

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re :
: Chapter 11 Case
NORTH GENERAL HOSPITAL, *et al.*, : No. 10-13553 (SCC)
:
Debtors. : **Jointly Administered**
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AMENDED ORDER (I) APPROVING REVISED SECOND AMENDED DISCLOSURE STATEMENT, (II) ESTABLISHING PROCEDURES FOR THE SOLICITATION AND TABULATION OF VOTES TO ACCEPT OR REJECT THE PLAN, AND (III) SCHEDULING HEARING ON CONFIRMATION OF DEBTORS' JOINT PLAN OF LIQUIDATION AND APPROVING RELATED NOTICE AND OBJECTION PROCEDURES

North General Service Corporation, North General Hospital and North General Diagnostic & Treatment Center (collectively, the "**Debtors**")¹, having filed with this Court the *Revised Second Amended Plan of Liquidation* (the "**Plan**"), dated January 10, 2011 and the *Revised Second Amended Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code for Chapter 11 Plan of Liquidation* dated January 10, 2011 (the "**Disclosure Statement**"), as such Plan and Disclosure Statement were amended and revised², and; upon the Debtors' *Motion (I) Approving the Disclosure Statement, (II) Establishing Procedures for the Solicitation and Tabulation of Votes to Accept or Reject the Plan, and (III) Scheduling Hearing on Confirmation of Debtors' Joint Plan of Reorganization (Liquidation) and Approving Related Notice and Objection Procedures* (the "**Motion**"), dated December 16, 2010; the Disclosure Statement Hearing Notice

¹ All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

² The initial Disclosure Statement and Plan were filed on October 29, 2010. The First Amended Disclosure Statement and First Amended Plan were filed on December 8, 2010. The Second Amended Disclosure Statement and Second Amended Plan were filed on December 15, 2010. At the direction of the Court and in order to address objections filed by various parties-in-interest, the Second Amended Disclosure Statement and Plan were subsequently revised and on January 10, 2011, the Debtors' filed their Revised Second Amended Disclosure Statement and Revised Second Amended Plan.

having been properly served upon the Debtors' creditors and equity security holders; a hearing on the Plan and Disclosure Statement having been held on January 10, 2011 and it having been determined by this Court that the Disclosure Statement contains "adequate information" within the meaning of § 1125 of title 11 of the Bankruptcy Code; the Court having determined that the form of notice of non-voting status ("**Notice of Non-Voting Status**") to be sent to holders of claims and interests in Classes 1(a), 2 and 4, substantially in the form annexed hereto as Exhibit "1", is in compliance with Bankruptcy Rule 3017 and adequately addresses the particular needs of the Chapter 11 Cases; the Court having determined that the forms of the Ballots annexed hereto as Exhibit "2" are substantially consistent with Official Form No. 14, addresses the particular needs of the Chapter 11 Cases and are appropriate for each Class of Claims entitled to vote to accept or reject the Plan; the Court having determined that the Ballots contain sufficient information to assure that duplicate Ballots are not submitted and tabulated and that Ballots reflect the votes of creditors; the Court having determined that Ballots need not be provided to the Holders of Claims in Classes 1(a) and 2 because the Plan provides that such Classes are unimpaired and, therefore, conclusively presumed to accept the Plan; the Court having determined that Ballots need not be provided to the Holders of Interests in Class 4 because the Plan provides that such Holders will not receive or retain any property under the Plan on account of such Interests and, therefore, are deemed to reject the Plan on account of such Interests; the Court having determined that the period during which the Debtors may solicit acceptances to the Plan is a reasonable and adequate period of time for creditors to make an informed decision to accept or reject the Plan; the Court having determined that the procedures for the solicitation and tabulation of votes to

accept or reject the Plan provide for a fair and equitable voting process and are consistent with § 1126 of the Bankruptcy Code, and; the Court having determined that the Confirmation Hearing Notice substantially in the form annexed hereto as Exhibit "3", the procedures for providing notice to all creditors and equity security holders of the time, date and place of the Confirmation Hearing, and the contents of the Solicitation Packages comply with Rules 2002 and 3017 of the Bankruptcy Rules and constitute sufficient notice to all interested parties.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is granted.
2. The Disclosure Statement is approved.
3. **January 10, 2011 is established as the Voting Record Date** for purposes of this Order and determining the creditors who are entitled to vote to accept or reject the Plan. The Debtors are directed to distribute or cause to be distributed Solicitation Packages to all Holders of Claims in Classes 1(b), 3(a) and 3(b) (collectively, the "**Voting Classes**"), including:

(a) all persons or entities identified in the Debtors' Schedules as holding liquidated, noncontingent and undisputed Claims in an amount greater than zero dollars, excluding scheduled Claims that have been paid in full or superseded by filed proofs of claim,

(b) all persons or entities identified in the Debtors' Schedules as holding unliquidated, contingent and disputed Claims in an amount greater than zero dollars,

(c) all parties having timely filed proofs of claim, as reflected in the official claims register maintained by Epiq Bankruptcy Solutions, LLC (the "**Voting Agent**") (i) in an amount greater than zero and (ii) that have not been disallowed or expunged prior to the Solicitation Date,

(d) the assignee of a transferred and assigned Claim (whether a filed or scheduled Claim) whose transfer and assignment has been properly noted on the Court's docket and is effective pursuant to Bankruptcy Rule 3001(e) as of the close of business on the Voting

Record Date and whose claims have not been disallowed or expunged prior to the Solicitation Date, and

(e) any other known Holders of Claims as of the Voting Record Date.

5. The Solicitation Packages shall contain copies of: (a) a cover letter describing the contents of the Solicitation Package; (b) the Order (without exhibits); (c) the Confirmation Hearing Notice; (d) an appropriate form of Ballot together with a pre-addressed, postage prepaid return envelope addressed to North General Hospital, Ballot Processing Center, to Epiq Bankruptcy Solutions, LLC, F.D.R. Station, P.O. Box 5014, New York, New York 10150-5014; and (e) the Disclosure Statement (together with the Plan annexed thereto and all other appendices).

6. The form of Notice of Non-Voting Status, substantially in the form annexed hereto as Exhibit "1," is approved and shall be distributed to Holders, as of the Voting Record Date, of: (a) unimpaired Claims and Interests in Classes 1(a) and 2, which classes are conclusively presumed to accept the Plan, and (b) Interests in Class 4, which is deemed to reject the Plan.

7. The Confirmation Hearing Notice, substantially in the form annexed hereto as Exhibit "3," is approved and (together with a copy of this Order without exhibits) shall be transmitted to all creditors and equity security holders of the Debtors.

8. With respect to addresses from which notices of the hearing to approve the Disclosure Statement were returned as undeliverable by the United States Postal Service: (a) the Debtors are excused from distributing Solicitation Packages and/or Notices of Non-Voting Status to those entities listed at such addresses unless the Debtors are provided with accurate addresses for such entities prior to the Voting Record Date; and (b) failure to distribute Solicitation Packages to such entities will not constitute

inadequate notice of the Confirmation Hearing, the Voting Deadline (defined below) or violation of Bankruptcy Rule 3017(d). Except as otherwise provided herein, to be counted as a vote to accept or reject the Plan, each Ballot must be properly executed and completed, and the original thereof delivered to the Voting Agent so as to be actually received by the Voting Agent no later than **5:00 p.m. (prevailing Eastern time) on February 10, 2011** (the "**Voting Deadline**").

9. The Debtors may extend the Voting Deadline, if necessary, without further order of this Court, to a date that is no later than two days before the Confirmation Hearing by publishing on <http://dm.epiqll.com/NGH> an announcement of such extension.

10. Solely for purposes of voting to accept or reject the Plan, not for the purposes of the allowance of or distribution on account of a Claim, and without prejudice to the rights of the Debtors in any other context, each Claim within a Class of Claims entitled to vote to accept or reject the Plan shall be entitled to vote the amount of such Claim as set forth in the Schedules (as may be amended from time to time) unless such Holder has timely filed a proof of claim, in which event such Holder would be entitled to vote the amount of such Claim as set forth in such proof of claim:

- A. if a Claim is deemed "Allowed" under the Plan or an order of the Court, such Claim shall be Allowed for voting purposes in the deemed "Allowed" amount set forth in the Plan or the Court's order;
- B. if a Claim for which a proof of claim has been timely filed is contingent, unliquidated or disputed (as determined by the Debtors after a reasonable review of the Claim and its supporting documentation), such Claim shall be temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, at \$1.00, and the Ballot mailed to the Holder of such Claim shall be marked as voting at \$1.00;
- C. if a Claim is partially liquidated and partially unliquidated, the Claim shall be Allowed for voting purposes only in the liquidated amount;

- D. if a Claim has been estimated or otherwise Allowed for voting purposes by order of the Court, such Claim shall be temporarily Allowed in the amount so estimated or Allowed by the Court for voting purposes only, and not for purposes of allowance or distribution;
- E. if a Claim is listed in the Schedules as contingent, unliquidated or disputed and a proof of claim was not (i) filed by the applicable bar date for the filing of proofs of claim established by the Court or (ii) deemed timely filed by an order of the Court prior to the Voting Deadline, then, unless the Debtors have consented in writing to Allow such Claim for voting purposes, such Claim shall be temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, at \$1.00, and the Ballot mailed to the Holder of such Claim shall be marked as voting at \$1.00;
- F. if the Debtors have filed an objection to a Claim before the Record Date, such Claim shall be temporarily disallowed for voting purposes only and not for purposes of allowance or distribution, except to the extent and in the manner as may be set forth in such objection; and
- G. notwithstanding anything to the contrary contained herein, any creditor who has filed or purchased duplicate Claims (whether against the same or multiple Debtors) that are classified under the Plan in the same Class, shall be provided with only one Solicitation Package and one Ballot for voting a single Claim in such Class, regardless of whether the Debtors have objected to such duplicate Claims.

11. If any claimant seeks to challenge the allowance of its Claim for voting purposes in accordance with the above procedures, such claimant is directed to serve on counsel for Debtors and file with the Court no later than the later of (a) **January 28, 2011 by 5:00 p.m.** (prevailing Eastern Time) or (b) seven days after the date of service of a notice of an objection, if any, to your Claim or Interest. In accordance with Bankruptcy Rule 3018, as to any creditor filing a Rule 3018 Motion, such creditor's Ballot will not be counted unless temporarily allowed by the Bankruptcy Court for voting purposes, after notice and a hearing on or prior to **February 10, 2011** (i.e., the last date fixed for creditors to vote to accept or reject the Plan).

12. As to any creditor filing a motion pursuant to Bankruptcy Rule 3018(a), such creditor's Ballot shall not be counted unless temporarily Allowed by the Court for voting purposes after notice and a hearing.

13. If a creditor casts more than one Ballot voting the same claim(s) before the Voting Deadline, the last Ballot received before the Voting Deadline is deemed to reflect the voter's intent and, thus, to supersede any prior Ballots.

14. Creditors with multiple Claims within a particular Class must vote all of their Claims within a particular Class under the Plan either to accept or reject the Plan and may not split their votes, and thus neither (i) any Ballot that partially rejects and partially accepts the Plan nor (ii) any Ballot filed by a creditor with multiple Claims within a Class who votes inconsistently will be counted.

15. Any Ballot that is properly completed, executed and timely returned to the Voting Agent but does not indicate an acceptance or rejection of the Plan or indicates both an acceptance and a rejection of the Plan, shall not be counted.

16. Any Ballot actually received by the Voting Agent after the Voting Deadline shall not be counted unless the Debtors granted an extension of the Voting Deadline with respect to such Ballot.

17. Any Ballot that is illegible or contains insufficient information to permit the identification of the claimant shall not be counted.

18. Any Ballot cast by a person or entity that does not hold a Claim in a Class that is entitled to vote to accept or reject the Plan shall not be counted.

19. Any unsigned Ballot or non-originally signed Ballot shall not be counted.

20. Any Ballot sent directly to any of the Debtors, their agents (other than the Voting Agent), or the Debtors' financial or legal advisors or to any party other than the Voting Agent shall not be counted.

21. Any Ballot cast for a Claim that has been disallowed (for voting purposes or otherwise) shall not be counted.

22. Any Ballot transmitted to the Voting Agent by facsimile or other electronic means shall not be counted.

23. The Debtors may reject any and all Ballots the acceptance of which, in the opinion of the Debtors, would not be in accordance with the provisions of the Bankruptcy Code or the Bankruptcy Rules. The Debtors may also waive any defects or irregularities as to any particular Ballot at any time, either before or after the Voting Deadline; provided, however, that any such waivers shall be documented in the tabulation report filed by the Voting Agent with the Bankruptcy Court.

24. None of the Debtors, the Voting Agent, or any other person or entity shall be under any duty to provide notification of defects or irregularities with respect to delivered Ballots, nor shall the Debtors, the Voting Agent or any other person or entity incur any liability for failure to provide such notification.

25. On or before **January 28, 2011 at 5:00 p.m.** (prevailing Eastern Time), the Debtors shall file and serve a Plan Supplement, which will contain the identity of the Liquidation Trustee and information concerning the Liquidating Trust Agreement, the Liquidation Trustee Employment Agreement, and the mediation procedures for resolution of medical malpractice claims. The Court shall hold a hearing to address objections, if any, solely as to the Liquidation Trust Agreement, the appointment of the Liquidation

Trustee and the mediation procedures for resolution of the medical Malpractice Claims contained in the Plan Supplement on **February 3, 2011 at 10 a.m.** (prevailing Eastern Time).

26. The Voting Agent may disregard any and all defective ballots with no further notice to any other person or entity.

27. The Confirmation Hearing will be held at **10:00 a.m.** (prevailing Eastern Time) on **February 15, 2011**; provided, however, that the Confirmation Hearing may be adjourned from time to time by the Court or the Debtors without further notice to parties other than an announcement in Court at the Confirmation Hearing or any adjourned Confirmation Hearing.

28. The Debtors shall publish the Confirmation Hearing Notice electronically on <http://dm.epiqll.com/NGH>.

29. Objections to confirmation of the Plan or proposed modifications to the Plan, if any, must: (a) be in writing; (b) conform to the Bankruptcy Rules and the Local Rules; (c) state the name and address of the objecting party and the amount and nature of the Claim or Interest of such party; (d) state with particularity the basis and nature of any objection to the Plan; and (e) be filed, together with proof of service, with the Court electronically in accordance with the Case Management Order and served on the parties listed in the Confirmation Hearing Notice, on or before **February 10, 2011 at 5:00 p.m.** (prevailing Eastern time).

30. Objections to confirmation of the Plan not timely filed and served in the manner set forth above may not be considered and may be overruled.

31. No later than **February 13, 2011 at 3:00 p.m.** (prevailing Eastern Time), the Debtors shall file: (a) any consolidated reply to any objections to the Plan; and (b) the vote tabulation certification.

32. The Debtors are authorized to take or refrain from taking any action and expending such funds necessary or appropriate to implement the terms of and the relief granted in this Order without seeking further order of the Court.

33. The Debtors are authorized to make non-substantive changes to the Disclosure Statement, Plan, Ballots, the Confirmation Hearing Notice, any other notice related to the Plan or Disclosure Statement and all exhibits and appendices to any of the foregoing without further order of the Court, including, without limitation, changes to correct typographical and grammatical errors and to make conforming changes among the Disclosure Statement, the Plan and any other materials in the Solicitation Package prior to their distribution.

SO ORDERED, this 13th day of January 2011

/s/Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE