

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

In re: ) Chapter 11  
)  
GRACEWAY PHARMACEUTICALS, LLC, ) Case No. 11-13036 (PJW)  
*et al.*,<sup>1</sup> )  
) Jointly Administered  
Debtors. ) **Hearing Date: November 22, 2011 at 11:00 a.m.**  
\_\_\_\_\_ ) **Objections deadline: November 17, 2011 at 4:00 p.m.**

**APPLICATION PURSUANT TO BANKRUPTCY CODE  
SECTIONS 328(a), 1103 (a), AND 1103(b) AUTHORIZING THE  
EMPLOYMENT AND RETENTION OF STIKEMAN ELLIOTT LLP  
AS SPECIAL CANADIAN COUNSEL TO THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS *NUNC PRO TUNC* AS OF NOVEMBER 6, 2011**

The Official Committee of Unsecured Creditors (the “Committee”) of the above-captioned debtors and debtors-in-possession (the “Debtors”), hereby submits this Application Pursuant to Bankruptcy Code Sections 328(a), 1103(a), and 1103(b) Authorizing the Employment and Retention of Stikeman Elliott LLP as Special Canadian Counsel to the Official Committee of Unsecured Creditors *Nunc Pro Tunc* as of November 6, 2011 (the “Application”). In support of this Application, the Committee respectfully represents as follows:

**BACKGROUND**

1. On September 29, 2011 (the “Petition Date”), the Debtors commenced their bankruptcy cases (collectively, the “Bankruptcy Case”) by filing voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the

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<sup>1</sup> 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); Graceway Holdings, LLC, a Delaware limited liability company (2502); Graceway Pharmaceuticals, LLC, a Delaware limited liability company (5385); Chester Valley Holdings, LLC, a Delaware limited liability company (9457); Chester Valley Pharmaceuticals, LLC, a Delaware limited liability company (3713); Graceway Canada Holdings, Inc., a Delaware corporation (6663); and Graceway International, Inc., a Delaware corporation (2399). The mailing address for Graceway Pharmaceuticals, LLC is 340 Martin Luther King Jr. Blvd., Suite 500, Bristol, TN 37620 (Attn: John Bellamy).

“Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Court”).

2. The Debtors continue to operate its business and manage its properties as a debtor-in-possession pursuant to Bankruptcy Code Sections 1107 and 1108.

3. On October 11, 2011, the United States Trustee appointed the Committee, which consists of the following members: Value Recovery Fund LLC (Michael Iuliano), Metaphor Inc. (Dwayne Hann), and 3M Company (Maureen Harms). *See* Appointment of Official Committee of Unsecured Creditors (Docket No. 90).

4. On October 11, 2011, the Committee met and selected Lowenstein Sandler (“LS”) and Elliott Greenleaf (“EG”) as Counsel to the Committee. On October 12, 2011, the Committee selected FTI Consulting (“FTI”) to serve as its Financial Advisors.

5. On November 6, 2011 (the “Retention Date”), the Committee met and selected Stikeman Elliott LLP as Special Canadian Counsel to the Committee.

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

7. The statutory predicates for this Application are Bankruptcy Code Sections 328, 1103(a) and 1103(b) and Rule 2014(a) and (b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2014-1 Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

### **RELIEF REQUESTED**

8. The Committee desires to retain and employ SE as its Special Canadian Counsel in the Bankruptcy Case and, by this Application, requests that the Court enter an order authorizing it to retain and employ SE, *nunc pro tunc* to the Retention Date. Accordingly, the Committee respectfully requests the entry of an order, pursuant to Bankruptcy Code Section 1103, authorizing the employment and retention of SE as its Special Canadian counsel to perform the legal services that will be necessary during the Bankruptcy Case.

9. The Committee's employment of SE is appropriate and necessary to enable the Committee to execute faithfully its duties as a statutory committee of unsecured creditors and to implement a successful reorganization.

### **SERVICES TO BE PROVIDED BY SE**

10. The Committee anticipates that, in connection with the Bankruptcy Case, SE's retention will be limited to counsel and analysis of Canadian intellectual property and regulatory issues related to the sale of the Debtors' and Graceway Canada's assets. To the extent it is necessary to expand the scope of SE's employment, the Committee will file a request to amend the Retention Application Order.

11. As set forth above, SE has discussed a division of responsibility with LS, EG, FTI, and the Committee. It is the Committee's intent to ensure that its professionals do not unnecessarily duplicate their efforts on the Committee's behalf. Subject to this Court's approval, SE will charge for its legal services on an hourly basis in accordance with its ordinary and customary hourly rates in effect on the date services are rendered. These rates may change from time to time in accordance with SE's billing practices and procedures. SE will maintain detailed, contemporaneous time records of time and any action and necessary expense incurred in

connection with the rendering of legal services described above by category and nature of services rendered.

12. SE intends to apply to the Court for payment of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, the Order Establishing Procedures for Interim Compensation pursuant to the Bankruptcy Code Section 331, and any other applicable orders entered in this case in connection with all services performed and expenses incurred on and after the Retention Date.

13. The Committee proposes to pay SE its customary hourly rates in effect from time to time for services rendered, as set forth in the Affidavit of Ashley John Taylor (the "Affidavit") attached hereto as Exhibit A, and to reimburse SE according to its customary reimbursement policies, which rates and policies the Committee believes to be reasonable. All payments are subject to the provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules and applicable orders of this Court.

#### **BASIS FOR RELIEF**

14. Bankruptcy Code Section 1103(a) provides:

At a scheduled meeting of a committee appointed under section 1102 of this title, at which a majority of the members of such committee are present, and with the court's approval, such committee may select and authorize the employment by such committee of one or more attorneys, accountants, or other agents, to represent or perform services for such committee.

11 U.S.C. § 1103 (a)

15. To the best of the Committee's knowledge, and except as disclosed herein and in the attached Affidavit, SE has not represented the Committee, the Debtor, its creditors, equity security holders, or any other parties-in-interest, or their respective attorneys, in any

matter relating to the Debtor or its estate and is a “disinterested person” within the meaning of Sections 1103 and 101(14) of the Bankruptcy Code.

16. The Committee believes that the employment of SE to perform the services described herein as may be required by the Committee is necessary and in the best interest of the Debtor and the Debtor’s estate.

**NOTICE AND NO PRIOR APPLICATION**

17. Notice of this Application has been provided to (a) the Debtors; (b) Counsel to Debtors; (c) Counsel to Lenders; (d) United States Trustee for the District of Delaware; (e) Counsel to the Official Committee of Unsecured Creditors; and, (f) all parties required to receive service under Rule 2002-1(b) of the Local Rules. The Committee respectfully submits that, given the administrative nature of the relief requested, no other notice of the relief requested herein need to be given.

18. No previous application for the relief sought herein has been made to this or any other Court.

WHEREFORE, the Committee respectfully requests the entry of an Order, in the form attached herewith, (i) authorizing the retention of SE to represent the Committee in this Chapter 11 case as its Canadian Counsel, and (ii) granting the Committee such other and further relief as is just and proper.

Dated: November 8, 2011

OFFICIAL COMMITTEE OF UNSECURE CREDITORS  
OF GRACEWAY PHARMACEUTICALS, LLC., et al.

By: Matthew A. Stump For 3M Company  
**3M COMPANY** In its capacity as a member of the  
Official Committee of Unsecured Creditors  
By: Matthew A. Stump, 3M Company