

**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 (MFW)

Joint Administration Pending

Docket Ref. No. 13

**ORDER UNDER 11 U.S.C. §§ 105, 363(b), 506 AND 546(b)
AUTHORIZING THE DEBTORS TO PAY CERTAIN
PREPETITION SHIPPING, IMPORTING AND DELIVERY CLAIMS**

("Shipping Order")

Upon the motion (the "**Motion**")² of the above-captioned debtors and debtors-in-possession (collectively, the "**Debtors**"), seeking entry of an order (the "**Order**") under 11 U.S.C. §§ 105, 363(b), 506 and 546(b) authorizing, but not directing, the Debtors to pay certain prepetition Importing and Shipping Claims and related possessory liens; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this Motion is a core proceeding pursuant to 28 U.S.C. § 157; and after due deliberation and sufficient cause therefore, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is GRANTED as set forth herein.

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); 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).

² Unless otherwise defined, capitalized terms used herein shall have the meanings ascribed to them in the Motion.

2. Pursuant to Sections 105, 363(b), 506 and 546(b) of the Bankruptcy Code, the Debtors are authorized, but not directed, to pay, in their discretion and in the ordinary course of business, the prepetition Importing and Shipping Claims and related possessory liens in an amount not to exceed \$35,000 that the Debtors determine, in the exercise of their business judgment, are necessary or appropriate to obtain release of the goods and materials (including Imported Goods held by Shippers and Importers) and to satisfy the liens, if any, in favor of Shippers, Importers, or other parties in respect of such goods and materials.

3. All applicable banks and other financial institutions are hereby authorized and directed to receive, process, honor, and pay any and all checks evidencing amounts paid by the Debtors under this Order whether presented prior to or after the Petition Date. Such banks and financial institutions are authorized to rely on the representations of the Debtors as to which checks are issued or authorized to be paid pursuant to this Order.

4. The Debtors are authorized, but not directed, to issue postpetition checks as necessary to replace any prepetition checks issued with respect to Importing and Shipping Claims that may be dishonored.

5. In return for payment of the Importing and Shipping Claims in the ordinary course of business, unless otherwise waived by the Debtors in their sole discretion, the Shippers and Importers will continue to provide goods and services to the Debtors on the most favorable terms in effect between such Shipper or Importer and the Debtors in the twelve months prior to the Petition Date, or on such other terms more favorable to the Debtors as the Debtors and the Shipper or Importer may otherwise agree ("Customary Trade Terms"). The Customary Trade Terms shall apply for the remaining term of the Shipper's or Importer's agreement with the Debtors.

6. Subject to the challenge rights described in this paragraph, if any third party accepts payment pursuant to this Order and thereafter does not continue to provide services to the Debtors during the pendency of these chapter 11 cases on at least the most favorable terms in effect between such Shipper or Importer and the Debtors in the twelve months prior to the Petition Date, then absent objection as described below (i) any payment relating to this Order made after the Petition Date shall be deemed an avoidable postpetition transfer under Section 549 of the Bankruptcy Code and, therefore, shall be recoverable by the Debtors in cash upon written request, and (ii) upon recovery by the Debtors, the claim shall be reinstated as a prepetition claim in the amount so recovered; provided, however, that the foregoing does not preclude a third party from contesting whether it has failed to comply with the provisions of this Order by filing an objection with this Court within twenty (20) days of the date of the Debtors' initial written request for return of the payments, which hearing the Debtors shall set for the next regularly scheduled omnibus hearing date occurring more than twenty (20) days after the date of the filing of the objection.

7. Nothing herein shall be deemed an assumption or an authorization to assume any contracts or other agreements, under Section 365 of the Bankruptcy Code or otherwise, with any of the Shippers, Importers, or parties to whom Importing and Shipping Claims may be owed.

8. This court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and that the relief requested herein is necessary to avoid immediate and irreparable harm.

9. Notwithstanding the provisions of Bankruptcy Rule 6004 and Bankruptcy Rule 6006 or any applicable provisions of the Local Rules, this Order shall not be stayed for fourteen (14) days after the entry hereof, but shall be effective and enforceable immediately upon entry,

and the fourteen (14) day stay provided in such rules is hereby expressly waived and shall not apply.

10. The provisions contained herein shall not be construed to limit, or in any way affect, the Debtors' ability to contest any claims on any ground that applicable law permits.

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 Motion.

13. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: September 30, 2011
Wilmington, Delaware


Peter J. Walsh
United States Bankruptcy Judge