

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

SOUND SHORE MEDICAL CENTER
OF WESTCHESTER, *et al.*

Chapter 11
Case No. 13-22840 (rdd)

Debtors.
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**ORDER (A) SCHEDULING HEARING ON DEBTORS' MOTION
TO APPROVE PRIVATE SALE OF THE DEBTORS' REAL ESTATE AND
DESIGNATED PERSONAL PROPERTY ASSETS, AND (B) CONDITIONALLY
APPROVING A BREAK-UP FEE AND EXPENSE REIMBURSEMENT**

Upon the motion, dated May 29, 2013 [Docket No. 17] (the "**Motion**")¹, of Sound Shore Medical Center of Westchester ("**SSMC**"), and certain of its debtor affiliates, as debtors and debtors in possession (each a "**Debtor**" and collectively the "**Debtors**")², pursuant to sections 105, 363 and 365 of title 11 of the United States Code (the "**Bankruptcy Code**") and Rules 2002(a)(2) and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") for the entry of the Scheduling Order and (I) an order (the "**Procedures Order**"): (a) approving the Bidding Procedures for the Auction of the Debtors' Acquired Assets, (b) scheduling an Auction and Sale Hearing, (c) approving the form and manner of the Notice of the Auction and Sale Hearing, and (d) approving the Break-Up Fee and Expense Reimbursement (the "**Procedures Motion**"), and (II) entry of a subsequent order (x) approving a sale of the Acquired Assets, free and clear of all liens, claims and encumbrances, except as expressly assumed in the Purchase Agreement, to Montefiore SS Operations, Inc., Montefiore MV

¹ Capitalized terms used herein, unless herein defined, shall be used with the meanings ascribed to such terms in the Motion and the Supplemental Statement (each as hereinafter defined).

² The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number include: Sound Shore Health System, Inc. (1398), Sound Shore Medical Center of Westchester (0117), The Mount Vernon Hospital, Inc. (0115), Howe Avenue Nursing Home d/b/a Helen and Michael Schaffer Extended Care Center (0781), NRHMC Services Corporation (9137), The M.V.H. Corporation (1514) and New Rochelle Sound Shore Housing, LLC (0117). There are certain additional affiliates of the Debtors who are not debtors and have not sought relief under Chapter 11.

Operations, Inc., Montefiore HA Operations, Inc, and Montefiore SS Holdings, LLC, Montefiore MV Holdings, LLC, and Montefiore HA Holdings, LLC (collectively referred to the “Buyer”) or any other successful bidder at the Auction as determined by the Bidding Procedures, (y) approving the Assignment Procedures related to the assumption and assignment of certain executory contracts and unexpired leases related to the Acquired Assets, and fixing the Cure Amounts (as hereinafter defined), and (z) granting related relief (the “**Sale Motion**”); and upon the Debtors’ Supplemental Statement, dated June 21, 2013 [Docket No. 103] (the “**Supplemental Statement**”), seeking (i) a modification of the relief sought in the Motion to provide for approval of a private sale of the Acquired Assets to Buyer (the “**Private Sale**”) in accordance with a Restated Purchase Agreement and (ii) entry of this Order scheduling a hearing thereon; and upon the limited objection of Beckman Coulter, Inc. to the Motion; and there being no other objections to the relief granted herein; and upon the record of the hearing conducted on June 25, 2013; and it appearing that the relief requested and hereinafter provided is in the best interest of the Debtors’ estates; and after due deliberation thereon and good cause appearing therefor, it is hereby:

FOUND AND DETERMINED THAT:³

A. This Court has jurisdiction over the Procedures Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a) and 1334(b). Consideration of the Procedures Motion and the other relief requested therein, as modified by the Supplemental Statement is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

³ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact, when appropriate. See Fed. R. Bankr. P. 7052.

B. Good and sufficient notice of the relief sought in the Procedures Motion, as modified by the Supplemental Statement has been given and no further notice is required except as expressly provided herein. A reasonable opportunity to object or be heard regarding the relief requested in the Procedures Motion, as modified by the Supplemental Statement has been afforded to interested persons and entities, including: (a) the Office of the United States Trustee; (b) the Debtors' material prepetition and postpetition secured lenders or any agent therefor; (c) the holders of the 30 largest unsecured claims on a consolidated basis and, upon its appointment, counsel to the official committee of unsecured creditors (the "**Creditors' Committee**"); (d) the following state and local taxing and regulatory authorities: (i) the Centers for Medicare and Medicaid Services, (ii) the New York State Department of Health ("**DOH**"), (iii) the United States Attorney for the Southern District of New York, (iv) the Attorney General of the State of New York; (v) the Westchester County Attorney; (vi) the New Rochelle City Attorney, (vii) the Mount Vernon City Attorney, (viii) the Internal Revenue Service; (ix) the New York State Department of Taxation and Finance; (e) counsel to the Buyer; (f) counsel for the Department of Justice, (g) the United States Department of Health and Human Services, (h) all parties in interest who have requested notice pursuant to Bankruptcy Rule 2002; (i) all counter-parties to the Assigned Contracts; (j) all parties who are known to assert a Lien on the Acquired Assets;; and (k) all parties identified by the Debtors as potentially having an interest in acquiring some or all of the Acquired Assets ("**Notice Parties**").

C. The proposed Notice of Sale Hearing (the "**Sale Notice**") substantially in the form attached hereto as **Schedule 1** hereto, including, without limitation, the proposed private sale of the Acquired Assets and the assumption and assignment of the Assigned Contracts and determination of Cure Amounts as set forth in the Procedures Motion as modified by the

Supplemental Statement and the Restated Purchase Agreement, is good, appropriate, adequate, and sufficient, and is reasonably calculated to provide all interested parties, including the Notice Parties, and all Scheduled and Filed Creditors (as hereinafter defined), with timely and proper notice of the Sale and the assumption and assignment of the Assigned Contracts and Cure Amounts, and no other or further notice of the Sale, the assumption and assignment of the Assigned Contracts and Cure Amounts, or the procedures, as set forth herein and in the Procedures Motion, is required.

D. The Debtors have articulated good and sufficient reasons to this Court, specifically as relates to: (i) the broad and extensive prepetition marketing effort undertaken by the Debtors to find a strategic partner to acquire the Assets and preserve healthcare in the community, (ii) the potential savings to the Debtors' estates that could be realized by acceleration of the sale process, and (iii) additional consideration provided by the Buyer, to justify scheduling a hearing on the Private Sale of the Acquired Assets to the Buyer without the need for competitive bidding.

E. The Debtors have articulated good and sufficient reasons for, and the best interests of the Debtors' estates will be served by, this Court scheduling a prompt Sale Hearing to consider whether to grant the remainder of the relief requested in the Motion, including approval of the proposed Private Sale in accordance with the Restated Purchase Agreement between the Debtor and the Buyer, free and clear of, among other things, all liens, claims, encumbrances, and interests (other than the Permitted Liens) (collectively, "**Liens**") with the same to attach to the proceeds thereof pursuant to section 363 of the Bankruptcy Code.

F. The Break-Up Fee (redefined as the "**Termination Fee**" in the Restated Purchase Agreement) and Expense Reimbursement, to the extent payable under the

circumstances set forth in the Restated Purchase Agreement and herein, are (i) actual and necessary costs and expenses of preserving the Debtors' estates within the meaning of section 503(b) of the Bankruptcy Code, (ii) commensurate to the real and substantial benefit conferred upon the Debtors' estates by Buyer, (iii) reasonable and appropriate in light of the size and nature of the proposed Sale and comparable transactions, the commitments that have been made, and the efforts that have been and will be expended by Buyer, and (iv) necessary to induce Buyer to continue to pursue the Sale and to continue to be bound by the Restated Purchase Agreement.

G. The Debtors' authorization to pay the Break-Up Fee and Expense Reimbursement is an essential inducement and condition relating to Buyer's entry into, and continuing obligations under, the Restated Purchase Agreement. Accordingly, the Break-Up Fee and Expense Reimbursement are reasonable and appropriate.

