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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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IN RE: : **Chapter 11**
: :
IMPATH INC., et al., : **Case No. 03-16113 (PCB)**
: :
Debtors. : **(Jointly Administered)**
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**FIRST POST-CONFIRMATION STATUS REPORT OF THE POST-DISSOLUTION
TRUSTEE OF IMPATH INC. AND THE TRUSTEE OF THE IMPATH BANKRUPTCY
LIQUIDATING TRUST PURSUANT TO SECTION 1106(a)(7) OF THE BANKRUPTCY
CODE, LOCAL RULE 3021-1 AND THE POST-CONFIRMATION ORDER**

TO THE HONORABLE PRUDENCE C. BEATTY,
UNITED STATES BANKRUPTCY COURT JUDGE:

Anthony H.N. Schnellling, as Post-Dissolution Trustee of Impath Inc. and Trustee of the Impath Bankruptcy Liquidating Trust (collectively, the “Trustee”), by his undersigned counsel and pursuant to Section 1106(a)(7) of Title 11 of the United States Code (the “Bankruptcy Code”), Local

Bankruptcy Rule (“Local Rule”) 3021-1 and this Court’s Post-Confirmation Order and Notice dated October 4, 2005 (the “Post-Confirmation Order”), represents:

I. Background

1. On September 28, 2003 (the “Petition Date”), Impath Inc. (“Impath”) and its debtor subsidiaries, as debtors and debtors in possession (together, the “Debtors”), each filed in this Court voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

2. During the course of these proceedings, substantially all of the Debtors’ assets were sold (as discussed below, primarily to Genzyme Corporation) and a plan of liquidation was filed (the “Plan”), which Plan provided for: payment in full to general unsecured creditors; settlement of the multiple securities law class actions which were filed against the Debtors; and establishment of a Liquidation Trust through which distributions are made to holders of Beneficial Interests in the Trust. The Trust holds claims against KPMG, LLP (“KPMG”), the Debtors’ former auditors, which were assigned to the Trust by the Debtors and the class action plaintiffs, who hold Class B Beneficial Interests in the Trust and are entitled to 22% of the net proceeds of recoveries against KPMG, with the Class A Beneficial Interests being entitled to 78% of such recoveries. The Chapter 11 Plan also provided for the public trading of Class A Beneficial Interests, subject to certain limitations. Class A Beneficial Interests were received by holders of the common shares of the Debtors in exchange for the cancellation of those shares.

3. This Court confirmed the Plan pursuant to an Order entered on March 22, 2005 (Docket No. 1338) (the “Confirmation Order”). The Plan was modified pursuant to the Order Authorizing Debtors to Make Certain Technical Modifications to the Plan which Order was entered on July 13, 2005 [Docket No. 1403].

4. The Plan became effective on July 22, 2005 (the “Effective Date”), as reflected in the Notice of Occurrence of Effective Date of Debtors’ Plan (Docket No. 1413), which was filed with this Court on July 28, 2005.

5. Pursuant to the Plan, on the Effective Date, the Debtors’ estates were substantively consolidated and are being liquidated under the supervision of the Trustee.

6. On October 5, 2005, the Post-Confirmation Order was entered. The Post-Confirmation Order requires that the Trustee file on January 15th, April 15th, July 15th and October 15th of each year following the Effective Date until a final decree has been entered “a status report detailing the actions taken by the Trustee and the progress made toward consummation of the Plan”.

7. Pursuant to the Post-Confirmation Order and Section 1106(a)(7) of the Bankruptcy Code and Local Rule 3021-1, the Trustee files this Report to describe the actions taken by the Trustee and the progress made toward consummation of the Plan.

II. Progress Made Toward Consummation of the Plan

A. Occurrence of Conditions to Effectiveness of the Plan

8. Pursuant to Section 10.1 of the Plan, the following conditions were required to be met prior to the Plan becoming effective: (1) entry of the Confirmation Order; (2) no stay or injunction of the Confirmation Order shall be in effect; (3) all documents, instruments and agreements necessary to implement the Plan, in a form satisfactory to the Debtors, including the Liquidating Trust Agreement (as defined in the Plan), shall be executed unless the execution of such documents or agreements is waived; (4) the Settlement Agreement (as defined in the Plan) between the Debtors, Impath’s equity holders and the class action plaintiffs, must be in full force and effect, and all conditions precedent thereto must be satisfied; and (5) the Class Action Settlement (as defined in the Plan) must be

approved by the U.S. District Court for the Southern District of New York (the “District Court”) by a final nonappealable Order.

