. Included within these advisory contracts is that certain Investment Advisory Agreement dated April 5, 2012 between Sierra and the Debtor’s subsidiary, SIC Advisors LLC (the “Sierra Contract”). In furtherance of the transactions contemplated under the Term Sheet, which will ultimately be embodied in an Amended Plan and Disclosure Statement, the Debtor has agreed to implement a non-Debtor employee retention and compensation program with Medley Capital (the “Compensation Plan”).

Subject to the terms, conditions and qualifications set forth in this letter (this “Commitment Letter”) Sierra commits to provide a contribution to the Compensation Plan, as follows.

1. Commitment.

Sierra hereby commits to provide a cash contribution to the Compensation Plan in the aggregate amount of \$2,100,000 (the "Sierra Contribution") on the terms and subject to the conditions set forth or referred to in this Commitment Letter.

2. Timing of Sierra Contribution

Sierra shall cause the Sierra Contribution to be made in three equal installments of \$700,000.00 (each a "Contribution Payment") in each case on the date which is the later of: (a) five (5) Business Days prior to the applicable Compensation Payment Date (as defined below) or (b) such other date as agreed by Sierra, the Debtor and Medley Capital which will provide the Debtor and Medley Capital with sufficient time to fund the amounts payable under the Compensation Plan on the applicable Compensation Payment Date (the "Payment Date").

3. Applicable Payee

(a) On each Payment Date, Sierra shall remit Contribution Payments directly to Medley Capital for use solely in accordance with Section 4 below.

(b) In the event Sierra shall ultimately become entitled to a claim resulting from a breach of this Commitment Letter pursuant to Section 6 of this Commitment Letter, Sierra shall be entitled to recover all amounts paid to Medley Capital hereunder by exercising a right of set off against any amounts otherwise owed by Sierra to Medley Capital. The Debtor and SIC Advisors each agree and acknowledge that, notwithstanding the remittance of any Contribution Payment to Medley Capital, the Debtor and SIC Advisors shall receive direct and indirect benefits as the result of Sierra's payment of the Contribution Payment to Medley Capital under such circumstances.

For purposes of this Commitment Letter, the term "Compensation Payment Date" shall mean each of September 30, 2021, December 31, 2021 and January 31, 2022. The term "Business Day" shall mean any day other than a Saturday, Sunday, or a day on which all banking institutions in New York, New York are authorized or obligated by Law or executive order to close.

4. Permitted Uses.

The Sierra Contribution shall be used solely to fund amounts to be paid under the Compensation Plan. As provided in the Compensation Plan, under certain circumstances, certain employees may forfeit a compensation payment which he or she would otherwise have been entitled to receive (a "Forfeited Compensation Payment") or may incur an obligation to repay compensation already received (a "Repayment Obligation"). The application of the portion of any Forfeited Compensation Payment and the proceeds of any Repayment Obligation, in each case solely to the extent committed or paid by Sierra (each, a "Sierra Recoupment") will be at Sierra's sole discretion, and Medley Capital and/or the Debtor, as applicable, shall pay over to Sierra the Sierra Recoupment promptly upon Sierra's written request therefor.

5. Conditions.

Sierra's obligations under this Commitment Letter are subject to the review and approval of definitive documents relating to the Compensation Plan, conditionally approved by the Bankruptcy Court for purposes of solicitation of votes, which shall be consistent in form and substance with the outline of the Compensation Plan attached as Exhibit 1 to the Term Sheet.

6. Termination and Remedies.

Sierra may terminate this Commitment Letter, including its commitment to fund the Sierra Contribution or any then remaining Contribution Payment by written notice to the Debtor, Medley Capital and SIC Advisors if (a) any party hereto (other than Sierra) fails to comply with any covenant or agreement set forth in this Commitment Letter, the Term Sheet or the Compensation Plan, (b) prior to entry of a final order of the Bankruptcy Court confirming the Debtor's Amended Plan in form and substance satisfactory to Sierra (the "Confirmation Order") or, a final order of the Bankruptcy Court approving the settlement with Sierra under Fed. Rule of Bankruptcy Procedure Rule 9019, which shall, for the avoidance of doubt, incorporate and approve the exculpation and release provisions of the Term Sheet, in form and substance satisfactory to Sierra (a "9019 Order"), any event occurs or information becomes available that, in the judgment of Sierra, results in or is likely to result in the failure to satisfy any condition set forth or referred to in this Commitment Letter, (c) SIC Advisors shall fail to comply with any covenant or agreement set forth in the Sierra Contract, (d) the Bankruptcy Court enters any order which is materially inconsistent with the Term Sheet, the Compensation Plan or the Amended Plan or the Bankruptcy Court enters an order confirming a competing plan that is materially inconsistent with the Term Sheet or the Compensation Plan, converting the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code or appointing a chapter 11 trustee, a responsible officer, or an examiner with enlarged powers (beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code) relating to the operation of the Debtor, (e) the Bankruptcy Court shall not have entered the Confirmation Order or a 9019 Order by November 30, 2021, (f) the Compensation Plan shall have been modified by the Debtor or Medley Capital at any time without the consent of Sierra, or (g) the Confirmation Order or a 9019 Order shall have been reversed, stayed, dismissed, vacated, reconsidered, modified, or amended in a manner inconsistent with the terms of the Term Sheet, the Amended Plan or the Compensation Plan. The provisions contained in Sections 3(b), 4 and 6 herein shall survive termination of this Commitment Letter (or any portion hereof) or the commitment of Sierra hereunder. Upon termination in accordance with this Section, and notwithstanding any other provision of this Commitment Letter to the contrary, Sierra shall have no further obligation to fund any portion of the Sierra Contribution or any Contribution Payment hereunder or under the Compensation Plan, and Sierra shall be entitled to recover and recoup all amounts remitted hereunder or under the Compensation Plan from the recipient of such payments, including pursuant to a right of setoff against any other amount owing by Sierra to the recipient of such payment.

7. Governing Law.

This Commitment Letter (a) shall be governed by, and construed in accordance with, the laws of the State of New York, (b) may be executed in one or more counterparts, each of which shall be an original and all of which, taken together, shall constitute one and the same instrument,

(c) sets forth the entire agreement among the parties relating to the subject matter pertaining hereto, and no term or provision hereof may be amended, changed, waived, discharged or terminated orally or otherwise, except in writing signed by each such party, and (d) shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Nothing set forth in this Commitment Letter, express or implied, is intended to confer on any person, other than the parties hereto or their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Commitment Letter.

Please indicate your acceptance of the terms this Commitment Letter by returning to us executed counterparts not later than 5 p.m. Eastern Time on August 6, 2021.

*[Remainder of Page Left Blank Intentionally]*

Very truly yours,

Sierra Income Corporation

By: \_\_\_\_\_

Name:

Title:

Acknowledged and agreed:

**MEDLEY LLC**

By: \_\_\_\_\_

Name:

**MEDLEY CAPITAL LLC**

By: \_\_\_\_\_

Name:

**SIC ADVISORS LLC**

By: \_\_\_\_\_

Name:

*[Signature Page to Commitment Letter]*