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. All objections to entry of this Order or to the relief provided herein and requested in the Procedures Motion that have not been withdrawn, waived, resolved, or settled are hereby denied and overruled in their entirety.

Sale Hearing

2. The Sale Hearing shall be held before the Honorable Robert D. Drain, United States Bankruptcy Judge, on August 2, 2013 at 10:00 a.m. at the United States Bankruptcy Court, 300 Quarropas Street, White Plains, NY 10601-4140, at which time this Court shall consider (i) approval of the Private Sale to Buyer; (ii) the entry of the proposed sale order, in the form attached to the Motion as Exhibit B as the same may be amended or modified to account for a Private Sale (the "**Sale Order**"); (iii) any issues or objections that are timely interposed by any parties, including as to the proposed assumption and assignment of any

Assigned Contracts as pursuant to the procedures set forth in this Order; and (iv) such other or further relief as this Court may deem just or proper.

3. Except as may be limited by the Restated Purchase Agreement, the Sale Hearing may be adjourned by the Debtors, after consultation with the Creditors' Committee, without further order of this Court, by filing a notice with this Court and serving such notice on all Notice Parties (as defined below).

4. Nothing contained in this Order shall be construed as approving a Private Sale, and all rights of any party to object to a Private Sale of the Acquired Assets to Buyer are expressly reserved for the Sale Hearing.

Notice

5. The Notice of Sale Hearing (the "**Sale Notice**") substantially in the form attached hereto as Schedule 1 hereto is hereby approved.

6. By no later than June 28, 2013, the Debtors shall cause a copy of the Sale Notice and this Order to be served upon the Notice Parties and all creditors of the Debtors who are listed on the Schedules filed by the Debtors or who have filed proofs of claim against the Debtors' estates ("**Scheduled and Filed Creditors**") via first class mail.

7. The notice as set forth in the preceding paragraphs shall constitute good and sufficient notice of the Sale Motion, the Sale Hearing, the proposed Private Sale and the proposed Sale Order, and no other or further notice of the Sale Motion, the Sale Hearing, the Private Sale and/or the proposed Sale Order shall be necessary or required.

Objections to Motion

8. Objections, if any, to the Sale Motion and/or a proposed Private Sale must be made in writing, must state with particularity the reasons for the objection or response, must conform to the Bankruptcy Rules and the Local Rules of the Bankruptcy Court, must set forth

the name of the objecting party, the nature and basis of the objection and the specific grounds therefore, and must be filed with the Clerk of the Bankruptcy Court (with a copy to be delivered to the Chambers of the Honorable Robert D. Drain, United States Bankruptcy Judge, at the United States Bankruptcy Court, 300 Quarropas Street, White Plains, NY 10601-4140, and shall be served so as to be **received** no later than 4:00 p.m. prevailing Eastern Time on July 29, 2013 (the “**Objection Deadline**”), upon: (a) the Office of the United States Trustee, 33 Whitehall Street, New York, New York 10004, Attn: Susan Golden, Esq. and William E. Curtin, Esq.; (b) counsel for the Debtors, Garfunkel Wild, P.C., 111 Great Neck Road, Great Neck, New York 11021, Attn: Burton S. Weston, Esq. and Afsheen Shah, Esq.; (c) counsel for the Creditors’ Committee, Alston & Bird, LLP, 90 Park Avenue, New York, New York 10016 Attn: Martin G. Bunin, Esq. and Craig E. Freeman, Esq.; (d) counsel for the Buyer, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119, Attention: Frank A. Oswald, Esq.; and (e) counsel to the DIP Lender, Waller Lansden Dortch & Davis, LLP, 511 Union Street, Suite 2700, Nashville, TN 37219, Attn: Katie G. Stenberg, Esq. and Robert P. Sweeter, Esq., with a copy to the Court’s chambers.

