

# IMPATH BANKRUPTCY LIQUIDATING TRUST

FINANCIAL INFORMATION  
December 31, 2005

# IMPATH BANKRUPTCY LIQUIDATING TRUST

## Statement of Operations

Period July 23, 2005 through December 31, 2005

(Unaudited)

(Amounts in thousands, except Unit information)

Period July 23, 2005 through  
December 31, 2005

Interest and other income	\$ <u>78</u>
Total Income	\$ 78
Administrative expenses	\$ <u>775</u>
<b>Net income / (loss)</b>	<b>\$ (697)</b>
<b>Net income / (loss) per Unit</b>	<b>\$ (.04)</b>
<b>Units of Class A Beneficial Interests Outstanding on December 31, 2005</b>	<b>16,794,309</b>

See accompanying notes to these financial statements.

# IMPATH BANKRUPTCY LIQUIDATING TRUST

## Balance Sheet

December 31, 2005

(Unaudited)

(Amounts in thousands)

December 31, 2005

### **Assets**

Cash and Cash Equivalents \$ 1,502

**Total Assets** **\$ 1,502**

### **Liability and Trust equity**

Trust equity \$ 1,502

**Total Liability and Trust Equity** **\$ 1,502**

See accompanying notes to these financial statements.

# IMPATH BANKRUPTCY LIQUIDATING TRUST

## Statement of Cash Flows

Period July 23, 2005 through December 31, 2005

(Unaudited)

(Amounts in thousands)

Period July 23, 2005 through  
December 31, 2005

Net income / (loss)	\$(697)
<b>Net cash provided by/(used for) operating activities</b>	<b>\$(697)</b>
<b>Distributions to Class A Beneficial Interest holders</b>	<b>\$(42,827)</b>
Net increase / (decrease) in cash and cash equivalents	\$(43,524)
Cash and cash equivalents , July 22, 2005	\$45,026
<b>Cash and cash equivalents , December 31, 2005</b>	<b>\$ 1,502</b>

See accompanying notes to these financial statements.

# IMPATH BANKRUPTCY LIQUIDATING TRUST

## Statement of Changes in Trust Equity

Period July 23, 2005 through December 31, 2005

(Unaudited)

(Amounts in thousands)

Period July 23, 2005 through  
December 31, 2005

Balance, July 22, 2005	\$45,026
Net income / (loss)	\$(697)
Cash distribution to Class A Beneficial Interest holders	\$(42,827)
Balance, December 31, 2005	\$1,502

See accompanying notes to these financial statements.

# IMPATH BANKRUPTCY LIQUIDATING TRUST

## Notes to Financial Statements

December 31, 2005

(Unaudited)

(Amounts in thousands, except Unit information)

### **Note 1 – Organization**

The Impath Bankruptcy Liquidating Trust (the “Trust”) was established on July 22, 2005, pursuant to a Liquidating Trust Agreement (“Trust Agreement”) by and among IMPATH Inc., IMPATH Predictive Oncology Inc., IMPATH Physician Services Inc., IMPATH Information Services, Inc., IMPATH-T Inc. (formerly known as Tamtron Corporation), and IMPATH-M Inc. (formerly known as Medical Registry Services Inc.) (collectively, “IMPATH”) and Anthony H. N. Schnelling of Bridge Associates, LLC as Trustee (the “Trustee”), in accordance with the Debtors’ Third Amended Joint Plan of Liquidation (the “Plan”) confirmed by the United States Bankruptcy Court, Southern District of New York (the “Court”) on March 21, 2005. The Trust Agreement is governed by the laws of the State of New York.

Except with respect to the terms defined herein, all capitalized terms contained herein shall have the meaning ascribed to them in the Plan.

The Trust was created on behalf of, and for the sole benefit of, the holders of allowed Securities Litigation Claims and Equity Interests. The Trust is established for the sole purpose of liquidating the assets of IMPATH for the benefit of the holders of allowed Securities Litigation Claims and Equity Interests in accordance with Treasury Regulation Section 301.7701-4(d), with no authority for the Trust to continue or engage in the conduct of business or trade.

Pursuant to the Plan, on July 22, 2005 (the “Effective Date”) IMPATH transferred certain remaining assets to the Trust. Included in those assets, without limitation, were Impath’s claims against their former auditors relating to the accounting issues that were the subject

of the Securities Litigation Claims. On the Effective Date, the common stock transfer books of IMPATH were permanently closed and all shares of its common stock were cancelled.

