

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

Chapter 11

In re:

Case No. 20-12117 (MEW)

COSMOLEDO, LLC, *et al.*¹

Debtors.

Jointly Administered

ORDER APPROVING (I) THE ADEQUACY OF THE DISCLOSURE STATEMENT; (II) SOLICITATION AND NOTICE PROCEDURES; (III) FORMS OF BALLOTS AND NOTICES IN CONNECTION THEREWITH; AND (IV) CERTAIN DATES WITH RESPECT THERETO

Upon the motion (the “Motion”)² of Cosmoledo, LLC, *et al.*, as debtors and debtors-in-possession (collectively the “Debtors”) in the above-captioned Chapter 11 cases (the “Chapter 11 Cases”), for entry of an order pursuant to Sections 105, 363, 1125, 1126, and 1128 of the Bankruptcy Code, Bankruptcy Rules 2002, 3016, 3017, 3018, 3020, and Local Rules 3017- 1, 3018-1, and 3020-1 approving: (a) the *Disclosure Statement for Chapter 11 Plan of Liquidation of the Debtors* (the “Disclosure Statement”); (b) the Voting Record Date, Solicitation Deadline, and Voting Deadline; (c) the manner and form of the Solicitation Packages and the materials contained therein; (d) the Non-Voting Status Notices; (e) the Solicitation and Voting Procedures; (f) the Plan Objection Deadline, Confirmation Hearing Date, and Confirmation Hearing Notice; and (g) the dates and deadlines related thereto, all as more fully described in the Motion; and the Court having reviewed and considered the Motion; and upon the record of the hearing held on July 20, 2021 for the Court to consider the relief sought in the Motion;

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtors’ federal tax identification number, include: Cosmoledo, LLC (6787); Breadroll, LLC, (3279); 688 Bronx Commissary, LLC (6515); 95 Broad Commissary, LLC (2335); 178 Bruckner Commissary, LLC (2581); 8 West Bakery, LLC (6421); NYC 1294 Third Ave Bakery, LLC (2001); 921 Broadway Bakery, LLC (2352); 1800 Broadway Bakery, LLC (8939); 1535 Third Avenue Bakery, LLC (1011); 2161 Broadway Bakery, LLC (2767); 210 Joralemon Bakery, LLC (4779); 1377 Sixth Avenue Bakery, LLC (9717); 400 Fifth Avenue Bakery, LLC (6378); 1400 Broadway Bakery, LLC (8529); 575 Lexington Avenue Bakery, LLC (9884); 685 Third Avenue Bakery, LLC (9613); 370 Lexington Avenue Bakery, LLC (0672); 787 Seventh Avenue Bakery, LLC (6846); 339 Seventh Avenue Bakery, LLC (1406); and 55 Hudson Yards Bakery, LLC (7583).

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Motion.

and after due deliberation;

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The Court has jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012.

B. The is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

C. This Court may enter a final order consistent with Article III of the United States Constitution.

D. Venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

E. Notice of the Motion as set forth therein is sufficient under the circumstances, and that no other or further notice need be provided. The Disclosure Statement Hearing Notice, filed by the Debtors and served upon parties in interest in these chapter 11 cases, constitutes adequate and sufficient notice of the hearings to consider approval of the Disclosure Statement, the manner in which a copy of the Disclosure Statement (and exhibits thereto, including the Plan) could be obtained, and the time fixed for filing objections thereto, in satisfaction of the requirements of the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

F. The relief requested in the Motion is in the best interests of the Debtors' estates, creditors, and other parties-in-interest and all objections to the Motion have been resolved or are hereby overruled.

G. The Disclosure Statement contains adequate information as that term is defined under 11 U.S.C. § 1125(a)(1) because it provides holders of Claims entitled to vote on the Plan with adequate information to make an informed decision as to whether to vote to accept or reject the Plan.

H. The Disclosure Statement (including all applicable exhibits thereto) provides holders of Claims, holders of Interests, and other parties in interest with sufficient notice of the injunction,

exculpation, and release provisions contained in Article 9 of the Plan, in satisfaction of the requirements of Bankruptcy Rule 3016(c).

I. The Solicitation Packages provide the holders of Claims entitled to vote on the Plan with adequate information and make informed decisions with respect to voting on the Plan in accordance with Bankruptcy Rules 2002(b) and 3017(d), the Bankruptcy Code, and the Local Rules.

IT IS HEREBY ORDERED THAT

1. The Motion is granted as and to the extent set forth herein.
2. The Disclosure Statement, the exhibits thereto, are hereby approved as complying with the Bankruptcy Code, including 11 U.S.C. § 1125, and may be used by the Debtors in connection with solicitation for votes to accept or reject the Plan.
3. The following dates are hereby established subject to modification as necessary) with respect to the solicitation of votes to accept, and voting on, the Plan:
 - (a) **July 20, 2021 at 10:00 am prevailing Eastern Time** as the date for determining (i) which holders of Claims in the Voting Classes are entitled to vote to accept or reject the Plan and receive Solicitation Packages in connection therewith and (ii) whether Claims have been properly assigned or transferred to an assignee pursuant to Bankruptcy Rule 3001(e) such that the assignee can vote as the holder of the respective Claim (the “**Voting Record Date**”);
 - (b) the Debtors shall distribute Solicitation Packages to holders of Claims entitled to vote on the Plan by **July 23, 2021** (or no later than three (3) business days after entry of an order approving the **Solicitation Package, if such date is later than July 23, 2021**) (the “**Solicitation Deadline**”);
 - (c) **August 9, 2021 at 5:00 p.m.** prevailing Eastern Time as the date by which any holder of a claim seeking to challenge the allowance of its claim for voting purposes shall file a motion for an order temporarily allowing its claim in a different amount or classification for purposes of voting to accept or reject the Plan (“**Rule 3018 Motion**”);
 - (d) **August 13, 2021 at 5:00 p.m. prevailing Eastern Time** as the date by which the Debtors (and, with respect to filing a response, any other party in interest) shall serve any responses to Rule 3018 Motions (“**Rule 3018 Response Deadline**”); and
 - (e) all holders of Claims entitled to vote on the Plan must complete, execute, and return their Ballots so that they are **actually received** by the Voting and Claims Agent pursuant to the

Solicitation and Voting Procedures, on or before **August 18, 2021 at 5:00 p.m. prevailing Eastern Time** (the “**Voting Deadline**”).

- (f) **August 20, 2021, at 5:00 p.m. prevailing Eastern Time** as the deadline by which objections to the Plan must be filed with the Court and served so as to be actually received by the appropriate notice parties (the “**Plan Objection Deadline**”);
- (g) notwithstanding anything to the contrary in Local Rule 3018-1(a), **August 23, 2021 at 5:00 p.m. prevailing Eastern Time** shall be the date by which the voting certification must be filed with the Court;
- (h) **August 27, 2021, at 5:00 p.m. prevailing Eastern Time** shall be the date by which responses to objections to the Plan must be filed with the Court and served so as to be **actually received** by the appropriate notice parties (as identified below) (the “**Plan Objection Response Deadline**”);
- (i) **August 27, 2021, at 5:00 p.m. prevailing Eastern Time** shall be the date by which the Debtors shall file their brief in support of Confirmation; and
- (j) the Court shall consider Confirmation of the Plan at the hearing to be held on **August 31, 2021, at 10:00 a.m. prevailing Eastern Time** (the “**Confirmation Hearing Date**”).

4. In addition to the Disclosure Statement and exhibits thereto, the Solicitation Packages to be transmitted on or before the Solicitation Deadline to those holders of Claims in the Voting Classes entitled to vote on the Plan as of the Voting Record Date, shall include the following, the form of each of which is hereby approved:

- (a) an appropriate form of Ballot attached hereto as **Exhibits 2A**, and **2B**;
- (b) the Cover Letter attached hereto as **Exhibit 6**; and
- (c) the Confirmation Hearing Notice attached hereto as **Exhibit 7**.

5. The Debtors shall distribute Solicitation Packages to all holders of Claims entitled to vote on the Plan on or before the Solicitation Deadline. Such service shall satisfy the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

6. The Debtors are authorized, but not directed or required, to distribute the Plan, the Disclosure Statement and this Order, in electronic format (*e.g.*, on a flash drive), to holders of Claims entitled to vote on the Plan. Only the Ballots as well as the Cover Letter and the Confirmation Hearing

Notice will be provided in paper form. On or before the Solicitation Deadline, the Debtors (through their Voting and Claims Agent) shall provide complete Solicitation Packages (other than Ballots) to the U.S. Trustee, the Committee, and to all parties on the 2002 List as of the Voting Record Date.

7. Any party that receives the materials in electronic format but would prefer to receive materials in paper format may contact the Voting and Claims Agent and request paper copies of the corresponding materials previously received in electronic format (to be provided at the Debtors' expense).

8. The Voting and Claims Agent is authorized to assist the Debtors in: (a) distributing the Solicitation Package; (b) receiving, tabulating, and reporting on Ballots cast to accept or reject the Plan by holders of Claims against the Debtors; (c) responding to inquiries from holders of Claims and Interests and other parties in interest relating to the Disclosure Statement, the Plan, the Ballots, the Solicitation Packages, and all other related documents and matters related thereto, including the procedures and requirements for voting to accept or reject the Plan and for objecting to the Plan; (d) soliciting votes on the Plan; and (e) if necessary, contacting creditors regarding the Plan.

9. The Voting and Claims Agent is also authorized to accept Ballots via the Debtors' online vote portal. Ballots submitted via electronic means shall be deemed to contain an original signature.

10. The Confirmation Hearing Notice, in the form attached hereto as **Exhibit 7** once filed by the Debtors and served upon parties in interest in these chapter 11 cases, including those parties not receiving a Solicitation Package, on or before the Solicitation Deadline constitutes adequate and sufficient notice of the hearings to consider approval of the Plan, the manner in which a copy of the Plan could be obtained, and the time fixed for filing objections thereto, in satisfaction of the requirements of the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

11. Except to the extent the Debtors determine otherwise, the Debtors are not required to provide Solicitation Packages to unimpaired classes of creditors or equity security holders, as such holders are not entitled to vote on the Plan. Instead, on or before the Solicitation Deadline, the Voting and Claims Agent shall mail (first-class postage pre-paid) a Non-Voting Status Notice in lieu of Solicitation Packages, the form of each of which is hereby approved, to those parties, outlined below, who are not entitled to vote on the Plan:

- (a) ***Non-Impaired Claims—Conclusively Presumed to Accept.*** Holders of Claims in Classes 1 and 2 are not impaired under the Plan and, therefore, are conclusively presumed to have accepted the Plan. As such, holders of such Claims will receive a notice, substantially in the form attached to the Order as **Exhibit 3**, in lieu of a Solicitation Package.
- (b) ***Other Interests and Claims—Deemed to Reject.*** Holders of Interests and Claims in Classes 5, 6, and 7 are receiving no distribution under the Plan and, therefore, are deemed to reject the Plan and will receive a notice, substantially in the form attached to the Order as **Exhibit 4**, and the Solicitation Materials.
- (c) ***Disputed Claims.*** Holders of Claims that are subject to a pending objection by the Debtors are not entitled to vote the disputed portion of their claim. As such, holders of such Claims will receive a notice and the Solicitation Materials, substantially in the form attached to the Order as **Exhibit 5**.

12. The Debtors are not required to mail Solicitation Packages or other solicitation materials to: (a) holders of Claims that have already been paid in full during these chapter 11 cases or that are authorized to be paid in full in the ordinary course of business pursuant to an order previously entered by this Court; or (b) any party to whom the Disclosure Statement Hearing Notice was sent but was subsequently returned as undeliverable. Provided, however, that the Debtors shall make reasonable efforts to locate any such party and transmit the Solicitation Packages or other solicitation materials thereto.

13. The Debtors are authorized to solicit, receive, and tabulate votes to accept the Plan in accordance with the Solicitation and Voting Procedures attached hereto as **Exhibit 1** which are hereby approved in their entirety.

14. Objections to the Plan will not be considered by the Court unless such objections are timely filed and properly served in accordance with this Order. Specifically, all objections to confirmation of the Plan or requests for modifications to the Plan, if any, **must**: (a) be in writing; (b) conform to the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual basis for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be filed with the Court (contemporaneously with a proof of service) and served upon the notice parties so as to be **actually received** on or before **August 20, 2021 at 5:00 p.m. prevailing Eastern Time** by each of the notice parties identified in the Confirmation Hearing Notice.

15. The Debtors reserve the right to modify the Plan in accordance with Section 15.1 thereof, including the right to withdraw the Plan as to any or all Debtors at any time before the Confirmation Date.

16. Nothing in this Order shall be construed as a waiver of the right of the Debtors or any other party in interest, as applicable, to object to a proof of claim after the Voting Record Date.

17. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

18. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

19. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Dated: New York, New York
July 21, 2021

s/Michael E. Wiles
HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE