

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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| In Re: Graceway Pharmaceuticals, LLC | : | Chapter 11 |
| Debtor. | : | Case No. 11-13036 |
| | : | (Jointly Administered ¹) |
| | : | |
| | : | Judge Peter J. Walsh |
| | : | |
| | : | Related to Docket No.1043 & 1053 |

NOTICE OF WITHDRAWAL OF DOCUMENT (DOC 1053)

The Ohio Department of Jobs and Family Services (“**ODJFS**”) and Ohio Department of Taxation (“**ODT**”), (collectively the “**State of Ohio**”) hereby withdraws its *Objection to Motion of the Liquidating Trustee for Approval of Schedule of Unsecured Claims* (Doc 1053) (“**Objection**”) as filed on September 9, 2014 for the reasons explained below:

BACKGROUND

1. The Objection was filed out of an abundance of caution, and in limited opposition to *Motion of the Liquidating Trustee for Approval of Schedule of Unsecured Claims* (Doc 1043) (“**Motion**”), so as to preserve all State of Ohio claims which might still be pending and, which appeared to be negatively affected by the Motion and its Proposed Order (Doc 1043-1).

¹ See, *Order Granting Motion for Joint Administration of Case #11-13036, #11-13037, #11-13038, #11-13039, #11-13041, #11-13042, and #11-13043. The Docket For Case #11-13036 Should Be Consulted For All Matters Affecting This Case. (Related Doc # 4)* (Doc 42, 09.30.2011)

2. Specifically, the State of Ohio sought to preserve Claim 257, as filed by ODT and, Claim 267 as filed by ODJFS (the “**State of Ohio Admin Claims**”) This because it appeared to the State of Ohio that the Liquidating Trustee, in the Motion², by moving “. . . *this court for entry of an order determining the claims identified on Exhibit 2, as the Allowed Unsecured Claims. . .*”, the Liquidating Trustee was attempting to hold the Admin Claims as “not allowed” or to effectively expunge them.

3. This conclusion was buttressed by the wording in the Proposed Order³, which proposed that: “*The Claims identified on Exhibit A attached hereto shall be treated as the universe of Allowed Unsecured Claims for the purpose of calculating pro-rata distributions under the Plan*”. Further, the Liquidating Trustee is to retain the right to further object to any of the Claims, “*on any grounds whatsoever*”, and because in the Chart of Unsecured Claims⁴ the Liquidating Trustee purports to allow the State of Ohio Claims cited therein as follows:

| | | | |
|-----------|---------------|--|-------------|
| 161 & 267 | 12/23/2011 | OHIO DEPARTMENT OF JOB AND FAMILY SERVICES | \$17,547.33 |
| | 257/5/22/2012 | OHIO DEPARTMENT OF TAXATION | \$0.00 |

² See, *Motion* (Doc 1043) at page 1

³ See, *Exhibit 1* (Doc 1043-1) at pages 2-3

⁴ See, *Exhibit 2* (Doc 1043-2) at page 2

4. The Official Claims Agent is BMC Group, Inc.⁵, and at the website the following information is contained, as follows:

Claim 257 OHIO DEPARTMENT OF TAXATION

Graceway Pharmaceuticals, LLC 11-13036
5/22/2012 \$1,666.67

Claim 267 OHIO DEPARTMENT OF JOB & FAMILY SERVICES

Graceway Pharmaceuticals, LLC 11-13036
7/9/2012 \$3,364.83

Claim 161 OHIO DEPARTMENT OF JOB & FAMILY SERVICES

Graceway Pharmaceuticals, LLC 11-13036
12/23/2011 \$17,547.33

5. Thus, based on the information available through the Claims Agent, and the Motion, it appeared that neither Claim 257 nor Claim 267 was to be paid or, that it was the Liquidating Trustee's intention to expunge these Claims, and, or to allow only Claim 161 in the amount of \$17,547.33 as an unsecured claim, if the Motion was granted, as originally drafted.
6. After reviewing its records and consulting with the Liquidating Trustee's counsel, the State of Ohio, by and through the undersigned, determined that impetus behind the Motion is solely to "finalize" and, or, create "*the universe of Allowed Unsecured Claims for the purpose of calculating pro-rata distributions under the Plan.*"⁶ To that end, and in conjunction with the various other objections to the Motion as filed by various other creditors, the Liquidating Trustee intends to modify the Motion and, or Proposed Order to reflect only, the Universe of Unsecured Claims, and in the case of the State of Ohio, only Claim

⁵ See, *Order Authorizing the Debtors to Retain and Employ BMC Group, Inc.* Doc 43)

161 will be included in the Proposed Order. In accordance with the foregoing, Claim 257 and Claim 267 will not be affected by the Motion or its Proposed Order.

7. Further, both the State of Ohio, and the Liquidating Trustee agree that, as matters pertain to the Motion or its Proposed Order, nothing, therein, is intended as an objection to Claim 257 or Claim 267, and, nothing, therein, prevents the Liquidating Trustee from objecting to either claim on grounds, other than those proffered therein, as pursuant to the United States Bankruptcy Code and, all pertinent orders of this Court.

WHEREFORE, the State of Ohio hereby, withdraws the Objection (Doc 1053) and, requests that no further action need be taken by the State of Ohio or the Liquidating Trustee as it relates to that document, and further requests that no further order need be entered by this Court, as it applies to the Objection .

Respectfully submitted,

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⁶ See, Proposed Order (Doc 1043-1) at page 2.

Certificate of Service

I hereby certify that on October 15, 2014, a true and accurate copy of the foregoing *Notice of Withdrawal of Document (Doc 1053)* was filed via ECF and then true and accurate copies were served as follows:

- (i) via email or ECF upon all those so authorized and;
- (ii) via ordinary US Mail upon the following:

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