

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re: : Chapter 11
:
ADELPHI ACADEMY, a/k/a ADELPHI : Case No. 14-43065 (ESS)
ACADEMY OF BROOKLYN, a/k/a :
The Corporation of Adelphi Academy, :
:
Debtor. :
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**ORDER APPROVING DISCLOSURE STATEMENT AND CONFIRMING PLAN OF
REORGANIZATION OF ADELPHI ACADEMY, a/k/a ADELPHI ACADEMY OF
BROOKLYN, a/k/a THE CORPORATION OF ADELPHI ACADEMY AND FIXING
DEADLINES FOR FILING CERTAIN CLAIMS**

UPON the Application for an Order Approving Disclosure and Confirming Debtor's Plan of Reorganization and Granting Related Relief filed on September 15, 2014 (the "Combined Hearing Motion") (ECF doc. no. 42), the Motion Pursuant to Bankruptcy Rule 9006(c) for Order Shortening Notice on Debtor's Motion Seeking Entry of (1) an Order Approving Disclosure Statement and (2) an Order Confirming Debtor's Plan of Reorganization filed on September 15, 2014 (the "Motion to Shorten Time") (ECF doc. no. 43); the Order Shortening Notice Period and Scheduling Hearing on the Debtor's Motion to Shorten Time entered by the Court on September 15, 2014 (the "Scheduling Order") (ECF doc. no. 44); and the affidavit of service filed with respect thereto on September 15, 2014 (ECF doc. no. 45); and

IT APPEARING THAT, the Debtor filed its plan of reorganization (the “Plan”)¹ (ECF doc. no. 40) and its disclosure statement (the “Disclosure Statement”) (ECF doc. no. 41) on September 12, 2014; and

Due and proper notice having been given with respect to the disclosure statement hearing and confirmation hearing and the deadlines and procedures for filing objections to the Disclosure Statement and the Plan; and

Titan Capital ID, LLC (“Titan”) having filed a reservation of rights regarding the Plan and Disclosure Statement (ECF doc. no. 46) and its amended reservation of rights regarding the Plan and Disclosure Statement (ECF doc. no. 53); and

Metropolitan Commercial Bank (“Metropolitan”) having filed a reservation of rights to the Combined Hearing Motion (ECF doc. no. 47); and

No formal objections to the Disclosure Statement and the Plan having been filed; and

The Debtor and Metropolitan having agreed to the following modifications to the Plan:

1. Inserting the following definition:

“Closing” shall mean the closing of the Exit Financing from Titan; and

2. The Plan at Section 11.2 shall be modified to reflect the defined term “Closing”;

and

¹ Capitalized terms not otherwise defined in this Confirmation Order shall have the same meaning as set forth in the Plan.

3. The Plan shall be modified as indicated in italics at Section 7.12(a) to read as follows:

(a) Notwithstanding any other provision of the Plan, no Creditor that holds a note or other instrument evidencing such Creditor's Claim may receive any distribution with respect to such Claim unless and until, *AT THE ELECTION OF THE DEBTOR*, the original note or other original instrument evidencing such Claim shall have been validly surrendered to the Debtor or the Disbursing Agent at the sole cost and expense of such Creditor. In addition, at the election of the Debtor, a Creditor that holds a mortgage, security interest, assignment of rents or other such instrument shall execute and deliver to the Debtor an assignment or satisfaction of such mortgage, security interest, assignment of rents or other such instrument, in proper form for recording. Any Cash or property to be distributed pursuant to the Plan on account of any such Claim shall, pending surrender, be treated as an undeliverable distribution pursuant to section 7.13 of the Plan; and

4. The following provision shall be deleted in its entirety:

Section 4.2 **Class 2 – Metropolitan Secured Claim.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Metropolitan Secured Claim, Metropolitan shall receive from the Proceeds at the closing the amount of \$6,334,209.08 plus per diem charges of \$1,315.56 from September 1, 2014

through the Closing Date; or as may be otherwise mutually agreed in writing between the Debtor and Metropolitan.

And the following provision inserted in its stead:

Section 4.2 **Class 2 – Metropolitan Secured Claim.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Metropolitan Secured Claim, Metropolitan shall receive from the Proceeds at the Closing the amount of \$6,400,000 if payment is made on or before September 30, 2014; or as may be otherwise mutually agreed in writing between the Debtor and Metropolitan. In the event the Closing does not occur by September 30, 2014, Metropolitan shall receive the amount of \$6,691,224.43, plus accrued expenses through the Closing Date, plus per diem charges of \$3,946.67 from October 1, 2014 through the Closing Date, consistent with its contractual default rate of interest of 24% per annum from May 20, 2014 through the Closing Date (the “Metropolitan Modifications”) and

The Plan shall be modified as indicated in italics at Section 4.3 to read as follows

4.3 **Class 3 – Unsecured Claims.** Subject to the provisions of article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of Class 3 Unsecured Claims, each holder of a Class 3 Unsecured Claim shall receive on the Effective Date, Cash in the full amount of its Allowed Unsecured Claim, *plus interest*; (the “US Trustee Modification” and together with the Metropolitan Modifications, the “Plan Modifications”); and

The Debtor, Metropolitan, Titan and the US Trustee having consented to the Plan Modifications; and

THE Court having held a hearing on September 19, 2014 to consider final approval of the Disclosure Statement and confirmation of the Plan (the “Confirmation Hearing”); and

UPON the proffer of Michael J. Lu, Chairman of the Board of Trustees of the Debtor; and upon the proffer of counsel on the record of the Confirmation Hearing; and upon the record of the Confirmation Hearing; and

After due deliberation thereon and sufficient cause appearing therefore;

IN ACCORDANCE with rules 7052 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the Court makes the following findings of fact and conclusions of law which support final approval of the Disclosure Statement and confirmation of the Plan. To the extent any finding of fact contained herein shall later be determined to be a conclusion of law, it shall be so deemed and to the extent any conclusion of law contained herein shall later be determined to be a finding of fact it shall be so deemed.

The Court Finds and Concludes That:

Jurisdiction and Venue

1. This civil proceeding arises under sections 1128 and 1129 of title 11 of the United States Code (the “Bankruptcy Code”) and arises in a case under the Bankruptcy Code.

2. Jurisdiction over this civil proceeding is vested in the United States District Court for this District pursuant to section 1334 of title 28 of the United States Code (the

“Judicial Code”).

3. This civil proceeding arising under sections 1128 and 1129 of the Bankruptcy Code and arising in a case under the Bankruptcy Code has been referred to this Court pursuant to section 157(a) of the Judicial Code and the Referral of Matters to Bankruptcy Judges (E.D.N.Y. December 5, 2012) (Bagley, C.J.).

4. This is a core proceeding arising under sections 1128 and 1129 of the Bankruptcy Code and arising in a case under the Bankruptcy Code. See 28 U.S.C. § 157(b)(1).

5. This Court may hear and determine this proceeding and enter appropriate orders and judgments pursuant to section 157(b)(1) of the Judicial Code. See 28 U.S.C. § 157(b)(2)(A), (L) and (O).

6. Venue of this civil proceeding in this district is proper pursuant to section 1409 of the Judicial Code.

Disclosure Statement

7. On September 19, 2014 this Court determined that the Disclosure Statement contains adequate information in accordance with section 1125 of the Bankruptcy Code.

No Solicitation of Ballots; Objections

8. As set forth in the Affidavit of Service filed on September 15, 2014, the Plan, Disclosure Statement, Combined Hearing Motion, Motion to Shorten Time and Scheduling Order were served upon all interested parties in accordance with the applicable Bankruptcy Rules and the Scheduling Order.

9. The Plan has been modified by the Plan Modifications placed on the

record of the confirmation hearing and the Plan Modifications have been consented to by the Debtor, Titan, Metropolitan and the US Trustee.

10. All persons, entities and governmental agencies entitled or required to receive notice of the Plan and Disclosure Statement have received due, proper and adequate notice of the hearing on the adequacy of the information contained in the Disclosure Statement and the confirmation of the Plan.

11. No objections to the Disclosure Statement or confirmation of the Plan have been filed.

12. Creditors in classes 1 through 3 are unimpaired by the Plan and are deemed to have accepted the Plan.

The Plan Modifications

13. The Plan Modifications do not (a) constitute a material modification of the Plan, (b) cause the Plan, as modified herein, to fail to meet the requirements of sections 1122 or 1123 of the Bankruptcy Code, (c) adversely change the treatment of holders of Claims who have accepted the Plan (other than holders of Claims who have accepted such modification in writing or in open court), or (d) require solicitation or resolicitation of acceptances or rejections from any such holders, nor do the Plan Modifications require that any such holders be afforded an opportunity to change previously cast acceptances or rejections of the Plan; and all references to the Plan hereinafter contained in this Confirmation Order shall be to the Plan as modified herein.

Exit Financing

14. A material inducement for Titan to make the Exit Financing loan to the Debtor is the Debtor's unconditional and irrevocable acknowledgement and agreement that (i)

the Bankruptcy Court is intended to be the sole and exclusive forum in the event of a default as defined in the Loan Documents (hereinafter, an “Event of Default”) of the Reorganized Debtor’s obligations under the Loan Documents and (ii) the Reorganized Debtor waives any and all rights to have any disputes under the Loan Documents heard in any other forum.

15. A material inducement for Titan to extend Exit Financing to the Debtor was that, in an Event of Default, the Loan Documents and the Confirmation Order include terms providing for a prompt and expeditious sale process of the Property in the Bankruptcy Court pursuant to section 363(b) of the Bankruptcy Code, without the need for Titan to resort to a state court foreclosure proceeding.

16. Upon any Event of Default by the Reorganized Debtor, Titan has standing to move to reopen the Bankruptcy Case and seek a 363(b) sale of the Property.

17. In the event that Titan moves to reopen the Bankruptcy Case and seeks a 363(b) sale of the Property: (1) after the Maturity Date, the Reorganized Debtor’s sole and exclusive basis to object to such motion is by providing evidence either that the Reorganized Debtor timely (a) completed its wire transfer of payment in full of the outstanding amount due under the Loan Documents or (b) exercised an extension of the Titan Loan in accordance with the Loan Documents and completed its wire transfer of the payment required for the loan extension fee and interest reserve deposit (and with respect to the second extension, the payment of the Insurance Escrow Fund (as defined in, and required by, the Loan Documents)); and (2) by claiming that the Reorganized Debtor is in default prior to the Maturity Date, Titan shall send any required notice to cure or notice of default to the Reorganized Debtor under the Loan Documents and if the Reorganized Debtor fails to timely cure the default, Titan may move to sell

the Property; provided, however, that in such event, the Reorganized Debtor shall have the right to object to any such motion made prior to the Maturity Date on any meritorious legal basis, except the Reorganized Debtor may not object on the basis that (i) such motion should be heard in another forum other than the Bankruptcy Court and (ii) Titan does not have standing to bring such motion.

18. In the event of a default in payment due on the Maturity Date, the Reorganized Debtor shall not, and has irrevocably and unconditionally waived any and all rights it may have to: (i) seek to delay or continue the sale hearing to a date later than December 15, 2015 (or no later than (a) March 16, 2016 in the event that the Reorganized Debtor has duly and timely exercised the “First Option” (as defined in the Loan Documents); (b) June 15, 2016 in the event that the Reorganized Debtor has duly and timely exercised the “Second Option” (as defined in the Loan Documents); (c) September 15, 2016 in the event that the Reorganized Debtor has duly and timely exercised the “Third Option” (as defined in the Loan Documents); and (d) December 15, 2016 in the event that the Reorganized Debtor has duly and timely exercised the “Fourth Option” (as defined in the Loan Documents)); (ii) object to the form or substance of Titan’s motion to sell the Property and/or the bidding procedures submitted by Titan in connection therewith; and (iii) seek the adjudication of any and all issues by the courts of the State of New York and all other courts of all other jurisdictions in a civil proceeding related to Titan’s claim under the Loan Documents.

19. In the event of a default in payment due on the Maturity Date in connection with the Exit Financing, the Reorganized Debtor irrevocably and unconditionally agrees that a hearing to sell the Property pursuant to section 363(b) of the Bankruptcy Code (the

“Sale Hearing”) may be scheduled to take place no later than the applicable sale hearing date as set forth in paragraph 18, above.

20. The terms in the Loan Documents providing for the sale of the Property in the Bankruptcy Court pursuant to section 363(b) upon an Event of Default, are, under the circumstances of the Bankruptcy Case, necessary to Confirmation and that such terms are fair and reasonable.

Conditions Precedent

21. All of the conditions precedent to Confirmation, if any, set forth in the Plan have been met or waived on the record in open court.

Section 1129(a)

22. The Plan complies with the applicable provisions of the Bankruptcy Code.

23. The Plan properly classifies Claims as required by section 1122 of the Bankruptcy Code.

24. The Claims within each Class designated under the Plan are substantially similar.

25. The classification of Claims was properly made and is appropriate in accordance with the terms of the Plan and the requirements of section 1122 of the Bankruptcy Code for the purposes of distribution of the consideration to be distributed to holders of Claims under the Plan.

26. The Plan specifies that all classes of Claims are not impaired under the Plan, as required by section 1123(a)(2) of the Bankruptcy Code.

27. The Plan provides the same treatment for each Claim of a particular class,

unless the holder of a particular Claim agrees to a less favorable treatment, as required by section 1123(a)(4) of the Bankruptcy Code.

28. The Plan provides adequate, proper and legal means for the Plan's implementation as required by section 1123(a)(5) of the Bankruptcy Code.

29. The Plan provides for its implementation by the Debtor to obtain Exit Financing from Titan and thereafter distributing the Proceeds of the Exit Financing among holders of allowed claims.

30. The provisions of article 5 of the Plan with respect to the rejection of Executory Contracts and Unexpired Leases are fair and appropriate and are consistent with the provisions of section 365 of the Bankruptcy Code as required by section 1123(b)(2) of the Bankruptcy Code.

31. The Plan is consistent with the interests of creditors and with public policy as required by section 1123(a)(7) of the Bankruptcy Code.

32. The Debtor, as proponent of the Plan, has complied with the applicable provisions of the Bankruptcy Code, and in particular, with the requirements of sections 1125 and 1126 of the Bankruptcy Code as follows: the Debtor served copies of the Plan, Disclosure Statement, Combined Hearing Motion, Motion to Shorten Time and Scheduling Order on all interested parties in accordance with the applicable Bankruptcy Rules and the Scheduling Order.

33. No creditor has solicited acceptances of the Plan or participated in the offer, issuance, sale or purchase of securities of the Debtor.

34. The Plan has been proposed in good faith and not by any means forbidden by law and, viewed in the light of the totality of the circumstances surrounding the formulation,

submission, distribution, and confirmation of the Plan, the Plan will fairly achieve a result consistent with the objectives and purposes of the Bankruptcy Code.

35. As required by section 1129(a)(4) of the Bankruptcy Code, any payment made or to be made by the Debtor or any person issuing securities or acquiring property under the Plan, for services or for costs and expenses in, or in connection with this case, or in connection with the Plan and incident to this case, has been approved by, or will be subject to the approval of, this Court as reasonable.

36. As required by section 1129(a)(5), the Plan provides that the Debtor will continue in existence post-confirmation as the Reorganized Debtor and will continue to be managed by its governing board of trustees.

37. There are no rate changes provided for in the Plan, with respect to which rates, a governmental regulatory commission has jurisdiction over the Debtor after confirmation.

38. No holder of an allowed secured claim has made an election under section 1111(b)(2) of the Bankruptcy Code.

39. Except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Plan provides that the holders of Claims of a kind specified in section 507(a)(2) of the Bankruptcy Code, will receive on account of such Claims, Cash in full on the later of the Effective Date, the date payment of such Claim is due under the terms thereof or applicable law, or three business days after such Claim becomes an Administrative Claim; *provided, however*, that any Administrative Claim incurred by the Debtor in the ordinary course of its business shall be paid in full in accordance with the terms and conditions of the particular transaction giving rise to such Administrative Claim and any

agreements relating thereto.

40. The Plan provides that each holder of a Claim of a kind specified in section 507(a)(8) of the Bankruptcy Code will receive on account of such claim, Cash in full on the Effective Date, except as may be otherwise mutually agreed to writing between the Debtor and such Governmental Unit; and the Plan provides that the holder of any other Claim entitled to Priority pursuant to section 507(a) shall receive payment in Cash in full, on the Effective Date.

41. The Debtor has paid or shall pay all amounts due under 28 U.S.C. § 1930, and any applicable interest thereon, in Cash in full as required by statute and until the closing, conversion or dismissal of this case.

42. The Debtor does not maintain any Retiree Benefits, as that term is defined in section 1114(a) of the Bankruptcy Code.

Feasibility

43. The Plan is feasible, and confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor under the Plan, except to the extent that such liquidation or reorganization is proposed in the Plan.

Transfer Taxes

44. The making and delivery of any instrument of transfer respecting the transfer of any asset pursuant to or in furtherance of the Plan and any other related instruments contemplated under the Plan (collectively, the “Transfer Documents”), including, but not limited to, any transfer related to and/or the recording of any mortgage in furtherance of the Plan, or the transactions contemplated by the Plan, including, but not limited to, the filing of any instrument

executed in furtherance of the transactions contemplated by the Plan, including the Exit Financing, refinancing of the Property and the filing of any mortgage on the Property for the amounts of money to be paid pursuant to the terms of the Plan, and the execution, delivery, recording and performance of any of the Transfer Documents, and all of the transactions contemplated under the Plan shall be and hereby are fully exempt from the imposition and payment of any and all stamp tax, real estate Transfer Tax, mortgage recording tax or similar taxes within the meaning of section 1146(a) of the Bankruptcy Code and shall be accepted for filing without payment of such and constitute “the making or delivery of an instrument of transfer under a plan confirmed under section 1129” within the meaning of section 1146 of the Bankruptcy Code and will be free of the imposition of taxes of the kind specified in section 1146 of the Bankruptcy Code.

IT IS THEREFORE

ORDERED, that any and all objections to the Disclosure Statement and the Plan not previously resolved or withdrawn, whether filed or not, are overruled; and it is further

ORDERED, that the Disclosure Statement, be and hereby is, approved as containing adequate information; and it is further

Exit Financing

ORDERED, that the Exit Financing is approved; and it is further

ORDERED, that the terms contained herein providing for a sale of the Property in the Bankruptcy Court pursuant to section 363(b) of the Bankruptcy Code in an Event of Default by the Reorganized Debtor are hereby approved; and it is further

ORDERED, that in an Event of Default by the Reorganized Debtor, the

Bankruptcy Court shall retain jurisdiction to conduct the sale of the Property; and it is further

ORDERED, that in the event that the Reorganized Debtor is in default under the Loan Documents, Titan shall have standing to file a Motion to Reopen the Bankruptcy Case and to Sell the Property Pursuant to section 363(b) of the Bankruptcy Code; and it is further

ORDERED, that Titan's motion and any proposed documents necessary for the Court to conduct and complete a sale of the Property pursuant to section 363(b) of the Bankruptcy Code, including proposed documents for the Court's approval of bidding procedures, marketing of the sale of the Property and the approval of a stalking horse bidder shall substantially be in the form of the exhibit to be attached to the Loan Documents (the "Motion to Reopen and Sell"); and it is further

ORDERED, that, after the Maturity Date, the Reorganized Debtor irrevocably and unconditionally waives any and all rights to object to or otherwise oppose the Motion to Reopen and Sell unless the Reorganized Debtor provides evidence either that it timely (a) completed its wire transfer of payment in full of the outstanding amount due under the Loan Documents or (b) exercised an extension of the Titan Loan in accordance with the Loan Documents and completed its wire transfer of the payment required for the loan extension fee and interest reserve deposit (and with respect to the second extension, the payment of the Insurance Escrow Fund); and it is further

ORDERED, that in the event of the Reorganized Debtor's failure to repay the full outstanding amount due under the Loan Documents on the Maturity Date, Titan may file an affirmation attesting to such failure, together with its Motion to Reopen and Sell, pursuant to which Titan shall have the right to request that the Court: (i) schedule a hearing to approve

bidding and sale procedures and (ii) conduct a sale of the Property by no later than December 15, 2015; and it is further

ORDERED, that upon the filing of such affirmation and the Motion to Reopen and Sell, the Court will schedule hearings to consider approval of the bidding and sale procedures and to conduct a sale of the Property in the Bankruptcy Court pursuant to section 363(b) of the Bankruptcy Code and in accordance with the approved bidding procedures; and it is further

ORDERED, that in the event of a default in payment due on the Maturity Date, the Reorganized Debtor may not (i) seek to delay or continue the sale hearing to a date later than December 15, 2015 (or no later than (a) March 16, 2016 in the event that the Reorganized Debtor has duly and timely exercised the First Option; (b) June 15, 2016 in the event that the Reorganized Debtor has duly and timely exercised the Second Option; (c) September 15, 2016 in the event that the Reorganized Debtor has duly and timely exercised the Third Option; and (d) December 15, 2016 in the event that the Reorganized Debtor has duly and timely exercised the Fourth Option); and (ii) seek the adjudication of any and all issues by the courts of the State of New York and all other courts of all other jurisdictions in a civil proceeding related to Titan's claim under the Loan Documents.

Confirmation

ORDERED, that the Plan, be and is hereby confirmed; and it is further

ORDERED, that the Plan meets each of the requirements of section 1129(a); and it is further

Vesting of Assets

ORDERED, that, except as otherwise provided in the Plan, and subject to the Exit Financing, on the Closing Date, the Property shall vest in the Reorganized Debtor, free and clear of all Liens, Claims and encumbrances, and any and all Liens, Claims and encumbrances (other than usual and customary encumbrances such as utility easements and the like) that have not been expressly preserved under the Plan shall be deemed extinguished as of such date, and any other assets of the Debtor, including any surplus of the Proceeds after payment is made to all classes of creditors pursuant to the Plan, shall vest in the Reorganized Debtor free and clear of all Liens, Claims and encumbrances; and it is further

ORDERED, that, except as otherwise provided herein or in the Plan, as of the Effective Date, all property of the Debtor shall be free and clear of all Claims and Interests of Creditors, except for the obligations that are imposed by this Confirmation Order or any other Final Order of the Bankruptcy Court; and it is further

ORDERED, that following the Effective Date, the Reorganized Debtor may operate, buy, use, acquire and dispose of the assets of the Estate and may settle and compromise any claims, interests and causes of action free of any restrictions contained in the Bankruptcy Code or the Bankruptcy Rules; and it is further

Disbursing Agent

ORDERED, that pursuant to the Plan, except for the payment to Metropolitan, which shall be disbursed by the Debtor at Closing, the Reorganized Debtor shall act as the Disbursing Agent; and it is further

Consummation of the Plan

ORDERED, that the Reorganized Debtor may enter into such agreements as are

deemed by it to be necessary to consummate the Plan without further order of the Court; and it is further

ORDERED, that except as specifically provided in the Plan, or this Confirmation Order, the Reorganized Debtor is authorized, directed and empowered to do all things and take all actions reasonably necessary to effectuate the consummation and implementation of the Plan, including, but not limited to, executing all documents, filing all requisite documents with appropriate state and local authorities, establishing all accounts, making all distributions and paying all costs in connection with consummating the Plan; and it is further

ORDERED, that any liens held against the Debtor's property by any creditor of the Debtor must be released as a condition to payment of any Allowed Claim held by such creditor; and it is further

ORDERED, that this Confirmation Order and all related agreements and documents necessary to implement the Plan shall be binding upon and inure to the benefit of any successors and assigns of the Debtor; and it is further

ORDERED, that, in furtherance hereof, and in accordance with section 1142(b) of the Bankruptcy Code, after the Effective Date, the Reorganized Debtor is authorized to execute and file and record any satisfaction of lien necessary to effectuate or consummate the terms of the Plan or this Confirmation Order, in the name of the Debtor, or in the name of any necessary party thereto, and each and every federal, state and local governmental agency or department is hereby directed to accept any such document; and it is further

Executory Contracts and Unexpired Leases

ORDERED, that in accordance with the provisions of article 5 of the Plan, effective on and as of the Effective Date, any and all Executory Contracts and Unexpired Leases to which the Debtor is a party which (i) have not expired or terminated pursuant to their own terms, or (ii) have not previously been assumed, or assumed and assigned or rejected pursuant to an order of the Bankruptcy Court on or prior to the Confirmation Date, or (iii) are not the subject of pending motions to assume or reject as of the Confirmation Date are hereby specifically assumed; and it is further

Transfer Taxes; Recording and Filing Documents

ORDERED, that pursuant to section 1146(a) of the Bankruptcy Code, the transfer, including, but not limited to, any transfer related to and/or the recording of any mortgage in furtherance of the Plan, or the transactions contemplated by the Plan, including, but not limited to, the filing of any instrument executed in furtherance of the transactions contemplated by the Plan, including the Exit Financing, refinancing of the Property and the filing of any mortgage on the Property for the amounts of money to be paid pursuant to the terms of the Plan, and the execution, delivery, recording and performance of any of the Transfer Documents, and all of the transactions contemplated under the Plan, shall be and hereby are fully exempt from the imposition and payment of any and all stamp, real estate Transfer Tax, mortgage recording tax or similar taxes within the meaning of section 1146(a) of the Bankruptcy Code and shall be accepted for filing without payment of such; and it is further

ORDERED, that the Court shall retain jurisdiction with respect to any disputes or controversies arising with respect to the above ordered paragraph; and it is further

ORDERED, that from and after the Effective Date, pursuant to section 1146(a)

of the Bankruptcy Code, all state and local government agencies, entities or authorities are jointly and severally restrained and enjoined from commencing or continuing any action to collect from the Debtor or its Property, any stamp, transfer or similar tax within the meaning of section 1146(a) of the Bankruptcy Code with respect to the transactions contemplated or described in the Plan; and it is further

ORDERED, that the Office of the Register of the City of New York in Kings County shall record any recordable Transfer Document without the payment of any New York State Real Estate Transfer Tax imposed under article 31 of the New York Tax Law, any New York City Real Property Transfer Tax imposed under section 11-2102 of the New York City Administrative Code, any filing fees or recording fees with respect thereto, and any other tax within the purview of section 1146(a) of the Bankruptcy Code; and it is further

ORDERED, that each and every federal, state and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary, useful or appropriate to effectuate, implement and consummate the transactions contemplated by the Plan and this Confirmation Order; and it is further

ORDERED, that all filing officers are directed to accept for recording or filing and to record or file the Transfer Documents immediately upon presentation thereof without payment of such taxes and without the presentation of any affidavits, instruments or returns otherwise required for recording, and the recording officer is directed to comply with the provisions of this Confirmation Order; and it is further

Releases and Injunction

ORDERED, that the provisions of the Plan, including Article 8, shall bind the

Debtor and all creditors of the Debtor; and it is further

ORDERED, that except with respect to the obligations required by the Plan, pursuant to section 1125(e) of the Bankruptcy Code, neither the Debtor, nor any of its respective officers, directors, or employees (acting in such capacity), nor any professional person employed by any of them shall have or incur any liability to any entity for any action taken or omitted to be taken in connection with or related to the formulation, preparation, dissemination, Confirmation or consummation of the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into, or any other action taken or omitted to be taken in connection with the Plan except in the case of fraud, gross negligence, willful misconduct, malpractice, breach of fiduciary duty, criminal conduct, unauthorized use of confidential information that causes damages, or ultra vires acts; and it is further

ORDERED, that nothing contained herein shall (i) limit the liability of any released person for any debt owed to the United States Government or any of its agencies, any state, city or municipality arising under (a) the Internal Revenue Code or any state, city or municipal tax code, (b) the environmental laws of the United States or any state, city or municipality or (c) any criminal laws of the United States, any state, city or municipality; or (ii) limit the liability of the Debtor's professionals pursuant to Rule 1.8(h)(1) of the New York State Rules of Professional Conduct; and it is further

ORDERED, that, except as otherwise provided in the Plan, this Confirmation Order, or any other order of the Bankruptcy Court, on and after the Confirmation Date all non-Debtor entities and individuals are permanently enjoined from commencing or continuing in any manner, or otherwise prosecuting, any action or proceeding, whether directly, derivatively or otherwise, or from

taking any act to create, perfect or enforce any lien or encumbrance against the Property or property of the estate which is to be distributed to creditors under the Plan, on account of or respecting any lien, claim, debt, right, cause of action, or liability that is released or to be released pursuant to the Plan; and it is further

ORDERED, that, the foregoing injunction shall apply to the holder of a debt, claim or interest, whether or not a proof of claim was filed or deemed filed, whether such claim was allowed, whether or not the holder of such claim accepted the Plan, and whether or not the right to payment was reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; and it is further

Statutory and Professional Fees

ORDERED, that the Reorganized Debtor shall (1) pay all amounts due under 28 U.S.C. § 1930, and any applicable interest thereon, in Cash in full as required by statute until the closing, conversion or dismissal of this case; and (2) file all required quarterly disbursements reports no later than twenty days after the end of each quarter until the closing, conversion or dismissal of this case; and it is further

Retention of Jurisdiction

ORDERED, that in addition to the retention of jurisdiction with respect to transfer taxes, the Exit Financing and the Motion to Reopen and Sell, the Court shall retain jurisdiction of this case with respect to motions pending before this Court on or before the Effective Date and thereafter, and matters provided for in Article 10 of the Plan, including, but not limited to ensuring that the Plan is consummated, resolving any and all controversies, suits or issues arising in connection with the consummation, interpretation or enforcement of the Plan or

obligations arising thereunder, to the consideration of any objections filed within the time permitted pursuant to the Plan to the allowance of any Claim and other matters arising out of or related to the Plan; and it is further

Notice Provisions and Claims Bar Dates

ORDERED, that notice of the entry of this Confirmation Order in the form of Exhibit A hereto, which form is hereby approved, shall be mailed by the Debtor to all of its creditors, and other such parties as are entitled to notice within ten days of the date of entry this Confirmation Order; and it is further

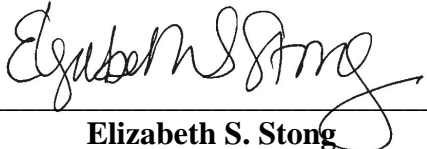
ORDERED, that any claims of a kind specified in Article 2 of the Plan that are not filed on or before the respective deadlines set forth therein shall not participate in any distribution under the Plan and shall be forever barred; neither the Debtor, nor its estate, nor any disbursing agent, nor any officer, director, employee or professional person employed by any of the foregoing shall have any liability therefor or with respect thereto; and any holder of any such claim shall be forever barred from asserting any such claim against the Debtor, its estate, any disbursing agent, any officer, director, employee or professional person employed by any of the foregoing, or its respective property, whether any such claim is deemed to arise prior to, on or subsequent to the Effective Date; and it is further

ORDERED, that, except as otherwise hereafter directed by the Court, notice of all subsequent pleadings in this case shall be limited to (i) the Debtor, (ii) Debtor's counsel, (iii) the United States Trustee, (iv) Titan's counsel, (v) Metropolitan's counsel, (vi) any party who has filed a notice of appearance, and (vii) any party affected by the relief sought; and it is further

ORDERED, that notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062 or otherwise, this Confirmation Order shall not be automatically stayed, but shall be effective and enforceable immediately upon the entry of this Confirmation Order.

**Dated: Brooklyn, New York
September 26, 2014**




Elizabeth S. Stong
United States Bankruptcy Judge