Assigned Contracts

9. The Debtors shall file a copy of the Schedule of Assigned Contracts (the “**Assumption Schedule**”) with the Court no later than sixty (60) days prior to the closing of the Sale (the “**Closing Date**”) and shall concurrently serve notice of such schedule upon all counterparties to the Assigned Contracts and the Notice Parties. The Assumption Schedule shall identify the proposed Assigned Contracts and the corresponding Cure Amounts required by section 365 of the Bankruptcy Code, if any. The Debtors, with the consent of the Buyer, shall have the right to amend the Assumption Schedule before the tenth (10th) business day prior to the Closing of the Sale to remove any contracts or leases therefrom. All non-Debtor parties to the

Assigned Contracts shall have thirty (30) days after service of the Assumption Schedule to file an objection (an “**Assumption Objection**”) to the assumption and assignment of the Assigned Contracts listed on the Assumption Schedule to which they are parties, and/or to the Cure Amounts listed for those Assigned Contracts. Any party filing an Assumption Objection shall state with specificity the basis of the objection and what Cure Amount it asserts if it disputes the listed Cure Amount, and shall include appropriate documentation in support thereof.

10. The Debtors, with the consent of the Buyer, shall have the right to amend the Assumption Schedule at any time prior to ten (10) business days before the Closing of the Sale to add additional Assigned Contracts thereto. The Debtors shall file and serve notice of any such amendment (an “**Amendment Notice**”) on all non-Debtor parties to the Assigned Contracts added to the Assumption Schedule by that amendment. All non-Debtor parties to the Assigned Contracts added to the Assumption Schedule pursuant to this paragraph shall have until fifteen (15) days after the date of service of the applicable Amendment Notice to file an Assumption Objection.

11. If an Assumption Objection is timely filed and not consensually resolved, this Court may hold a hearing with respect to such Assumption Objection either at the Sale Hearing or at such other date as this Court shall designate. If the Assumption Objection relates only to the Cure Amount of an Assigned Contract, that Assigned Contract may be assumed by the Debtors and assigned to Buyer, provided, however, that the amount asserted by the objecting party as the proper Cure Amount, or a different amount set by this Court, shall be withheld from the Purchase Price and held in escrow pending further order of this Court or mutual agreement of the parties as to the proper Cure Amount for that Assigned Contract. The Debtors and Buyer are hereby authorized to settle, compromise, or otherwise resolve any disputed Cure Amounts with

the relevant non-Debtor party to any Assigned Contract without Court approval or notice to any party, provided that the Creditors' Committee does not object to the proposed resolution of the disputed Cure Amount within five (5) business days of receiving notice thereof. In the event that the Creditors' Committee objects to a proposed resolution of a disputed Cure Amount and such objection cannot be resolved consensually, the Court will hold a hearing on the objection.

12. If no Assumption Objection is timely filed and served, the non-Debtor party to such Assigned Contract will be deemed to have consented to its assumption and assignment as provided to the Buyer, and subject to entry of an Order by this Court at the Sale Hearing approving the Sale and the proposed assumption and assignment of the Assigned Contracts in connection therewith, the Cure Amounts set forth in the Assumption Schedule, as amended, shall be controlling notwithstanding anything to the contrary in such Assigned Contracts, and the non-Debtor parties to the Assigned Contracts shall be barred from asserting against the Debtors any other claim arising from the applicable Assigned Contracts or against the Buyer any claim arising before the Closing under the applicable Assigned Contracts.

13. The effective date of any assumption and assignment of any Assigned Contract shall be the date on which the Sale closes. Any Cure Amounts to be paid under any Assigned Contract shall be paid by Buyer (or Successful Bidder(s), as applicable) either prior to, upon, or promptly following the closing of the Sale or as otherwise agreed to by the parties to the Assigned Contract.

Break-Up Fee and Expense Reimbursement

14. The Debtors are authorized to pay the Break-Up Fee and Expense Reimbursement, to the extent incurred and solely in the event of the consummation of an

Alternate Transaction from the first proceeds of such transaction, without further order of the Court.

15. The terms of the Restated Purchase Agreement shall govern (i) the conditions under which the bid of Buyer is terminable (which are terms and conditions for termination of the Restated Purchase Agreement), (ii) Buyer's entitlement to payment of the Deposit, and (iii) the Break-Up Fee and Expense Reimbursement; provided that they shall be consistent with the description thereof in the Supplemental Statement.

