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Hearing date: August, 2, 2013 at 10:00 a.m.
Objections due: July 26, 2013 at 4:00 p.m.

*Proposed Counsel for Debtors
And Debtors in Possession*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

Chapter 11 Case
Case No. 13- 22840 (RDD)

Debtors.

(Jointly Administered)

-----X
**MOTION FOR ENTRY OF AN ORDER PURSUANT TO
SECTIONS 105 (a) AND 363(b) AUTHORIZING THE DEBTORS
TO PAY REQUIRED POOL PAYMENTS AND ASSESSMENTS
TO THE NEW YORK STATE DEPARTMENT OF HEALTH**

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")¹ in the above captioned chapter 11 cases (the "Chapter 11 Cases"), by and through their proposed attorneys, Garfunkel Wild, P.C., hereby move (the "Motion") for entry of an Order, pursuant to sections 105(a) and 363(b) of title 11 of the United States Code (the "Bankruptcy Code"), substantially in the form of Exhibit A hereto, authorizing, but not directing, the Debtors to pay required pool payments and assessments to the New York State

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 (0117). There are certain additional affiliates of the Debtors who are not debtors and have not sought relief under Chapter 11.

Department of Health State of New York (the “**State**”) in accordance with applicable regulatory and public health laws. In support of the Motion, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. This motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicates for the relief sought herein are sections 105(a) and 363(b) of the Bankruptcy Code, and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

BACKGROUND

4. On May 29, 2013 (the “**Petition Date**”), each Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors’ cases are being jointly administered for procedural purposes only.

5. The Debtors are operating their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

6. On June 10, 2013, the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”) appointed an official committee of unsecured creditors (the “**Committee**”) pursuant to section 1102 of the Bankruptcy Code. The Committee has engaged Alston & Bird, LLP as its proposed counsel. No trustee or examiner has been appointed.

SUMMARY OF RELIEF REQUESTED

7. By this Motion, the Debtors are seeking authority to make certain required payments to the State on account of their Indigent Care Pool Liabilities, their Public Goods Pool Liabilities, and the Health Care Reform Act Statewide Assessment accruing prepetition. In accordance with the provisions of the New York State Health Care Reform Act (HCRA), the Health Facility Cash Receipts Assessment Program and the Bad Debt and Charity Care Program (collectively, the **"Pool Programs"**), the Debtors are required to submit certain mandatory payments and assessments (the **"Pool Payments"**) to the State. Compliance with their obligations to make the Pool Payments entitles the Debtors to receive reimbursements for charity care and services provided by the Debtors to the community's indigent and underserved population.

8. The Debtors are entitled to receive certain reimbursements (the **"Reimbursements"**) in connection with indigent care and charitable services rendered by them. As of the Petition Date, the Debtors were owed \$970,181.85 from the State for Reimbursements. The Debtors, in turn, owe the State the amount of \$601,737 for required Pool Payments covering the period of March 1, 2013 through May 31, 2013. The State has advised that it will not release the Reimbursements absent the Debtors' prior submission of the required Pool Payments.

9. By making the Pool Payments the Debtors will receive a net benefit to their estates of approximately \$368,444. Moreover, the amount required to be paid for outstanding Pool Payments will not hinder ongoing operations and indeed was anticipated as a necessary expense of the estates. On the other hand, the immediate recoupment of all remaining amounts absent the concurrent payment of Reimbursements by the State will negatively impact the

Debtors' reorganization efforts. The relief requested is thus important to ensuring continuity of the Debtors' ongoing operations.

10. In addition, the Debtors are required by applicable regulations to make the Pool Payments. Any failure by the Debtors to make the required Pool Payments will disrupt their revenue stream and overall liquidity as all existing and future Reimbursements will be withheld by the State absent remittance of the Pool Payments. By making the required Pool Payments, the Debtors can ensure that they will receive continued funding relating to the Pool Programs without any interruption. Additionally, while the Debtors do not concede that a valid and enforceable right to recoupment exists, by continuing to make the required payments, any potential recoupment of the Pool Payments by the State can be avoided.

