

SAUL EWING LLP
John J. Jerome (JJ-2413)
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102-2186
Telephone: (212) 672-1996
Facsimile: (212) 672-1920

Joyce A. Kuhns (JK-8435)
Lockwood Place
500 East Pratt Street, Suite 800
Baltimore, MD 21202-3171
Telephone: (410) 332-8600
Facsimile: (410) 332-8862

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**

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IN RE: : Chapter 11
: :
IMPATH INC., et al., : Case No. 03-16113 (PCB)
: :
Debtors. : (Jointly Administered)
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TENTH 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 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".

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]; (vi) Sixth Post-Confirmation Report filed on April 20, 2007 [Docket No. 1515]; (vii) Seventh Post-Confirmation Report filed on July 16, 2007 [Docket No. 1517]; Eighth

Post-Confirmation Report filed on October 17, 2007 [Docket No. 1521]; and Ninth Post-Confirmation Report filed on January 7, 2008 [Docket No. 1523].

6. The Trustee files this Tenth Post-Confirmation Report to describe the actions he has taken and the progress that has been made towards consummation of the Plan since January 7, 2008.

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"). Only one claim remains, a priority tax claim by New York State for income taxes in the amount of \$443,296 for calendar years 2000 through 2002, which the Trustee disputes. As a result of the completion of the IRS Audit for the subject period and issuance of the final audit reports (see below), the New York State tax department has commenced a review of the amended state tax returns filed by the Trust. The Trust expects that this claim will be withdrawn upon settlement of the refunds claimed in the amended New York State income tax returns.

B. Recovery of Additional Assets (Tax Refund Claims)

8. We have previously reported that the Trustee and its predecessor, the Debtors, have filed federal, state and local tax refund claims of approximately \$28,500,000 for the 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 \$2,031,000 of state and local tax refunds have been processed and collected to date. The processing of additional state and local tax refunds have been on hold pending completion of the IRS audit and approval thereof by the Joint

Committee on Taxation. Interest accrues at the various federal, state and local rates, where applicable, on the refund claims filed to the extent allowed.

9. The Joint Committee on Taxation (the “Taxation Committee”) consists of representatives of both houses of the United States Congress and is charged with approving the issuance of federal income tax refunds exceeding \$2 million. As previously reported, the Joint Committee had approved a refund of income taxes covering the years 1999 through 2005 in the amount of \$22,694,896, plus interest. The Trustee has now received \$22,694,896 in federal income tax refunds and \$5,492,454 in accrued interest relating to the refunds for a total of \$28,187,350. The interest amount is considered taxable income, and the Trustee will deposit applicable federal, state and local estimated taxes of approximately \$1,025,000 in the second quarter of 2008.

10. When the IRS audit began, there was substantial uncertainty that the refund claims would be approved in full due to the circumstances surrounding the over-reporting of taxable income, including the condition of Impath’s books and records and the pervasive criminal activity. For example, it was likely to be extremely difficult to substantiate the various deductions. The Trustee and its counsel were able to persuade the IRS of the legitimacy of the claims even though a number of difficult issues were raised by the revenue agent. Those issues substantially slowed the process and the Trustee and his counsel ultimately had to have them resolved by IRS National Office personnel.

11. The audit review process for the approximately \$4,600,000 remaining in state and local income tax refunds has commenced. The Trustee has now filed final amended returns in California and Arizona. The Trust and its tax accounting advisors are engaged with New York State in the review of the income tax returns for years 1999 through 2005 and, within the next several weeks, will be filing with the remaining states and localities where refunds are due.

State and local governments generally accept the IRS' determination of taxable income. However, the state and local tax authorities can raise other issues including allocation and apportionment of income or loss to a particular state or local government. The Trustee cannot predict how long this process will take for each of the respective jurisdictions or whether the amount of the refunds claimed will be allowed in whole or in part.

C. Current Assets and Distributions to Beneficial Interests

12. As of April 30, 2008, after receipt of the Federal tax refund, the Trustee has approximately \$32,250,000 of cash on hand. Of this amount, the Trustee plans to distribute \$29,054,154.57 after reserving for fees and expenses, New York State tax administrative claim (pending resolution thereof), and applicable federal, state and local tax deposits relating to the taxable interest income received with the federal income tax refunds. That distribution will be equal to \$1.73 per Class A unit.

D. Record Date and Distribution Date

13. The record date for the distribution will be May 23, 2008 and the distribution date will be June 3, 2008. The Trustee anticipates that there will be a subsequent distribution after the collection of substantially all of the state and local income tax refunds has been completed.

Dated: May 19, 2008

SAUL EWING LLP

By: /s/ John J. Jerome
John J. Jerome
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102-2186
Telephone: (212) 672-1995

and

Joyce A. Kuhns
SAUL EWING LLP
Lockwood Place
500 East Pratt Street, Suite 800
Baltimore, MD 21202-3171
Telephone: (410) 332-8600

Counsel to Anthony H.N. Schnelling,
as Post-Dissolution Trustee of Impath
Inc. and Trustee of the Impath
Bankruptcy Liquidating Trust

Miscellaneous:

03-16113-pcb Impath Inc.

U.S. Bankruptcy Court
Southern District of New York

Notice of Electronic Filing

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Docket Text:

Post-Confirmation Report. *[Tenth 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]* filed by John J. Jerome on behalf of Anthony H.N. Schelling, Liquidating Trustee of the Impath Bankruptcy Liquidating Trust. (Jerome, John)

The following document(s) are associated with this transaction:

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a483115f2a236fd79e14ea42be6921b408ba5c82bafc7a6af31550d7563]]

03-16113-pcb Notice will be electronically mailed to:

Michael A. Axel michael_axel@keybank.com

Ronald Scott Beacher rbeacher@daypitney.com

Christopher Robert Belmonte cbelmonte@ssbb.com, pbosswick@ssbb.com

Leslie Ann Berkoff lberkoff@moritthock.com

Douglas Bilotti dbilotti@mhhlaw.com

Susan G. Boswell sboswell@quarles.com

Mark A. Broude mark.broude@lw.com