Holders of record of common stock of IMPATH as of the close of business on July 15, 2005 (the “Record Date”) became holders of Class A Beneficial Interest units (“Class A Interests”) in the Trust on the basis of one unit of Interest for each share of IMPATH common stock held on the Record Date. All Class A Interests are certificated through American Stock Transfer and Trust Company. Class A Interests are transferable pursuant to the terms of the Trust Agreement and the Plan. There are 16,794,309 Class A Interests units outstanding and such Class A Interests are traded under the symbol IBLTZ.

Holders of allowed Securities Litigation Claims were issued Class B Beneficial Interest units (“Class B Interests”). All Class B Interests are held by the Escrow Agent pursuant to a certain Stipulation of Settlement dated January 15, 2005 (the “Stipulation”). The Class B Interests are not certificated and are not transferable. Pursuant to the Stipulation and the Plan, the holders of Class B Interests also received the following on the Effective Date : (i) \$8,000 in cash and (ii) \$15,000 of proceeds recovered by the Debtors under their directors’ and officers’ liability insurance policies less \$400 paid to the Indemnity Reserve. The Escrow Agent is responsible for all Federal income and other tax reporting related to these amounts and any future amounts Class B Interests may receive. Specifically, the Class B Interests are entitled to receive 22% of the net proceeds, if any, recovered from the contingent and unliquidated claims against KPMG LLP arising from or relating to the accounting issues which were the subject matter of the Securities Class Action Lawsuit.

The Trust Agreement sets forth a time limit of five years for the disposition of the Trust’s assets and distribution to the unit holders unless the Court, upon motion, determines that a fixed period extension is necessary to facilitate or complete the recovery and liquidation of the Trust assets and winding up of its affairs.

The accompanying financial statements for the Trust are unaudited. In the opinion of the Trustee, the financial statements reflect all adjustments necessary for a fair presentation of the financial position and income and expenses of the Trust as prepared on a Federal income tax basis.

## **Note 2 – Basis of Accounting**

*Basis of presentation:* The accompanying financial statements have been prepared in accordance with Federal Income Tax Reporting Principles (“FITR”). Accordingly, certain revenue and the related assets are recognized when received rather than when earned; certain expenses are recognized when paid rather than when the obligation is incurred; and assets are reflected at their tax basis. For information concerning the financial statements prepared based on accounting principles generally accepted in the United States of America, reflecting an entity in liquidation, and a reconciliation of the Trust’s FITR to accounting principles generally accepted in the United State of America, reflecting an entity in liquidation, see Note 5.

*Valuation of Assets and Liability:* The Trust Equity balance on July 22, 2005 was equal to \$45,026. The Trust Equity balance excludes certain assets and liabilities that have been retained by IMPATH as described in Note 3.

*Income taxes:* For Federal income tax purposes, the July 22, 2005 transfer of assets of \$45,026 to the Trust and distribution to stockholders of Class A Interests was treated as a partial liquidating distribution of assets by IMPATH to its stockholders and a contribution by the stockholders of such net assets to the Trust in return for Class A Interests.

The Trust is treated as a grantor trust and not a corporation. Accordingly, any income or loss of the Trust will not be taxable to the Trust but will be taxable to the Class A Interests as if the Class A Interest had themselves realized the income or loss from their pro rata interest in the Trust assets.

*Net income / (loss) per unit:* Net income / (loss) per Class A Interest unit is calculated by dividing net income / (loss) of the Trust by the number of Class A Interests.

*Cash and cash equivalents:* All investments in money market funds are included as cash equivalents.

### **Note 3 – Litigation and Other Contingent Assets**

In accordance with the Trust Agreement, the Trust has assumed the obligation, where required, to prosecute certain litigation.

#### **KPMG Lawsuit**

On July 27, 2005 the Trustee filed a Complaint in United States District Court for the District of New Jersey (the “New Jersey Court”) against KPMG LLP (“KPMG”) for damages arising out of KPMG’s alleged knowing and/or reckless participation in Impath’s prepetition accounting fraud. KPMG filed a Motion to Dismiss the Complaint (the “Motion to Dismiss”) on September 30, 2005, which had the effect of staying discovery. The Trustee filed a Memorandum in Opposition to the Motion to Dismiss on November 18, 2005. On February 2, 2006, the Court denied KPMG’s motion to dismiss. The Trustee’s counsel also made a motion to modify the stay of discovery which is in place pending a final determination of the Motion to Dismiss. In light of the Court’s ruling on the Motion to Dismiss, the Trustee intends to move forward with discovery. The Trustee expects KPMG to vigorously defend the lawsuit.

#### **Contingent Assets and Liabilities**

Pursuant to a motion filed in the Bankruptcy Court, dated June 30, 2005, certain technical amendments were made to the Plan that allowed the Post-Dissolution Trustee of

IMPACTH to retain certain assets for purposes of implementing the Plan. Certain contingent assets were not transferred to the Trust on the Effective Date and are not included in the Trust Equity balance as of the Effective Date. These assets include:

#### Income Tax Refunds

The Post-Dissolution Trustee is pursuing income tax refunds, together with interest thereon, of approximately \$28,000. These refund claims arise from the amended state and Federal income tax returns re-filed by the Debtors for the years 1999 through 2002, state income tax returns for the year 2004 and Federal income tax refunds and returns to be filed by the Post-Dissolution Trustee for the years after 2004 requesting refunds as a result of loss carrybacks from those years to the year 2004. The Trustee and his professionals have devoted a substantial amount of time and effort on the refunds which, if obtained, would result in substantial additional distributions to Class A Interests. It is not possible to predict when and in what amount the taxing authorities will finally allow the refund claims.

#### Genzyme Dispute

The Trustee is pursuing resolution of disputes with Genzyme Corporation (“Genzyme”) arising out of the parties’ Asset Purchase Agreement, dated February 27, 2004 (the “APA”). The APA provided for a purchase price of \$215,000, subject to certain adjustments, including a “Purchase Price Adjustment”, which was based on the “Working Capital of the Business” at closing compared to the “Target Working Capital”, the latter of which was based on IMPACTH’S November 30, 2003 Balance Sheet. Genzyme has asserted the position that it is entitled to a purchase price reduction of \$7,613. IMPACTH has asserted, and the Trustee maintains, that Genzyme is liable to IMPACTH for a purchase price increase of \$6,354. A portion of the purchase price paid by Genzyme, in the amount of \$2,700, constitutes “Holdback Escrow Funds” that are held by a third party. The balance necessary to cover Genzyme’s disputed claim is being maintained as a cash reserve by the Trustee, pending the resolution of the parties’ dispute.

Under the APA, Genzyme and the Post-Dissolution Trustee are to attempt to agree on a “Working Capital Referee” to resolve their dispute by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The Trustee presently anticipates that this matter may be resolved during the first half of 2006, although there could well be delays due to the inherent uncertainty of the arbitration process.

#### Other Possible Amounts from IMPACTH.

In addition to possible amounts related to Income Tax Refunds and the Genzyme Dispute discussed above, the potential exists that other monies, including amounts related to reserves for disputed pre-petition and administrative claims, and reserves for

administrative costs, may eventually be available to the Trust. However, there can be no certainty in respect to the amount or monies or when such monies, if any, may be available to the Trust arising from such matters.

#### **Note 4 – Future Distribution of Trust Assets**

On August 12, 2005, the Trust paid a cash distribution of \$2.55 per Unit of Class A Interests to the holders of record on August 5, 2005. There were no other cash distributions in 2005.

Pending resolution of the litigation and additional monies, if any, to be received from IMPATH, see Note 3 to Financial Statements – Litigation and Other Contingent Assets, the Trustee will make at least an annual cash distribution to the holder of record of Class A Interests to the extent that the Trustee determines there is sufficient cash for such distribution.

#### **Note 5 – Differences between Federal Income Tax Reporting Principles and Accounting Principles Generally Accepted in the United States of America, Reflecting an Entity in Liquidation**

These financial statements have been prepared in accordance with Federal Income Tax Reporting Principles (“FITR”) which differ in certain respects with those principles and practices that the Trust would have followed had its financial statements been prepared in accordance with accounting principles generally accepted in the United States of America, reflecting an entity in liquidation (“GAAPLIQ”).

The material differences between FITR and GAAPLIQ, which are relevant to the Trust’s Statement of Operation, Balance Sheet, Statement of Cash Flows and Statement of Changes in Trust Equity, are summarized as follows:

##### **a. Accounting for Investment Securities**

For FITR, Investment Securities are carried at original cost, net of premium/ (discount) amortization. This amortization is included in income when interest is collected. For GAAPLIQ, all of the Trust’s securities would be reflect at net realizable value: thus, changes in net realizable value are recognized through income. For FITR, interest income is recorded when collected and for GAAPLIQ, a ratable portion of interest income is recognized at each period end.

##### **b. Accounting for Accrued Liabilities**

For FITR, accrued liabilities, other than premium/ (discount) amortization, discussed in subpart a. above, are recorded when paid while for GAAPLIQ, accrued liabilities are recognized as a liability in the period the assets are purchased or the services are incurred.

- c. The effect of different treatments described above on the Trust's financial statements would be as follows:

The Trust incurs legal and administrative costs each month. Under FITR, expenses for legal and administrative costs are recognized when paid. For the year ended December 31, 2005, there would have been approximately \$50 in accrued legal and administrative expenses under GAAPLIQ.