

EXHIBIT A

(Proposed Form of Order)

**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

Related Docket Nos. 697, 965

**ORDER APPROVING STIPULATION BETWEEN THE
LIQUIDATING TRUSTEE AND TRC VALLEY CREEK ASSOCIATES-C, LP**

Upon consideration of *TRC Valley Creek Associates-C, LP's Motion (I) for Relief From the Automatic Stay Pursuant to 11 U.S.C. § 362 to Allow Setoff of Security Deposit Held by Landlord Pursuant to a Lease of Non-Residential Real Property Against Rejection Damages Claim, (II) for Waiver of the Stay Imposed Pursuant to Bankruptcy Rule 4001(A)(3), and (III) for Related Relief* [D.I. 697] (the "Setoff Motion") and the *Stipulation Between the Liquidating Trustee and TRC Valley Creek Associates-C, LP* (the "Stipulation") [D.I. 965];² and it appearing that the Stipulation 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 matter is a core proceeding pursuant to 28 U.S.C. § 157; and adequate notice of the Setoff Motion and opportunity for objection having been given, with no objections or requests for hearing having been filed, or all objections having been

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 set forth in the Stipulation.

overruled or resolved, 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 Stipulation, attached hereto as Exhibit A, is APPROVED in its entirety.
2. The Liquidating Trustee and TRC are hereby authorized and directed to take all necessary actions to implement the Stipulation.
3. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the interpretation and/or implementation of this Order.

Dated: _____, 2013
Wilmington, DE

Peter J. Walsh
United States Bankruptcy Judge

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In re:

GRACEWAY PHARMACEUTICALS, LLC,
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Debtors.

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Case No. 11-13036 (PJW)

Jointly Administered

**STIPULATION BETWEEN THE LIQUIDATING
TRUSTEE AND TRC VALLEY CREEK ASSOCIATES-C, LP**

On this 13th day of September, 2013, for and in consideration of the mutual promises, covenants, and agreements set forth herein, Kip Horton in his capacity as Liquidating Trustee (the “Liquidating Trustee”) for the Graceway Liquidating Trust (the “Liquidating Trust”) and TRC Valley Creek Associates-C, LP (“TRC,” together with the Liquidating Trust, the “Parties”) have reached a resolution with respect to the proofs of claim filed by TRC designated as claim nos. 176, 209, and 254, and *TRC Valley Creek Associates-C, LP’s Motion (I) for Relief From the Automatic Stay Pursuant to 11 U.S.C. § 362 to Allow Setoff of Security Deposit Held by Landlord Pursuant to a Lease of Non-Residential Real Property Against Rejection Damages Claim, (II) for Waiver of the Stay Imposed Pursuant to Bankruptcy Rule 4001(A)(3), and (III) for Related Relief* [D.I. 697] (the “Setoff Motion”) and in connection therewith stipulate and agree as follows:

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.

RECITALS

WHEREAS, on September 29, 2011, the debtors in the above captioned cases (the “Debtors”), each filed a voluntary petition in the United States Bankruptcy Court for the District of Delaware (the “Court”) for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1152, as amended (the “Bankruptcy Code”); and

WHEREAS, on April 20, 2012, the Court entered its *Findings of Fact, Conclusions of Law and Order Confirming the Debtors’ First Amended Joint Plan of Liquidation* (the “Plan”) [D.I. #722] (the “Confirmation Order”); and

WHEREAS, the Effective Date of the Plan was May 4, 2012 and pursuant to the Plan, the Debtors and the Liquidating Trustee executed that certain Liquidating Trust Agreement, dated May 4, 2012 (the “Liquidating Trust Agreement”), which established the Liquidating Trust for the purpose of liquidating the Debtors’ assets and distributing the proceeds thereof; and

WHEREAS, under the terms of the Liquidating Trust Agreement, the Liquidating Trustee is authorized to investigate, prosecute, compromise, settle or otherwise deal with objections to Claims² filed against the Debtors’ estates and Causes of Action; and

WHEREAS, in order to settle, compromise or otherwise resolve a Claim or Cause of Action, the Liquidating Trustee is required to obtain either (i) the prior written consent of the Approving Majority First Lien Lenders, or (ii) an Order of the Bankruptcy Court approving such compromise, settlement or other resolution. Upon satisfaction of the First Lien Facility Claims, the Liquidating Trustee must obtain (i) the prior written consent of the Second Lien Facility Agent, or (ii) an Order of the Bankruptcy Court approving such compromise, settlement or other resolution; and

² Capitalized terms not defined in this Stipulation shall have the meaning as defined in the Plan.