DEBTORS HISTORY AND BUSINESS

11. A significant portion of the Debtors' core business is focused around Sound Shore Medical Center of Westchester ("**SSMC**"). SSMC is a not-for-profit 242-bed, community-based teaching hospital offering primary, acute, emergency and long-term health care to the working class residents of southern Westchester. SSMC's affiliate, Mount Vernon Hospital ("**MVH**"), is a voluntary, not-for-profit, 176-bed hospital located in Mount Vernon, New York. MVH also operates the Dorothea Hopfer School of Nursing, chartered by New York State since 1901. Howe Avenue Nursing Home d/b/a Helen and Michael Schaffer Extended Care Center ("**SECC**"), the third operating Debtor, is a 150-bed, comprehensive facility offering short-term rehabilitation/sub-acute care, as well as skilled long-term care. (SSMC, MVH and SECC are sometimes collectively referred to as the "**Medical Centers**")

12. SSMC, MVH and SECC (with their affiliated Debtors) together comprise the Sound Shore Health System, Inc. ("**SSHS**" or the "**System**") which was formed in 1997 when

the three affiliated healthcare institutions joined together to create one of the largest regional healthcare systems between New York City and Albany. Today, the System provides a range of specialized services, including orthopedic surgery, behavioral health, pediatrics, OB/GYN, continuing care facilities, a nursing home and community care clinics providing primary care services for the indigent and uninsured. Their affiliation with the New York College of Medicine also enables the Debtors to provide a teaching environment in multiple disciplines to their community and patients.

13. As the largest “safety net” providers for southern Westchester County, the Medical Centers serve a disproportionate share of patients in the Medicaid and uninsured populations. Annually, they are responsible for approximately 13,000 acute discharges, 55,000 emergency department visits and 60,000 indigent care clinic visits.

14. Given the historical determination of the Debtors’ financial condition and the pressing need to find a strategic partner, which has been recounted in detail to the Court, Montefiore Medical Center (“**MMC**”) entered into an asset purchase agreement (the “**Purchase Agreement**”) providing for the sale of all of their Owned Real Property, Furniture, Fixtures, Inventory, Assigned Contracts and related operating assets, which collectively comprise the Acquired Assets (all as therein defined), to MMC which will thereafter continue operations at the Debtors’ former facilities under their own auspices. On the Petition Date, a motion to approve the Sale to MMC or any other party making a higher or better offer was filed.

THE POOL PROGRAMS

15. In the ordinary course of their operations and in accordance with the State’s Pool Programs, the Debtors are required to submit mandatory Pool Payments to the State in amounts assessed by the State. Failure to remit the Pool Payments can prevent the continued receipt of

necessary Reimbursements granted to the Debtors for the ongoing provision of charitable care. Indeed, the Reimbursements are critical to the continued viability of the Debtors' services, particularly as they relate to the indigent and underserved population. Any failure to meet community and patient expectations at this time may jeopardize the Debtors' reorganization prospects. As such, the Debtors' ability to fund such care is critical to the Debtors' continued operations.

16. There is presently due and owing the amount of \$601,737 to the State for Pool Payments. In turn, the Debtors are owed \$970,181.85 for Reimbursements. As indicated above, the State will not issue Reimbursements to the Debtors absent the prior remittance of outstanding Pool Payments. By making the Pool Payments, the Debtors will receive a net benefit to their estates of \$368,444. Additionally, as set forth above, absent the Debtors' compliance with their obligations under the Pool Programs, the State may seek to recoup the outstanding amount due for the Pool Payments. Any such efforts on the part of the State would significantly impede the progress of these Chapter 11 Cases and the proposed sale of the Debtors' assets to MMC. Accordingly, the payment of the Pool Payments is in the best interests of the Debtors' estates, and all parties in interest.

RELIEF REQUESTED

17. By this Motion, the Debtors seek authority pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, and the "doctrine of necessity," where applicable, to make required Pool Payments to the State and continue honoring their obligations under the Pool Programs. It is important to the preservation of the estate and the ongoing operations of the Debtors that the Debtors continue to receive Reimbursement for patient services and charitable care services on an uninterrupted basis. These payments constitute a meaningful portion of the Debtors'

aggregate revenue and any interruption would result in further constraint on the Debtors' liquidity. Continuity of the Pool Payments would also avoid a potential holdback by the State that could otherwise be asserted during the initial stages of these Chapter 11 Cases.

