

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA**

In re:	:	Chapter 11
	:	
GREATER SOUTHEAST COMMUNITY	:	Jointly Administered
HOSPITAL CORP., I, <i>et al.</i> ,	:	Case No. 02-2250
	:	Judge S. Martin Teel, Jr.
Debtors.	:	
	:	

**MOTION OF THE DCHC LIQUIDATING TRUST TO FIX CLAIM AMOUNTS AND
MAKE FIRST DISTRIBUTION TO CLASS 8 AND 10 CREDITORS
THAT HAVE RETURNED COMPLETED W-9 FORMS**

The DCHC Liquidating Trust (the “Trust”), by and through the Liquidating Trustee (“Trustee”) and undersigned counsel, files this motion (the “Motion”) to fix claim amounts and make a first distribution to holders of Class 8 (Patient Refund) and Class 10 (General Unsecured) allowed claims entitled to a distribution that have completed and returned a W-9 Form pursuant to the procedures authorized by this Court. The proposed *pro rata* distribution, at this time, is 30% on each allowed claim to be fixed hereby. In further support, the Trustee states as follows:

BACKGROUND

1. On November 20, 2002, Doctors Community Healthcare Corporation, Greater Southeast Hospital Corp. I, Michael Reese Medical Center Corporation, Pacifica of the Valley Corporation, Pacin Healthcare-Hadley Memorial Hospital Corporation (collectively, the “Reorganized Debtors”) and Pine Grove Hospital Corporation of Canoga Park, California (“Pine Grove,” collectively referred to along with the Reorganized Debtors as the “Debtors”) filed separate voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

2. On April 2, 2004, the Court entered an order (the “Confirmation Order”) approving the Plan.

3. On April 5, 2004 (the “Effective Date”), the Plan went into effect. Pursuant to the terms of the Plan, on the Effective Date several events occurred, including the reorganization of the Debtors (with the exception of Pine Grove) and formation of the Trust and Trustee. Under the Plan, certain claims were transferred to the Trust for resolution, and other claims were retained by the Reorganized Debtors.

4. The Plan and Confirmation Order provide priority tiers and procedures for distributions, including from what source distributions would be made and limitations thereon. For example, the Plan provides for payment in full to creditors holding secured claims and administrative expenses. In addition, after accounting for prepetition secured claims, certain administrative fees and post-confirmation Trust expenses, net proceeds held by the Trustee are to be divided among the Class 9 NCFE Claim (62.5%) and Class 8 Patient Refund Claims and Class 10 General Unsecured Claims (*pro rata* for the remaining 37.5%). As set forth in Plan § 6.6(m), as modified by Confirmation Order § 2(f), distributions shall only be made in amounts of \$25 or greater.

5. Since the Effective Date, the Trust has worked diligently to assess thousands of filed and scheduled claims in these cases. The amount of the filed and scheduled claims totaled more than \$1.2 billion. To date, the Trust has filed twenty-one omnibus objections and numerous individual claim objections. The Trust also has otherwise resolved myriad secured claims, administrative nonordinary course professional fee expenses, and unsecured claims totaling millions of dollars. As result of this claims resolution process, the Class 8 Patient Refund and Class 10 General Unsecured Claims, projected by the Debtors in its Disclosure Statement to the Plan to exceed \$87 million, now currently total \$49,605,464, collectively. The

Trust has pending, and expects to soon file, objections to certain other claims that may result in a further reduction of the Class 8 and 10 claim pool.

6. Since the Effective Date, the Trust has also worked diligently to collect and monetize the assets transferred to it under the Plan. The assets assigned to it included cash, two promissory notes from the Reorganized Debtors and causes of action held by the estates. To date, the Trust has received and distributed more than \$28 million to allowed secured claims and the Class 9 NCFE Claim. In addition, the Trust has placed funds into a reserve account for the benefit of Class 8 and Class 10 creditors, which amount, with interest, now totals approximately \$17,387,178. Increase in the pool of assets available for distribution to Class 8 and 10 claim holders is largely dependent on recoveries the Trust may receive from the litigation against HCA Inc. and certain of its affiliates.¹

7. If the Trust were to distribute the entire \$17,387,178 on the current \$49,605,464 Class 8 and Class 10 claim pool, the distribution percentage would be 35.1%. Notwithstanding the fact that the claim pool may be further reduced, the Trustee believes it is prudent to hold back from distribution 5.1% of the maximum available distribution at this time. Thus, the Trustee proposes to distribute funds equal to a 30% *pro rata* distribution, which was the maximum recovery projected by the Debtors in their Disclosure Statement.

W-9 PROCEDURES

8. On October 27, 2008, the Court approved the Trust's Motion seeking an order from this Court authorizing certain procedures concerning tax reporting requirements, including a 90-day deadline for holders of allowed claims anticipated to be entitled to distribution (the

¹ In addition to this amount, the Trust maintains a main account from which it pays secured and administrative claims and post-confirmation expenses. Unused funds now held or in the future received from that account will be distributed to the Class 9 (NCFE) Claim and Class 8 and Class 10 Claims according to the 62.5%/37.5% split.

“Claimholders”) to complete and return to the Trust an IRS W-9 Form (including their tax identification number, which in the case of an individual is his or her Social Security Number, or claim of exemption), and if that deadline is not met, to allow the Trustee to redistribute the remaining funds not associated with a valid W-9 Form ratably to the complying Claimholders (the “W-9 Procedures”).

9. The W-9 Procedures included sending the Claimholders a letter attaching a W-9 Form requiring Claimholders to complete and return the W-9 Form, including their TIN or claim of exemption, to the Trust within ninety (90) days. The letter stated that (i) if a Claimholder does not return a completed W-9 Form to the Trust within ninety (90) days (or by February 16, 2008), the Claimholder will not be entitled to receive its share, if any, of distributions from the Trust; (ii) failure to return a completed W-9 Form by the deadline will be deemed a waiver of the Claimholder’s interests, if any, in the Trust; and (iii) if a Claimholder’s interest is waived, proceeds that would have been distributed to that Claimholder will be distributed ratably to the other Claimholders who returned a completed W-9 Form pursuant to these procedures.

10. The W-9 letter was mailed to all Claimholders on November 17, 2008. Since the mailing, the Trust has received completed W-9 Forms from approximately 500 Claimholders (the “First Distribution Claims”). A complete list of the proposed First Distribution Claims is attached hereto as Exhibit A.

REQUEST FOR RELIEF

11. By this Motion, the Trust seeks an order from this Court fixing the First Distribution Claims in the amount stated on Exhibit A and to make a *pro rata* distribution to the holders of the First Distribution Claims at 30% of the fixed claim at this time. The Trust proposes to pay the First Distribution Claims at 30% (the “First Distribution”) — instead of the

approximate maximum of 35.1% — to provide sufficient reserves to cover any unexpected contingencies that may subsequently arise with respect to the Class 8 and 10 claim pool.² The Trust also proposes to reserve sufficient funds to satisfy those claims relating to Class 8 and 10 Claimholders that have not yet completed and returned their W-9 Forms, but may do so before the February 16, 2009 deadline, and the few claims that may still be subject to reduction or disallowance.³

BASIS FOR RELIEF

12. By this Motion, the Trust seeks to make the First Distribution by year-end. Although the Trust does not expect any objection,⁴ it would like to attempt to resolve objections or issues concerning the First Distribution so as to permit a distribution to occur in 2008. This distribution is authorized by the Plan, as well as Rule 3021 of the Federal Rules of Bankruptcy Procedure, which states in relevant part that “after a plan is confirmed, distribution shall be made to creditors whose claims have been allowed.” Fed. R. Bankr. P. 3021.

13. The Trust has monetized and collected most of its assets and desires to make an initial distribution to Claimholders as quickly and efficiently as possible. In particular, with the exception of a few outstanding claims that still may be reduced or disallowed, the Trust has fundamentally completed its claims resolution process, reducing the total amount of unsecured and patient refund claims to \$49,605,464. The Trust has also received completed W-9 Forms

² The Trust shall not make a distribution on account of any First Distribution Claim if the distributed amount is less than \$25. *See* Plan Section 5.3(g) (“the Liquidating Trustee shall not make a distribution on account of any Allowed Claim to the extent the distribution would be for less than \$25.00”).

³ The Trust has pending objections against Contech-MSI, Sandra Dorcey and Mark Engelhard, and may object to four other claims before the December 31, 2008 claims objection deadline.

⁴ The W-9 letter sent to the Claimholders included the respective allowed amount of the Claimholders’ claims and the Trust has not received any objection regarding these claim amounts from any Claimholders.

from approximately 500 of the approximately 2960 Class 8 and 10 Claimholders that were sent such forms. Given these facts and that the final completion of the W-9 Procedures and the claims resolution process will take at least a few more months, the Trust submits that authorizing the First Distribution by year-end for these Claimholders that acted quickly is appropriate at this time.

14. The Trust proposes to make the First Distribution on or before December 31, 2008, and to retain sufficient reserves to satisfy those claims relating to Claimholders that have not yet returned their W-9 Forms, but may do so prior to the February 16, 2009 deadline, and the few claims that may still be reduced and/or disallowed. After the deadline for Claimholders to return their W-9 Forms expires (on February 16, 2009) and the few remaining objectionable claims are reduced, disallowed or otherwise resolved, the Trust expects to make at least a second distribution (the “Next Distribution”).

15. The Next Distribution, which will be brought by separate motion, is expected to include:

(A) a *pro rata* distribution of 30% from funds that were reserved for Claimholders that did not return their W-9 Form before the date of this Motion, but *timely* do so prior to the February 16, 2009 deadline, directly to those remaining Claimholders;

(B) a ratable distribution to all Claimholders that complied with the W-9 Procedures from the funds that were reserved for (i) Claimholders that did not return their W-9 Form before the date of this Motion and *fail* to do so prior to the February 16, 2009, and (ii) any remaining claims that are reduced and/or disallowed;

(C) a ratable distribution of any net amounts otherwise recovered by the Trust to the Class 9 (NCFE) Claim and Class 8 and Class 10 Claims according to the 62.5%/37.5% split (with Claimholders who complied with the W-9 Procedures receiving a ratable share of the 37.5%); and

(D) a *pro rata* distribution of other amounts as warranted.

16. The Trustee believes that a minimal two-step distribution process is in the best interests of the estate and its creditors. In this manner, those Claimholders who have allowed claims and have promptly returned their W-9 Forms may receive a distribution before the end of 2008.

17. The Trustee also filed this Motion to ensure that any potential objections to this proposed First Distribution are resolved prior to the Trust making the First Distribution. As such, this Motion is being served on all holders of the proposed First Distribution Claims.

WHEREFORE, the Trust respectfully requests that the Court enter an order granting the relief requested herein and such other and further relief as is just and proper.

Dated: December 3, 2008

Respectfully submitted,

WHITE & CASE LLP

By: /s/ Sam J. Alberts
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*Counsel to Sam J. Alberts,
Trustee for The DCHC Liquidating Trust*

CERTIFICATE OF SERVICE

I certify that on December 3, 2008, a copy of the foregoing Motion (with proposed order), along with the contemporaneously filed Notice of Objection Deadline and Notice of Hearing, were sent by First Class Mail to the parties listed below.

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All holders of the First Distribution Claims as set forth in Exhibit A

/s/ Jeffrey E. Schmitt
Jeffrey E. Schmitt