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9 **UNITED STATES BANKRUPTCY COURT**

10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 In re:

12 BORREGO COMMUNITY HEALTH  
13 FOUNDATION,

14 Debtor and Debtor In Possession.

) Case No.: 3:22-02384-LT11

) Chapter 11 Case

) **RESPONSE OF PATIENT CARE OMBUDSMAN  
) RE: NOTICE OF ADJOURNED AUCTION RE:  
) DEBTOR'S NOTICE OF MOTION AND  
) MOTION FOR THE ENTRY OF (I) AN ORDER  
) (1) APPROVING FORM OF ASSET PURCHASE  
) AGREEMENT; (2) APPROVING AUCTION  
) SALE FORMAT AND BIDDING PROCEDURES;  
) (3) APPROVING PROCESS FOR  
) DISCRETIONARY SELECTION OF STALKING  
) HORSE BIDDER AND BID PROTECTIONS;  
) APPROVING FORM OF NOTICE TO BE  
) PROVIDED TO INTERESTED PARTIES; (5)  
) SCHEDULING A COURT HEARING TO  
) CONSIDER APPROVAL OF THE SALE TO THE  
) HIGHEST AND BEST BIDDER; AND (6)  
) APPROVING PROCEDURES RELATED TO  
) THE ASSUMPTION OF CERTAIN  
) EXECUTORY CONTRACTS AND UNEXPIRED  
) LEASES; AND (II) AN ORDER AUTHORIZING  
) THE SALE OF PROPERTY FREE AND CLEAR  
) OF ALL CLAIMS, LIENS AND  
) ENCUMBRANCES**

) **[RELATES TO DKT NOS. 161, 321, 418, 438]**

) Judge: Hon. Laura S. Taylor



1           **TO THE HONORABLE LAURA S. TAYLOR, UNITED STATES BANKRUPTCY**  
 2 **JUDGE, THE DEBTOR AND DEBTOR IN POSSESSION, THE OFFICIAL COMMITTEE**  
 3 **OF UNSECURED CREDITORS, PARTIES REQUESTING SPECIAL NOTICE, THE**  
 4 **UNITED STATES OF AMERICA, THE STATE OF CALIFORNIA, AND THE OFFICE OF**  
 5 **THE UNITED STATES TRUSTEE:**

6           **PLEASE TAKE NOTICE** that the Patient Care Ombudsman (“PCO”) hereby files his  
 7 Response to the *NOTICE OF ADJOURNED AUCTION RE DEBTOR’S NOTICE OF MOTION AND*  
 8 *MOTION FOR THE ENTRY OF (I) AN ORDER (1) APPROVING FORM OF ASSET PURCHASE*  
 9 *AGREEMENT; (2) APPROVING AUCTION SALE FORMAT AND BIDDING PROCEDURES, (3)*  
 10 *APPROVING PROCESS FOR DISCRETIONARY SELECTION OF STALKING HORSE BIDDER AND BID*  
 11 *PROTECTIONS; (4) APPROVING FORM OF NOTICE TO BE PROVIDED TO INTERESTED PARTIES; (5)*  
 12 *SCHEDULING A COURT HEARING TO CONSIDER APPROVAL OF THE SALE TO THE HIGHEST AND*  
 13 *BEST BIDDER; AND (6) APPROVING PROCEDURES RELATED TO THE ASSUMPTION OF CERTAIN*  
 14 *EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (II) AN ORDER AUTHORIZING THE SALE*  
 15 *OF PROPERTY FREE AND CLEAR OF ALL CLAIMS, LIENS AND ENCUMBRANCES* (the “Notice”) filed  
 16 by Borrego Community Health Foundation, debtor and debtor in possession herein (“Debtor”).

17           As the Court is aware, the PCO is charged with the duty to ensure proper patient care. This is even  
 18 more critical when facilities are being sold or transferred to third parties and the PCO must be involved to  
 19 ensure proper transition and avoidance of disruption or harm to patient care. Prior to the scheduled auction,  
 20 the PCO was provided, and reviewed, prospective bidder information and discussed his concerns and issues  
 21 with representatives of the Debtor. However, until a prospective purchaser is determined, it would be  
 22 economically impractical for the PCO to interview all bidders and analyze their business operations and  
 23 strategy with respect to the Debtor and its patients. The PCO, therefore, determined that he will monitor the  
 24 auction with any questions he may have and then interview the winning bidder and the backup bidder for  
 25 additional information. In the interest of saving costs, the PCO was provided with a Zoom link to monitor the  
 26 auction, but the auction did not go live and the PCO was not aware of the developments behind the scenes.

27           According to the Notice, there will no longer be an auction, but, rather, the Debtor will select a winning  
 28 and backup bidder. Response deadlines have not been extended in connection with this new process. Pursuant

1 to this Response, the PCO seeks to put the Court and all parties on notice that, upon determination of  
2 prospective purchaser(s), the PCO intends to conduct investigation and interviews to ensure that patient care  
3 is preserved in connection with the contemplated transitions. The PCO does not anticipate that such efforts  
4 will impair or delay the sale process. However, such a process is necessary to carry out the duties and  
5 obligations of the PCO and, if necessary, the PCO will file appropriate position paper with the Court.

6 DATED: February 10, 2023

LEVENE, NEALE, BENDER, YOO  
& GOLUBCHIK L.L.P.

8  
9 By: /s/ David B. Golubchik  
DAVID B. GOLUBCHIK  
Attorneys for Patient Care Ombudsman

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 2818 La Cienega Avenue, Los Angeles, CA 90034.

A true and correct copy of the foregoing document entitled **Response Of Patient Care Ombudsman Re: Notice Of Adjourned Auction Re Debtor's Notice Of Motion And Motion For The Entry Of (I) An Order (1) Approving Form Of Asset Purchase Agreement; (2) Approving Auction Sale Format And Bidding Procedures, (3) Approving Process For Discretionary Selection Of Stalking Horse Bidder And Bid Protections; (4) Approving Form Of Notice To Be Provided To Interested Parties; (5) Scheduling A Court Hearing To Consider Approval Of The Sale To The Highest And Best Bidder; And (6) Approving Procedures Related To The Assumption Of Certain Executory Contracts And Unexpired Leases; And (ii) An Order Authorizing The Sale Of Property Free And Clear Of All Claims, Liens And Encumbrances** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **February 10, 2023**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Christine E. Baur christine@baurbklaw.com, admin@baurbklaw.com
- Tanya Behnam tbehnam@polsinelli.com
- Anthony Bisconti tbisconti@bklwlaw.com, admin@bienertkatzman.com;4579179420@filings.docketbird.com
- Daren Brinkman firm@brinkmanlaw.com, office@brinkmanlaw.com;7764052420@filings.docketbird.com
- Christopher Celentino christopher.celentino@dinsmore.com, caron.burke@dinsmore.com;SDCMLFiles@DINSMORE.COM
- Shawn Christianson schristianson@buchalter.com, cmcintire@buchalter.com
- Anthony Dutra adutra@hansonbridgett.com, SSingh@hansonbridgett.com
- Christine M. Fitzgerald christine.fitzgerald@usdoj.gov, brenda.seyler@usdoj.gov;Efile.dkt.civ@usdoj.gov
- Leslie Gardner leslie.gardner2@usdoj.gov, brenda.seyler@usdoj.gov;Efile.dkt.civ@usdoj.gov
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- Kelly Ann Mai Khanh Tran kelly@smalllawcorp.com, stefanny@smalllawcorp.com
- United States Trustee ustp.region15@usdoj.gov
- Kenneth K. Wang kenneth.wang@doj.ca.gov
- Darin L. Wessel darin.wessel@doj.ca.gov
- Helen Yang helen.yang@squirepb.com, helen-h-yang-8259@ecf.pacerpro.com; PHX\_DCKT@squirepb.com

**2. SERVED BY UNITED STATES MAIL:** On **February 10, 2023**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

None.

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **February 10, 2023**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

None.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

February 10, 2023

Rebecka Merritt

/s/ Rebecka Merritt

Date

Type Name

Signature