Additional Provisions

16. The Debtors are authorized and empowered to take such steps, incur and pay such costs and expenses, and do such things as may be reasonably necessary to fulfill the requirements established by this Order.

17. Nothing contained in this Order precludes any party in interest from objecting to the Sale, including a Private Sale, in accordance with the objections procedures set forth herein and no party shall be deemed to have consented to the Private Sale or other Sale by virtue of not having objected to the Procedures Motion.

18. This Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Order, including jurisdiction to allocate the consideration paid for some or all of the Assets to each individual asset, as necessary, to determine the proceeds to which a Lien attached.

19. In the event of any inconsistency between the terms and conditions of the Restated Purchase Agreement and this Order, the provisions of this Order shall govern and control.

20. Notwithstanding Bankruptcy Rules 6004(g) and 6006(d), this Order shall not be stayed for fourteen (14) days after the entry hereof and shall be effective and enforceable immediately upon entry hereof.

Dated: June 25, 2013
White Plains, New York

/s/Robert D. Drain
HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Schedule 1

Sale Notice

SALE HEARING DATE AND TIME: August 2, 2013 at 10:00 a.m. (prevailing Eastern Time)
OBJECTION DEADLINE DATE AND TIME: July 29, 2013 at 4:00 p.m. (prevailing Eastern Time)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re:
SOUND SHORE MEDICAL CENTER
OF WESTCHESTER, et al.

Chapter 11
Case No. 13-22840 (RDD)

Debtors.
-----X

**NOTICE HEARING TO CONSIDER
APPROVAL OF THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS'
REAL PROPERTY AND DESIGNATED PERSONAL PROPERTY ACQUIRED ASSETS**

NOTICE IS HEREBY GIVEN, as follows:

1. On May 29, 2013, Sound Shore Medical Center of Westchester, and certain of its debtor affiliates¹, filed a motion (the "Motion")² which in pertinent part (the "Bidding Procedures Motion") sought entry of an order (the "Bidding Procedures Order") pursuant to sections 105, 363 and 365 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002(a)(2) and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"): (a) approving the proposed Bidding Procedures and the schedule to be used in connection with the proposed sale of the Debtors' Acquired Assets, free and clear of all liens, claims and encumbrances, security interests and other interests, to Montefiore SS Operations, Inc., Montefiore MV Operations, Inc., Montefiore HA Operations, Inc, and Montefiore SS Holdings, LLC, Montefiore MV Holdings, LLC, and Montefiore HA Holdings, LLC, (collectively, "MMC" or "Buyer"), or to any competing bidder or bidders (the "Successful

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number include: Sound Shore Health System, Inc. (1398), Sound Shore Medical Center of Westchester (0117), The Mount Vernon Hospital, Inc. (0115), Howe Avenue Nursing Home d/b/a Helen and Michael Schaffer Extended Care Center (0781), NRHMC Services Corporation (9137), The M.V.H. Corporation (1514) and New Rochelle Sound Shore Housing, LLC. There are certain additional affiliates of the Debtors who are not debtors and have not sought relief under Chapter 11.

² Capitalized terms used herein, unless herein defined, are used with the meanings ascribed to such terms in the Motion.

Bidder(s)”) that submits or collectively submit a higher or better offer or offers for the Acquired Assets, (b) scheduling an Auction and a Sale Hearing to approve the Sale of the Acquired Assets; (c) approving the form and manner of the notice of the Auction and Sale Hearing; and (d) approving the Break-Up Fee and certain overbid procedures in connection therewith.