BASIS FOR RELIEF

18. Sections 1107(a) and 1108 of the Bankruptcy Code authorize a debtor in possession to continue to operate its business. Further, section 363(c) of the Bankruptcy Code authorizes a debtor in possession operating its business pursuant to section 1108 of the Bankruptcy Code to use property of the estate in the ordinary course of its business without notice or hearing. The Debtors submit that the continued payment of the Pool Payments is in the ordinary course of the Debtors' businesses and permitted by sections 363(c), 1107(a) and 1108 of the Bankruptcy Code. Notwithstanding, and out of an abundance of caution, the Debtors respectfully request authority, as set forth herein, to make the required Pool Payments.

19. Section 105(a) of the Bankruptcy Code further provides:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provisions of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, *sua sponte*, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process. 11 U.S.C. § 105(a).

20. Pursuant to section 105(a) of the Bankruptcy Code, orders are appropriate where they are essential to the debtor's reorganization efforts and do not pose a burden on the debtor's creditors. Accordingly, Courts frequently apply section 105(a) to authorize relief in chapter 11 cases, similar to that sought herein, where the debtor seeks authority to satisfy certain prepetition obligations. A bankruptcy court may use its equitable powers to "authorize the payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor." In re Ionosphere Clubs, Inc., 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989); see Michigan Bureau of

Workers' Disability Compensation v. Chateaugay Corp. (In re Chateaugay Corp.), 80 B.R. 279, 286 (S.D.N.Y. 1987) (affirming a bankruptcy court order authorizing the debtor to pay pre-bankruptcy wages, salaries, employee benefits, reimbursements); In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (reasoning that because debtor in possession has fiduciary duties it must meet, it is logical that the bankruptcy court may "authorize satisfaction of the prepetition claim in aid of preservation or enhancement of the estate" under section 105(a)).

21. The Court may also grant the relief requested herein pursuant to section 363 of the Bankruptcy Code, which provides that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). In order to do so, "the debtor must articulate some business justification, other than the mere appeasement of major creditors." In re Ionosphere Clubs, Inc., 98 B.R. at 175; see Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1070 (2d Cir. 1983); In re Global Crossing Ltd., 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003).

22. Courts in this district also rely on the "necessity of payment" doctrine, first enunciated by the Supreme Court in Miltenberger v. Logansport C. & S.W. Ry. Co., 106 U.S. 286 (1882), by which courts may authorize a debtor to make postpetition payments with respect to prepetition claims where such payments are necessary for the preservation of the estate. See, e.g., (In re Chateaugay Corp.), 80 B.R. at 285-87 (finding that a court's equitable powers include authorizing a debtor to pay prepetition debts); In re Ionosphere Clubs, Inc., 98 B.R. at 176 ("The 'necessity of payment' doctrine . . . 'permits immediate payment of claims of creditors where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims shall have been paid.'").

23. Although the obligations relating to the outstanding Pool Payments arose prior to the Petition Date, the continued payment of the obligations will ensure continuity of the Debtors' operations and preservation of the sale process. Additionally, remittance of the Pool Payments is necessary under relevant healthcare regulations and public health laws applicable to the Debtors.

24. Further, to the extent continued payments are not made to the State, it is anticipated that the State may attempt to recoup the payments through an immediate take-back under applicable regulatory laws. As indicated above, any disruption in the Debtors' revenue stream as a result of such recoupment on the part of the State would severely impact the Debtors' liquidity and reorganization prospects and could potentially jeopardize the proposed sale of the Debtors' assets to MMC.

25. The amount payable with respect to the Pool Payments is \$601,737 and minimal in comparison to the amount the Debtors will consequently be entitled to receive for Reimbursements. Ultimately, a net benefit of \$368,444 will be effected upon the estates. Accordingly, the Debtors submit that submitting the required Pool Payments is the product of the Debtors' sound business judgment. In light of the potential harm to the Debtors' estates and creditors in the event that the State were to continue the existing freeze on Reimbursements, the Debtors believe that they will maximize the value of their estates for the benefit of creditors and patients by making all mandatory Pool Payments.

26. For the foregoing reasons, the Debtors believe that granting the relief requested herein is appropriate and in the best interests of all parties in interest.

RESERVATION OF RIGHTS

27. Notwithstanding anything in this Motion or the Order to the contrary, the payment of any amounts pursuant to the Order (if entered by the Court) shall not make such obligations administrative expenses of the estates entitled to priority status under sections 503 and 507 of the Bankruptcy Code.

28. The Debtors do not to seek to assume any executory contracts or obligations at this time and, therefore, nothing contained in this Motion should be deemed to be an assumption or adoption of any policy, procedure or executory contract that may be described or referenced herein.

29. Additionally, by seeking to comply with their obligations under the Pool Programs, the Debtors do not concede that the State possesses a valid and enforceable right of recoupment of the prepetition overpayments against the Debtors.

REQUEST FOR IMMEDIATE RELIEF AND WAIVER OF STAY

30. Bankruptcy Rule 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." As set forth above, the immediate payment of the amounts contemplated by this Motion are essential to prevent immediate and potentially irreparable damage to the Debtors' services and patient care generally, and to maximize the value of the Debtors' assets available to stakeholders. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the 14 day stay imposed by Bankruptcy Rule 6004(h), to the extent that it applies.

NOTICE

31. In accordance with the Administrative Order Establishing Case Management and Scheduling Procedures (the "**Case Management Order**"), entered on June 4, 2013, notice of this Motion has been given to the parties identified on the General Service List and the Master Service List (as such terms are identified in the Case Management Order). The Debtors submit that no other or further notice need be provided.

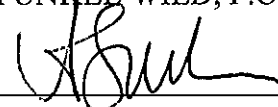
NO PRIOR REQUEST

32. No previous request for the relief sought herein has been made to this or any other court.

WHEREFORE the Debtors respectfully request that the Court enter an order substantially similar to the proposed order, attached hereto as Exhibit A, granting the relief requested herein, and granting the Debtors such other and further relief as is just and proper.

Dated: July 3, 2013
Great Neck, New York

GARFUNKEL WILD, P.C.

By: _____

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*Proposed Counsel for the Debtors
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Hearing Date: August 2, 2013 at 10:00 a.m.
Objection Deadline: July 26, 2013 at 4:00 p.m.

*Proposed Counsel for the Debtor
and Debtor-in-Possession*

**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.

(Jointly Administered)

-----X

**NOTICE OF HEARING ON MOTION FOR ENTRY OF AN ORDER PURSUANT TO
SECTIONS 105(A) AND 363(B) AUTHORIZING THE DEBTORS TO PAY REQUIRED
POOL PAYMENTS AND ASSESSMENTS TO THE NEW YORK STATE
DEPARTMENT OF HEALTH**

PLEASE TAKE NOTICE that upon the annexed Motion of Sound Shore Medical Center of Westchester ("**SSMC**" or "**Debtor**") and certain of its affiliates, as Chapter 11 debtors and debtors in possession herein (each a "**Debtor**" and collectively the "**Debtors**")¹, dated July 3, 2013, a hearing will be held before the Honorable Robert D. Drain, United States Bankruptcy Judge for the Southern District of New York, at the United States Bankruptcy Court, Southern District of New York, 300 Quarropas Street, White Plains, New York 10601, on the 2nd day of August, 2013 at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, to consider the entry of an Order, pursuant to sections 105(a) and 363(b) authorizing the

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtors' 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 Schaeffer 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.

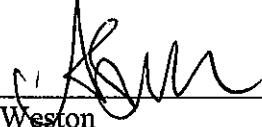
debtors to pay required pool payments and assessments to the New York State Department of Health, and granting such other and further relief as is just and proper.

PLEASE TAKE FURTHER NOTICE, that objections to the relief requested shall be made in writing, shall state with particularity the grounds for the objection, and shall be and filed with the Bankruptcy Court, in electronic format, by utilizing the Court's electronic case filing system at www.nysb.uscourts.gov, or if the same cannot be filed electronically, by manually filing same with the Clerk of the Court together with a cd-rom containing same in Word, Wordperfect or pdf format, with a hard copy provided to the Clerk's Office at the Bankruptcy Court for delivery to the Chambers of the Honorable Robert D. Drain and upon (i) Garfunkel Wild, P.C., 111 Great Neck Road, Great Neck, New York 11021, attention Burton S. Weston, Esq., and Afsheen A. Shah, Esq., counsel for the Debtors; (ii) Alston & Bird, LLP, 90 Park Avenue, New York, New York 10016, Attn: Martin G. Bunin, Esq., counsel to the official committee of unsecured creditors; (iii) MidCap Financial, LLC, 7255 Woodmont Avenue, Suite 200, Bethesda, MD 20814, attention: Lisa J. Lenderman, Esq., Deputy General Counsel, counsel to Debtors' postpetition lender; (iv) Togut, Segal and Segal, One Penn Plaza, New York, New York 10019, attention Frank Oswald, Esq., and Scott Griffin, Esq, counsel to Montefiore Medical Center; and (v) Office of the United States Trustee, 33 Whitehall Street, New York, New York 10004, Attn: Susan Golden, Esq., so as to be received no later than July 26, 2013 at 4:00 p.m.

PLEASE TAKE FURTHER NOTICE that the hearing on the Motion may be
adjourned without further notice except as announced in open court on the Hearing Date, or at
any adjourned hearing.

Dated: Great Neck, New York
July 3, 2013

Respectfully submitted,

By: 
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*Proposed Attorneys For Debtor
and Debtor in Possession*

EXHIBIT A

PROPOSED ORDER

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
In re:

Chapter 11

SOUND SHORE MEDICAL CENTER
OF WESTCHESTER, et al.

Case No. 13-22840(RDD)

Debtors.
-----x

**ORDER AUTHORIZING THE HONORING AND CONTINUATION OF
PERFORMANCE UNDER PREPETITION AGREEMENTS WITH
THE STATE OF NEW YORK AND MEDICAID FRAUD CONTROL UNIT**

Upon the Motion (the “**Motion**”)¹ of Sound Shore Medical Center of Westchester (“**SSMC**”) and certain of its affiliates, as Chapter 11 debtors and debtors in possession (each a “**Debtor**” and collectively, the “**Debtors**”)² in the above-referenced Chapter 11 cases (the “**Chapter 11 Cases**”) for entry of an Order authorizing, but not directing, the Debtors to pay required pool payments and assessments to the New York State Department of Health State of New York (the “**State**”) in accordance with applicable regulatory and public health laws; and the Court having subject matter jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a) and § 1334(b); the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided as set forth in the Motion; and no other or further notice needing to be provided except as set forth herein; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Motion, and upon the record of the hearing held

¹ Capitalized terms, unless herein defined, shall have the meaning set forth in the Motion.

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.

before the Court on August 2, 2013 (the "**Hearing**"); and the Court having determined that the legal and factual bases set forth in the Motion, and at the Hearing, establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefore,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.
2. Pursuant to sections 105 and 363(b) of the Bankruptcy Code, the Debtors are authorized, but not directed, to make the required Pool Payments to the State, as described more specifically in the Motion.
3. The Debtors are authorized, but not directed, to take all actions necessary to implement the relief granted in this Order.
4. Notwithstanding anything in this Order to the contrary, the remittance of any Pool Payments pursuant to this Order shall not make such obligations administrative expenses of the estates entitled to priority status under sections 503 and 507 of the Bankruptcy Code.
5. Nothing contained in this Order shall be deemed to be an assumption or adoption of any policy, procedure or executory contract that may be described or referenced herein or in the Motion.
6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry pursuant to Bankruptcy Rule 6004(h).
7. The requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.
8. The Bankruptcy Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the implementation of this Order.

Dated: White Plains, New York
August __, 2013

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE