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Counsel to Bernard A. Katz, Liquidating Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

EOGH Liquidation, Inc.,
f/k/a East Orange General Hospital, Inc., *et al.*,¹

Debtors.

Chapter 11

Case No. 15-31232 (VFP)

Jointly Administered

Hearing Date and Time:
April 25, 2017 at 10:00 a.m.

**NOTICE OF MOTION OF THE LIQUIDATING TRUSTEE FOR ENTRY OF AN
ORDER FURTHER EXTENDING THE PERIOD WITHIN WHICH THE
LIQUIDATING TRUSTEE MAY REMOVE ACTIONS**

PLEASE TAKE NOTICE that on **April 25, 2017 at 10:00 a.m.**, or as soon thereafter as the movant may be heard, Bernard A. Katz, Liquidating Trustee (the “Liquidating Trustee”) for the estate of EOGH Liquidating, Inc. (f/k/a East Orange General Hospital, Inc.) (“EOGH”) and EVHI Liquidation, Inc. (f/k/a Essex Valley Healthcare, Inc.) (“EVHI”, and together with EOGH, the “Debtors”), through his counsel Trenk, DiPasquale, Della Fera & Sodono, P.C., shall move (the “Motion”) before the Honorable Vincent F. Papalia, United States Bankruptcy Judge, in Courtroom 3B of the United States Bankruptcy Court for the District of New Jersey, 50 Walnut

¹ The Debtors and the last four digits of their Employer Identification Numbers are EOGH Liquidation, Inc. (f/k/a East Orange General Hospital, Inc.) (7166) and EVHI Liquidation, Inc. (f/k/a Essex Valley Healthcare, Inc.) (7667). The Debtors’ principal place of business is located at 300 Central Avenue, East Orange, NJ 07018.

Street, 3rd Floor, Newark, New Jersey 07102, for entry of an order, substantially in the form submitted herewith, further extending the period within which the Liquidating Trustee may file a notice of removal with respect to any civil action.

PLEASE TAKE FURTHER NOTICE that the Liquidating Trustee shall rely upon the Motion. No brief is necessary as no novel issues of fact or law are presented by the Motion. A proposed form of order was also submitted therewith. Oral argument is requested in the event an objection is timely filed.

PLEASE TAKE FURTHER NOTICE that any objections to the Motion must be filed with the Clerk of the Court together with proof of service thereof, and served so as to be **actually received** no later than **April 18, 2017 at 4:00 p.m.** by counsel to the Liquidating Trustee, Trenk DiPasquale, Della Fera & Sodono, P.C., 347 Mt. Pleasant Avenue, Suite 300, West Orange, New Jersey 07052, Attn.: Joseph J. DiPasquale, Esq.

PLEASE TAKE FURTHER NOTICE that objections, if any, must: (a) be in writing; (b) comply with the Bankruptcy Rules, the Local Rules, and other case management rules or orders of this Court; and (c) state with particularity the legal and factual basis for the objection.

PLEASE TAKE FURTHER NOTICE that unless an objection is timely filed and served in accordance with this notice, it may not be considered by the Bankruptcy Court. In the event no objections are filed, the relief requested in the Motion may be granted without a hearing.

Respectfully submitted,

**TRENK, DiPASQUALE,
DELLA FERA & SODONO, P.C.**
*Counsel to Bernard A. Katz,
Liquidating Trustee*

By: /s/ Joseph J. DiPasquale
JOSEPH J. DiPASQUALE

Dated: April 4, 2017

**TRENK, DiPASQUALE,
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Counsel to Bernard A. Katz, Liquidating Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

EOGH Liquidation, Inc.,
f/k/a East Orange General Hospital, Inc., *et al.*,¹

Debtors.

Chapter 11

Case No. 15-31232 (VFP)

Jointly Administered

Hearing Date and Time:
April 25, 2017 at 10:00 a.m.

**APPLICATION IN SUPPORT OF LIQUIDATING TRUSTEE'S MOTION FOR AN
ORDER FURTHER EXTENDING THE PERIOD WITHIN WHICH THE
LIQUIDATING TRUSTEE MAY REMOVE ACTIONS**

TO: HONORABLE VINCENT F. PAPALIA
UNITED STATES BANKRUPTCY JUDGE

The Application of Bernard A. Katz, Liquidating Trustee (the "Liquidating Trustee") for the estate of EOGH Liquidation, Inc. (f/k/a East Orange General Hospital, Inc.) ("EOGH") and EVHI Liquidation, Inc. (f/k/a Essex Valley Healthcare, Inc.) ("EVHI", and together with EOGH, the "Debtors"), in support of his motion for entry of an order further extending the period within which the Liquidating Trustee may remove actions (the "Motion"), by and through his counsel,

¹ The Debtors and the last four digits of their Employer Identification Numbers are EOGH Liquidation, Inc. (f/k/a East Orange General Hospital, Inc.) (7166) and EVHI Liquidation, Inc. (f/k/a Essex Valley Healthcare, Inc.) (7667). The Debtors' principal place of business is located at 300 Central Avenue, East Orange, NJ 07018.

Trenk, DiPasquale, Della Fera & Sodono, P.C. ("Trenk DiPasquale") respectfully states and alleges as follows:

JURISDICTION

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey dated September 18, 2012 (Simandle, C.J.). Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. The statutory predicates for the relief sought herein are Rules 9006(b) and 9027 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

BACKGROUND

3. On November 10, 2015 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, commencing the above-captioned chapter 11 cases (collectively, the "Chapter 11 Cases") in the United States Bankruptcy Court for the District of New Jersey (the "Court"). [Dkt. No. 1].

4. On November 20, 2015, the Debtors filed a motion for the entry of an order authorizing and approving, among other things, the sale of substantially all of the Debtors' assets free and clear of liens, claims, and encumbrances (the "Sale") to Prospect EOGH, Inc. ("Prospect") pursuant to the terms of the Amended and Restated Asset Purchase Agreement dated November 20, 2015 (the "Stalking Horse APA"). [Dkt. No. 57].

5. On November 23, 2015, the Office of the United States Trustee formed the Official Committee of Unsecured Creditors (the "Committee"). [Dkt. Nos. 81, 134].

6. On January 12, 2016, the Debtors conducted an Auction and, as a result, deemed Prospect's bid the "highest and best" bid.

7. On January 20, 2016, the Court held a hearing to authorize the sale to Prospect pursuant to the terms of the Stalking Horse APA. On January 21, 2016, the Court entered an order approving the sale to Prospect. [Dkt. No. 330].

8. On January 23, 2016, the Court entered the *Order Extending the Period Within Which the Debtors May Remove Actions* [Docket No. 350] (the “First Extension Order”). The First Extension Order extended the Debtors’ deadline to remove Actions (defined below) through and including May 9, 2016. See First Extension Order at ¶ 2.

9. On February 24, 2016, Debtors obtained the necessary regulatory approvals pursuant to the Community Health Care Assets Protection Act (“CHAPA”).

10. The sale closed on February 29, 2016.

11. Thereafter, Debtors ceased all business operations

12. On May 5, 2016, the Court entered the *Order Further Extending the Period Within Which the Debtors May Remove Actions* [Dkt. No. 635] (the “Second Extension Order”). The Second Extension Order extended the Debtors’ deadline to remove Actions through and including August 8, 2016, “without prejudice to the Debtors’ right to seek further extensions of the Removal Period.” See Second Extension Order at ¶ 2.

13. On June 28, 2016, Debtors and the Committee filed their Joint Plan of Liquidation (“Plan”) and Disclosure Statement. [Dkt. Nos. 690 and 691, respectively].

14. On August 2, 2016, the Court entered the *Order Further Extending Period Within Which the Debtors May Remove Actions* [Dkt. No. 748] (the “Third Extension Order”). The Third Extension Order extended the Debtors’ deadline to remove Actions through and including December 6, 2016 “without prejudice to Debtors’ right to seek further extensions of the Removal Period.” See Third Extension Order at ¶ 2.

15. After a series of supplemental filings, the Court entered an Order Confirming the Plan on August 25, 2016. [Dkt. No. 794].

16. The Plan mandated the appointment of a Liquidating Trustee bound by the terms of the Plan and the GUC Trust Agreement. See Plan Art. VI(A).

17. On September 9, 2016, the Debtors filed a Notice declaring September 9, 2016 the Effective Date of the Plan (the “Effective Date”). [Dkt. No. 803].

18. On January 3, 2017, the Court entered the *Order Further Extending the Period Within Which the Liquidating Trustee May Remove Actions* [Dkt. No. 890] (the “Fourth Extension Order”). The Fourth Extension Order extended the Liquidating Trustee’s deadline to remove actions through and including April 5, 2017 “without prejudice to the Liquidating Trustee’s right to seek further extensions of the Removal Period.” See Fourth Extension Order at ¶ 2.

RELIEF REQUESTED

19. By this Motion, the Liquidating Trustee requests entry of an order, pursuant to Bankruptcy Rules 9006(b) and 9027, further extending the Removal Period for an additional one-hundred-twenty (120) days, through and including August 3, 2017.

BASIS FOR RELIEF

20. 28 U.S.C. § 1452 provides for the removal of actions related to bankruptcy cases. Section 1452 provides in pertinent part:

(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit’s police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of

action, or a decision to not remand, is not reviewable by appeal or otherwise

28 U.S.C. § 1452.

21. Bankruptcy Rule 9027(a)(2) and (3) provides in pertinent part:

(2) Time for filing; Civil Action Initiated Before Commencement of the Case Under the Code. If the claim or cause of action in a civil action is pending when a case under the Code is commenced, a notice of removal may be filed only within the longest of (A) 90 days after the order for relief in the case under the Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under § 362 of the Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.

(3) Time for filing; Civil Action Initiated After Commencement of the Case Under the Code. If a claim or cause of action is asserted in another court after the commencement of a case under the Code, a notice of removal may be filed with the clerk only within the shorter of (A) 30 days after receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim or cause of action sought to be removed, or (B) 30 days after receipt of the summons if the initial pleading has been filed with the court but not served with the summons.

Fed. R. Bankr. P. 9027(a)(2) and (3).

22. Bankruptcy Rule 9006(b)(1) provides that the Court may extend unexpired time periods, with or without motion or notice:

[W]hen an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion . . . with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order . . .

Fed. R. Bankr. P. 9006(b)(1). The last day of the Removal Period is currently April 5, 2017.

Accordingly, this Motion is timely and the Court is authorized to further extend the Liquidating Trustee's Removal Period.

23. It is well settled that this Court is authorized to expand the removal period provided for by Bankruptcy Rule 9027. See Pacor, Inc. v. Higgins, 743 F.2d 984, 996 n.17 (3d Cir. 1984) (overruled on other grounds by Things Remembered, Inc. v. Petrarca, 516 U.S. 124 (1995)); Raff v. Gordon, 58 B.R. 988, 990 (E.D. Pa. 1986). See also In re World Fin. Serv. Ctr., Inc., 81 B.R. 33, 39 (Bankr. S.D. Cal. 1987).

24. The Liquidating Trustee submits that the relief requested herein is in the best interests of an orderly distribution to creditors. The Debtors are parties to a number of civil actions (collectively, the “Actions”) which the Liquidating Trustee is in the process of evaluating. With the Sale consummated and the Plan having been approved, the Liquidating Trustee is focused on reconciling claims and making distributions consistent with the terms of the Plan.

25. The Liquidating Trustee believes that the extension requested herein will provide him with sufficient time to make fully-informed decisions concerning removing any of the Actions and will ensure that the estates’ rights provided by 28 U.S.C. § 1452 can be exercised in an appropriate manner. If such an extension is not granted, the Liquidating Trustee believes he will not have sufficient time to properly evaluate the potential removal of the Actions. Extending the Removal Period as requested herein will not prejudice any creditors or parties-in-interest. Accordingly, Liquidating Trustee submits that a further extension of the Removal Period is warranted.

WAIVER OF MEMORANDUM OF LAW

26. Because the legal basis upon which the Liquidating Trustee relies is incorporated herein and the Motion does not raise any novel issues of law, the Liquidating Trustee respectfully requests that the Court waive the requirement to file a separate memorandum of law pursuant to D.N.J. LBR 9013-1(a)(3).

NOTICE

27. Notice of this Motion has been given to (i) the Office of the United States Trustee for the District of New Jersey; (ii) counsel to the plaintiffs in the Actions; and (iii) those parties who have filed a notice of appearance and request for service of pleadings in these Chapter 11 Cases pursuant to Fed. R. Bankr. P. 2002. In light of the nature of the relief requested herein, the Liquidating Trustee respectfully submits that no other or further notice is required.

WHEREFORE, the Liquidating Trustee respectfully requests that this Court enter an order substantially in the form submitted herewith (i) granting the relief requested herein, and (ii) granting the Liquidating Trustee such other and further relief as the Court deems just and proper.

**TRENK, DiPASQUALE,
DELLA FERA & SODONO, P.C.**
Counsel to Bernard A. Katz, Liquidating Trustee

By: /s/ Joseph J. DiPasquale
JOSEPH J. DiPASQUALE

Dated: April 4, 2017

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1

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In re:

EOGH Liquidation, Inc.,
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Debtors.

Chapter 11

Case No. 15-31232 (VFP)

Jointly Administered

Hearing Date: April 25, 2017

Hearing Time: 10:00 a.m.

**ORDER FURTHER EXTENDING THE PERIOD WITHIN
WHICH THE LIQUIDATING TRUSTEE MAY REMOVE ACTIONS**

The relief set forth on the following pages, numbered two (2) through and including three (3), is hereby **ORDERED**.

¹ The Debtors and the last four digits of their Employer Identification Numbers are EOGH Liquidation, Inc. (f/k/a East Orange General Hospital, Inc.) (7166) and EVHI Liquidation, Inc. (f/k/a Essex Valley Healthcare, Inc.) (7667). The Debtors' principal place of business is located at 300 Central Avenue, East Orange, NJ 07018.

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Debtors: In re EOGH Liquidation, Inc., f/k/a East Orange General Hospital, Inc., *et al.*
Case No.: 15-31232 (VFP)
Caption of Order: Order Further Extending the Period Within Which the Liquidating Trustee May Remove
Actions

THIS MATTER having been presented to the Court by Bernard A. Katz, Liquidating Trustee (the “Liquidating Trustee”) for the estate of EOGH Liquidation, Inc. (f/k/a East Orange General Hospital, Inc.) (“EOGH”) and EVHI Liquidation, Inc. (f/k/a Essex Valley Healthcare, Inc.) (“EVHI”, and together with EOGH, the “Debtors”), through his counsel Trenk, DiPasquale, Della Fera & Sodono, P.C., upon the filing of a motion (the “Motion”) for entry of an order further extending the time within which the Liquidating Trustee may file a notice of removal with respect to any civil action (the “Removal Period”) for an additional one-hundred-twenty (120) days, through and including August 3, 2017; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey dated as of September 18, 2012 (Simandle, C.J.); and venue being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Liquidating Trustee’s notice of the Motion being sufficient under the circumstances; and it appearing that no other or further notice need be provided; and the Court having determined that the relief sought in the Motion is in the best interests of an orderly distribution to creditors; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.
2. The Removal Period is hereby further extended through and including August 3, 2017, without prejudice to the Liquidating Trustee’s right to seek further extensions of the Removal Period.
3. The requirement set forth in Local Rule 9013-1(a)(3) that any motion or other request for relief be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Motion or otherwise waived.

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Debtors: In re EOGH Liquidation, Inc., f/k/a East Orange General Hospital, Inc., *et al.*

Case No.: 15-31232 (VFP)

Caption of Order: Order Further Extending the Period Within Which the Liquidating Trustee May Remove
Actions

4. The Liquidating Trustee is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

5. This Order is effective immediately upon entry.

6. This Court shall retain exclusive jurisdiction to hear and decide any and all disputes related to or arising from the implementation, interpretation or enforcement of this Order.

4812-3703-7382, v. 1