9. All of the conditions to the effectiveness of the Plan occurred prior to the Effective Date. First, this Court entered the Confirmation Order on March 22, 2005. Second, no stay or injunction of the Confirmation Order was in effect at the time the other conditions to the effectiveness of the Plan were met. Third, all documents, instruments and agreements necessary to implement the Plan, including the Liquidating Trust Agreement, were executed and delivered to the parties thereto. Fourth, the Settlement Agreement was in full force and effect and all conditions precedent to the Settlement Agreement were satisfied. Fifth, the Class Action Settlement, which was incorporated into the Plan, was approved by the District Court pursuant to a final Order entered on June 10, 2005 (Case No. 03-cv-05667-DAB).

10. On the Effective Date, the Trustee held cash of \$61,198,589 plus claims for tax refunds and the assigned claims against the Debtors’ former accountants. Reserves of \$18,240,723 were established against the cash funds for professional fees, unpaid general unsecured claims, claims asserted by Genzyme Corporation under the parties’ Asset Purchase Agreement, and administrative expenses incurred and to be incurred (“Reserves”). In order to enhance the initial distribution to holders of Class A Beneficial Interests, the full amount of administrative expenses were not reserved and will be paid and/or reserved from future distributions.

B. Initial Distribution by the Trustee

11. After giving effect to the Reserves, on or about August 22, 2005, the Trustee made an initial cash distribution of \$42,957,866, or \$2.55 per unit, to the holders of record Class A Beneficial Interests.

C. Claims Resolution

12. Since the Effective Date, the Trustee has paid \$365,782 to settle pre-petition claims, and has paid the tax claims of the State of California Board of Equalization in the amount of approximately \$1,516,000, reduced from original claim amounts in excess of \$6.3 million.

13. Prior to confirmation of the Plan, the Debtors filed eight omnibus objections to claims filed against the Debtors' estates. On November 18, 2005, the Trustee filed the Ninth Omnibus Objection to Proofs of Claim (Late) (Books and Records) (CBOE and Adelson Claims) (Docket No. 1444) (the "Ninth Omnibus Objection"). Responses were due on or before December 28, 2005. A hearing on the Ninth Omnibus Objection was held on January 11, 2006 at 2:30 p.m. at which time two late filed claims in the aggregate amount of \$155,536 were expunged, one unsecured claim in the amount of \$92,208 and five priority tax claims in the aggregate amount of \$990,078 were expunged, one unsecured claim in the amount of \$200,000 was withdrawn (Adelson), and the omnibus objection motion was adjourned, to be reset at the Trustee's request, with respect to two priority tax claims aggregating \$452,981 and one administrative claim in the amount of \$688,439 in order for counsel to attempt to negotiate resolutions.

D. Professional Fees Incurred During Bankruptcy Proceedings

14. Final fee applications for all professionals retained by the Debtors or on behalf of constituents of their estates were approved by an Order of the Bankruptcy Court entered on November 7, 2005 [Docket No. 1440] (the "Final Professional Fee Order"), and the Trustee has made payment of \$1,706,320 in outstanding and allowed fees in accordance with the Final Professional Fee Order.

E. Recovery of Assets

The following is a summary of the Trustee's efforts to recover significant assets:

(i) Forfeited Checks

15. In July 2005, the Trustee caused his Disbursing Agent to reissue 138 distribution checks in the amount of \$318,011 on account of checks previously issued by the Debtors, which had never been cashed, without explanation. A total of 27 checks aggregating \$163,531 were returned to the Debtors prior to the Effective Date as not being due and owing. At the end of November, the Disbursing Agent notified the Trustee that a total of \$340,289.88 in uncashed checks was now available for recovery by the Trustee as the uncashed checks were deemed null and void under the forfeiture provisions of Section 5.4(e) of the Plan.

(ii) Tax Returns

16. The Trustee is pursuing tax refunds, together with interest thereon, of approximately \$28 million. These refund claims arise from the amended and federal income tax returns re-filed by the Debtors for the years 1999 through 2002, state income returns for the year 2004 and federal income tax refunds and returns to be filed by the Trustee for the years 2005 and 2006 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 holders of Class A Beneficial Interests. In particular, in addition to efforts expended on the 2004 returns and the returns to be filed, the Trustee and his professionals engaged in an extensive review and analysis of the Debtors' books and records and related financial documents in order to reconcile the amended returns filed by the Debtors to the Debtors' books and records and to thereby facilitate the review process with the Internal Revenue Service. In going through this reconciliation process, the Trustee and his professionals produced a 96-page report, plus extensive exhibits, which the Trustee and his representatives presented to the Internal Revenue Service at the initial meeting held with the Agent in charge in November. The

Agent to whom the materials were presented was new to the process, having replaced the prior assigned Agent.

17. While it is not possible to predict when and in what amount the taxing authorities will finally allow the refund claims, the Trustee is confident that the extensive work product presented to the Agent will facilitate the process with the Internal Revenue Service. The Trustee's professionals plan to meet again with the Agent as soon as possible after his review of the documents provided to him by the Trustee.

(iii) The KPMG Lawsuit

18. In order to evaluate the Debtors' claims against the Debtors' former accountants, KPMG, the Trustee and the professionals conducted an extensive review of the legal and factual bases for the claims against KPMG, including documents and the relevant accounting principles and auditing standards. Based on that review, on July 27, 2005, the Trustee filed a Complaint in the U.S. District Court for the District of New Jersey (Case No. 05-cv-03756-DMC-MF) (the "New Jersey Court") against 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. A hearing on the Motion to Dismiss and the Trustee's opposition thereto is scheduled to be heard by the New Jersey Court on February 2, 2006 at 9:00 a.m. 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. This motion was made in order to expedite discovery and obtain documents and testimony provided by KPMG to the Securities Exchange Commission and the United States Attorney's Office for the Southern District of New York in connection with their

investigation of the accounting issues at Impath Inc. and will, if granted, assist the Trustee in expediting the lawsuit and formulating an appropriate settlement proposal. That motion has been briefed and has been submitted for determination to the Judge Magistrate assigned to the case. The Trustee expects KPMG to vigorously defend the lawsuit.

(iv) Genzyme Dispute

19. The Trustee is pursuing resolution of disputes with Genzyme Corporation (“Genzyme”) arising out of the parties’ Asset Purchase Agreement, dated as of February 27, 2004 (the “APA”). The APA provided for a purchase price of \$215 million, 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 the Debtors’ November 30, 2003 balance sheet. Genzyme has asserted the position that it is entitled to a purchase price reduction of \$7,613,646. Impath has asserted, and the Trustee maintains, that Genzyme is liable to Impath for a purchase price increase of \$6,354,244. A portion of the purchase price paid by Genzyme, in the amount of \$2,700,000, 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.

20. Under the APA, Genzyme and the 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.

F. Administrative Bar Date

21. In addition, on October 21, 2005 this Court entered an Order Pursuant to Section 503(a) of the Bankruptcy Code and Bankruptcy Rule 3003(c)(3) Fixing Final Date for Filing Requests for Payment of Administrative Expense Claims in the Debtors' Chapter 11 Cases and Approving Notices Thereof (Docket No. 1436) (the "Administrative Bar Date Order"). The Administrative Bar Date Order, which was supplemented pursuant to an Order entered on November 21, 2005 (Docket No. 1444), provided that the deadline to file administrative expense claims against the Debtors' estates was November 29, 2005 at 4:00 p.m. (prevailing Eastern Time). The Trustee has received and begun to analyze the seventeen administrative expense claim requests that were filed, which included a "protective" request filed by Genzyme Corporation in the amount of the Purchase Price Adjustment it seeks under the APA (*supra* ¶ 19).

22. Since the Effective Date, the Trustee has paid \$77,707 to settle undisputed administrative claims requests.

Dated: January 23, 2006

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