

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

GRACEWAY PHARMACEUTICALS, LLC,
et al.,¹

Debtors.

Chapter 11

Case No. 11-13036 (PJW)

Jointly Administered

Ref. Docket No. 28

**ORDER AUTHORIZING THE DEBTORS TO RETAIN AND EMPLOY
PRICEWATERHOUSECOOPERS LLP AS TAX CONSULTANT
NUNC PRO TUNC TO THE PETITION DATE**

("PwC Retention Order")

Upon consideration of the application (the "**Application**")² of the Debtors for entry of an order authorizing the Debtors to retain and employ PricewaterhouseCoopers LLP ("**PwC**") to perform tax consulting services for the Debtors, *nunc pro tunc* to the Petition Date; and upon consideration of the Yarbrough Declaration; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court being satisfied based on the representations made in the Application and the Yarbrough Declaration that PwC is disinterested as that term is defined under Section 101(14) of the Bankruptcy Code, as modified by Section 1107(b) of the Bankruptcy Code; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Graceway Pharma Holding Corp., a Delaware corporation (9175), Case No. 11-13037 (PJW); Graceway Holdings, LLC, a Delaware limited liability company (2502), Case No. 11-13038 (PJW); Graceway Pharmaceuticals, LLC, a Delaware limited liability company (5385), Case No. 11-13036 (PJW); Chester Valley Holdings, LLC, a Delaware limited liability company (9457), Case No. 11-13039 (PJW); Chester Valley Pharmaceuticals, LLC, a Delaware limited liability company (3713), Case No. 11-13041 (PJW); Graceway Canada Holdings, Inc., a Delaware corporation (6663), Case No. 11-13042 (PJW); and Graceway International, Inc., a Delaware corporation (2399), Case No. 11-13043 (PJW). The mailing address for Graceway Pharmaceuticals, LLC is 340 Martin Luther King Jr. Blvd., Suite 500, Bristol, TN 37620 (Attn: John Bellamy). On October 4, 2011, Graceway Canada Company filed an application in the Ontario Superior Court of Justice (Commercial List) pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C. 43.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Application.

appearing that the Application is a core proceeding pursuant to 28 U.S.C. § 157; and adequate notice of the Application and opportunity for objection having been given, with no objections or requests for hearing having been filed, or all objections having been overruled, as the case may be; and it appearing that no other notice need be given; and after due deliberation and sufficient cause therefore, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. The Application is GRANTED, as modified herein.
2. In accordance with Sections 327(a) and 328(a) of the Bankruptcy Code, Bankruptcy Rules 2014 and 2016 and Local Rules 2014-1 and 2016-2, the Debtors are authorized to retain and employ PwC in accordance with the terms and conditions set forth in the Engagement Letter, *nunc pro tunc* to the Petition Date, subject to the modifications herein.
3. Notwithstanding anything to the contrary in the Application, Yarbrough Declaration or Engagement Letter, PwC shall be entitled to allowance of compensation and reimbursement of expenses in accordance with the procedures set forth in Sections 330 and 331 of the Bankruptcy Code and such Bankruptcy Rules and Local Rules as may be applicable, the guidelines established by the Office of the United States Trustee and such procedures as may be fixed by order of this Court. No payments shall be made to PwC with respect to any compensation or reimbursement of expenses unless and until an application for such compensation or reimbursement of expenses is approved by this Court.
4. Notwithstanding anything to the contrary in the Application, Yarbrough Declaration or Engagement Letter, PwC shall not seek reimbursement of expenses in excess of PwC's actual costs.

5. In the event that PwC's rates increase, PwC will file a notice detailing the new rate structure and serve such notice on the Debtors, the Debtors' counsel, the United States Trustee, and counsel to any committee appointed in these Chapter 11 Cases.

6. Notwithstanding anything to the contrary in the Application, Yarbrough Declaration or Engagement Letter, PwC shall not share compensation in contravention of Section 504 of the Bankruptcy Code. Further, PwC shall not employ the services of any of its affiliates absent such affiliate conducting a conflicts check and filing a declaration of disinterestedness, subject to the foregoing restriction on the sharing of compensation. PwC shall not subcontract out any work to, or employ the services of, any person or entity that is not an affiliate of PwC absent further order of this Court.

7. The indemnification provision of the Engagement Letter is approved, subject during the pendency of these Chapter 11 Cases to the following modification:

- a. PwC shall not be entitled to indemnification, contribution, or reimbursement for services other than the services provided under the Engagement Letter, unless such services and the indemnification, contribution, or reimbursement thereof are approved by the Court;
- b. Notwithstanding anything to the contrary in the Engagement Letter, the Debtors shall have no obligation to indemnify any person, or provide contribution or reimbursement to any person, for any claim or expense to the extent that it is either (i) judicially determined (the determination having become final and no longer subject to appeal) to have arisen from that person's gross negligence or willful misconduct; (ii) for a contractual dispute in which the Debtors allege the breach of PwC's contractual obligations unless the Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to In re United Artist Theatre Co., 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to judicial determination as to the exclusions set forth in clauses (i) and (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which that person should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Letter as modified by this Order; and
- c. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these Chapter 11 Cases (that order having become a final order no

longer subject to appeal) and (ii) the entry of an order closing these Chapter 11 Cases, PwC believes that it is entitled to payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, or reimbursement obligations under the Engagement Letter, including without limitation the advancement of defense costs, PwC must file an application before this Court, and the Debtors may not pay any such amounts to PwC before the entry of an order by this Court approving the payment. This paragraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for payment by PwC for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify PwC.

8. Notwithstanding anything to the contrary in the Application, Yarbrough Declaration or Engagement Letter, the Limitations on Liability provisions set forth in the Engagement Letter shall not apply during the pendency of the Debtors' bankruptcy cases.

9. PwC is hereby granted a limited waiver of the information-keeping requirements of Local Rule 2016-2 to permit PwC and its professionals to maintain their time records in one-half (0.5) hour increments.

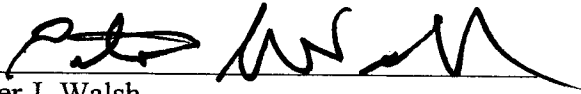
10. To the extent that this Order is inconsistent with the Application, the Yarbrough Declaration or the Engagement Letter with respect to the terms and conditions of PwC's retention and employment by the Debtors in these Chapter 11 Cases, the terms of this Order shall govern.

11. Notwithstanding anything to the contrary contained herein, any payment to be made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any approved debtor-in-possession financing facility, or any order regarding the use of cash collateral.

12. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

13. Notwithstanding anything to the contrary in the Application, Yarbrough Declaration or Engagement Letter, this Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order or the execution or interpretation of the Engagement Letter.

Dated: Oct 17, 2011
Wilmington, Delaware


Peter J. Walsh
United States Bankruptcy Judge