2. On May 31, 2013, the Bankruptcy Court entered an Order scheduling a hearing on the Bidding Procedures Motion [Dkt. No. 36]. On June 21, 2013, the Debtors filed a Supplemental Statement, [Docket No. 103] (the “Supplemental Statement”), seeking (i) a modification of the relief sought in the Motion to provide for approval of a private sale of the Acquired Assets to MMC (the “Private Sale”) in accordance with a Restated Purchase Agreement. An Order scheduling a hearing on the proposed private sale of the Acquired Assets (the “Scheduling Order”) was entered on June __, 2013. A copy of each of the Motion and the Scheduling Order may be obtained by: (i) accessing the Bankruptcy Court’s website at www.nysb.uscourts.gov (password required), (ii) going in person to the Office of the Clerk of the Bankruptcy Court at the United States Bankruptcy Court, Southern District of New York, 300 Quarropas Street, White Plains, NY 10601-4140, or (iii) contacting Burton S. Weston, Esq. of Garfunkel Wild, P.C., counsel to the Debtors, at 111 Great Neck Road, Great Neck, NY 11021, by telephone at (516) 393-2588 or by email to bweston@garfunkelwild.com.

3. The Scheduling Order provides that a Sale Hearing will be held on **August 2, 2013 at 10:00 a.m.** (prevailing Eastern time) before the Honorable Robert D. Drain, United States Bankruptcy Judge, at the United States Bankruptcy Court, 300 Quarropas Street, White Plains, NY 10601-4140 (the “Bankruptcy Court”).

4. At the Sale Hearing, the Debtors will request that the Bankruptcy Court enter an order, among other things, approving the proposed Private Sale of the Acquired Assets

and the assumption and assignment of the Assigned Contracts and determination of Cure Amounts as set forth in the Procedures Motion, as modified by the Supplemental Statement and the Restated Purchase Agreement. In addition, the Debtors shall request that the Bankruptcy Court provide that the transfer of the Acquired Assets be (i) free and clear of all liens, claims and interests, including successor liability claims except as expressly assumed by Buyer; and (ii) exempt from any stamp tax or similar tax.

5. At the Sale Hearing, the Bankruptcy Court may enter such orders as it deems appropriate under applicable law and as required by the circumstances and equities of these Chapter 11 cases. Objections, if any, to the Sale Motion, including any Objections to the private nature of the sale, must be made in writing, must state with particularity the reasons for the objection or response, and must be filed with the Clerk of the Bankruptcy Court, with copies delivered to the Bankruptcy Court and received by the Chambers of the Honorable Robert D. Drain, United States Bankruptcy Judge, 300 Quarropas Street, White Plains, NY 10601-4140, must conform to the Bankruptcy Rules and the Local Rules of the Bankruptcy Court, must set forth the name of the objecting party, the nature and basis of the objection and the specific grounds therefore and must be served upon: (a) the Office of the United States Trustee, 33 Whitehall Street, New York, New York 10004, Attn: Susan D. Golden, Esq. and William E. Curtin, Esq.; (b) counsel for the Debtors, Garfunkel Wild, P.C., 111 Great Neck Road, Great Neck, New York 11021, Attn: Burton S. Weston, Esq; (c) counsel to the Committee, Alston & Bird, LLP, 90 Park Avenue, New York, New York 10016, Attn: Marty G. Bunin, Esq. and Craig E. Freeman, Esq.; (d) counsel to DIP Lender, Waller Lansden Dortch & Davis, LLP, 511 Union Street, Suite 2700, Nashville, TN 37219, Attn: Katie G. Stenberg and Daniel Flournoy; (e) counsel for the Buyer, Togut, Segal & Segal, LLP, One Penn Plaza, Suite 335, New York, New

York, Attn: Frank A. Oswald, Esq., so as to be actually received by 4:00 p.m. (prevailing Eastern Time) on **July 29, 2013**.

6. Requests for information concerning the proposed Private Sale should be directed by written or telephonic request to: Burton S. Weston, Esq. of Garfunkel Wild, P.C., counsel to the Debtors, at 111 Great Neck Road, Great Neck, NY 11021, by telephone at (516) 393-2588 or by email at bweston@garfunkelwild.com.

DATED: Great Neck, New York
June __, 2013

GARFUNKEL WILD, P.C.
Counsel for the Debtors

By: _____
Burton S. Weston
A Member of the Firm
111 Great Neck Road, Great Neck, NY 11021
Telephone No.: (516) 393-2200