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Attorneys for Anthony H.N. Schnellling, as Post-Dissolution Trustee of Impath Inc. and Trustee of the Impath Bankruptcy Liquidating Trust

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

-----X  
IN RE: : Chapter 11  
: :  
IMPATH INC., et al., : Case No. 03-16113 (PCB)  
: :  
Debtors. : (Jointly Administered)  
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**SEVENTH 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 and a plan of liquidation was filed, subsequently amended, and confirmed by the Court (the “Plan”).

3. The Plan became effective on July 22, 2005 (the “Effective Date”), at which time the Debtors’ estates were substantively consolidated. Pursuant to the Plan, certain assets of the Debtors were transferred for administration by the Trustee as Liquidating Trustee of the Impath Bankruptcy Liquidating Trust (the “Liquidating Trust”) and certain assets remained with Impath Inc., through its wind-down, for administration by the Trustee as its Post-Dissolution Trustee.

4. On October 5, 2005, the Post-Confirmation Order was entered requiring the Trustee to file on January 15<sup>th</sup>, April 15<sup>th</sup>, July 15<sup>th</sup> and October 15<sup>th</sup> 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”.

5. The Trustee has filed the following Post-Confirmation Reports to date: (i) First Post-Confirmation Report filed on January 23, 2006 [Docket No. 1461]; (ii) Second Post-Confirmation Report filed on April 13, 2006 [Docket No. 1468]; (iii) Third Post-Confirmation Report filed on July 25, 2006 [Docket No. 1489]; (iv) Fourth Post-Confirmation Report filed on October 17,

2006 [Docket No. 1493]; (v) Fifth Post-Confirmation Report filed on January 19, 2007 [Docket No. 1512]; and (vi) Sixth Post-Confirmation Report filed on April 20, 2007 [Docket No. 1515].

6. The Trustee files this Seventh Post-Confirmation Report to describe the actions he has taken and the progress that has been made towards consummation of the Plan since April 20, 2007.

## **II. Progress Made Toward Consummation of the Plan**

### **A. Claims Resolution**

7. 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"). All but two claims were resolved on or before the scheduled hearing and the hearing on the two remaining claims, consisting of a priority tax claim in the amount of \$443,296 and surety bond claims in the aggregate amount of \$688,439, was adjourned to allow the parties to attempt a consensual resolution. The Trustee is in the process of documenting a settlement of the surety bond claims and anticipates filing a Stipulation with the Court shortly to seek approval of the proposed settlement. The Trustee disputes his liability for the priority tax claim and is continuing to work to resolve it.

### **B. Recovery of Additional Assets (Tax Refund Claims)**

8. The Trustee and its predecessor, the Debtors, have filed federal, state and local tax refund claims of approximately \$28,500,000, including interest, for years 1995 through 2005 of which \$21,500,000 relate to federal returns and \$7,000,000 relate to state and local returns for these years. The sum of approximately \$2,017,000 of state and local tax refunds have been collected to date. Interest accrues at the various state and local rates, where applicable, on the state and local refund claims filed to the extent allowed.

9. The Internal Revenue Service (the "IRS") commenced an audit of tax years 1999 through 2005 beginning in December 2005 and has been engaged in its fieldwork through the date of this Report. The fieldwork has encompassed an extensive review of the Debtors' books and records, including the accounting investigation commenced in the late summer of 2003, which gave rise to the filing of amended federal, state and local tax returns for years 1995 through 2002. The IRS has issued a series of Information Document Requests to the Trustee requesting the production of all accounting system transaction data and other documents and legal support on a wide range of issues relating to the tax returns for the tax years under audit. To date, the Trustee and his professionals have invested extensive efforts to produce and deliver materials that are responsive to the Information Document Requests. The Trustee and his professionals were recently advised by the Revenue Agent responsible for the fieldwork and his supervisor that the fieldwork has been completed, and the Revenue Agent would be submitting his report in the near future. The results of the fieldwork will be provided to the Trustee and his professionals when the report is completed.

10. It is the Trustee's understanding that the Revenue Agent's report will be reviewed at the district level and then submitted to the Joint Committee on Taxation that reviews all refunds that exceed \$2.0 million. The Joint Committee of Taxation is a congressional committee that must approve issuance of the federal income tax refunds sought by the Trustee. The Trustee cannot predict how long the Joint Committee might take to finalize its review.

Dated: July 16, 2007

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