WHEREAS, on or about December 29, 2011 TRC filed a general unsecured claim, in the amount of \$12,261.48, designated Claim No. 176 (the “General Unsecured Claim”); and

WHEREAS, on or about January 26, 2012 TRC filed a claim in the amount of \$551,631.86, designated Claim No. 209 (the “Rejection Damages Claim”), basing such claim on the assertion of \$482,634.55 in damages for rejection of a lease for non-residential real estate, pursuant to Bankruptcy Code §502(b)(6) and \$68,997.83 in “Additional Rent” remaining due under the lease; and

WHEREAS, on April 12, 2012 TRC filed the Administrative Expense Motion, requesting payment as an administrative expense the amount of \$22,360.82, and TRC filed the Setoff Motion, requesting allowance of setoff against its various claims in the amount of \$198,931.32 by virtue of a security deposit (the “Security Deposit”) held by TRC as landlord to the Debtor; and

WHEREAS, on or about April 12, 2012 the Administrative Expense Motion was assigned Claim No. 254 (the claims asserted therein, the “Administrative Claim”); and

WHEREAS, on August 20, 2012 this Court entered the *Order Granting TRC Valley Creek Associates-C, LP’s Motion for Allowance and Payment of Administrative Expense Claim Pursuant to 11 U.S.C. §§ 503(b) and 365(d)(3)* [D.I. 823] (the “Administrative Expense Order”); and

WHEREAS, on September 6, 2012, the Liquidating Trustee sent a demand to TRC (the “Demand”) in which he alleged that TRC had received transfers from the Debtors totaling \$173,688.22 (the “Transfers”) subject to avoidance pursuant to Chapter 5 of the Bankruptcy Code (the “Avoidance Claims”); and

WHEREAS, TRC denies any liability on account of the Avoidance Claims and asserts various defenses to the Avoidance Claims; and

WHEREAS, following negotiation, the Debtors and TRC have reached a resolution with respect to the TRC Claims and the Setoff Motion and agreed to enter into this Stipulation;

NOW, THEREFORE, in consideration of the foregoing, the Parties agree and stipulate (the “Stipulation”), subject to entry of an order (the “Order”) substantially in the form attached hereto as Exhibit A, as follows:

STIPULATION

1. Upon entry of an Order approving the Stipulation, the Parties agree to modification of the automatic stay pursuant to Bankruptcy Code section 362(d) to the extent necessary to allow TRC to setoff the amount of the Security Deposit against the Rejection Damages Claim.

2. Upon entry of an Order approving the Stipulation, the Rejection Damages Claim shall be REDUCED and ALLOWED as a general unsecured, non-priority claim in the amount of \$283,703.23 and TRC shall be entitled receive distributions on account of such claim in accordance with the terms of the Plan.

3. Upon entry of an Order approving the Stipulation, the General Unsecured Claim shall be DISALLOWED in its entirety.

4. Upon entry of an Order approving the Stipulation, the Liquidating Trustee shall immediately remit payment of \$22,360.82 in compliance with the Administrative Expense Order and in full and final satisfaction of the Administrative Claim.

5. Upon entry of an Order approving the Stipulation, TRC will be deemed to release and waive any and all other claims that TRC may have against the Debtors, their estates,

the Liquidating Trust and its successors or assigns and agrees not to assert any additional claims against the Liquidating Trust or its successors or assigns.

6. Upon entry of an Order approving the Stipulation, the Liquidating Trustee, on behalf of the Liquidating Trust, shall be deemed to release and waive any and all claims and causes of action arising from Chapter 5 of the Bankruptcy Code that the Debtors, their estates or the Liquidating Trust may have against TRC, including but not limited to the Avoidance Claims asserted by the Demand.

7. The transfers, reductions, releases and waivers set forth herein and other provisions of this Stipulation are conditioned upon the entry of an Order approving the Stipulation on a final, non-appealable basis. The Liquidating Trustee represents and warrants that upon entry of an Order on a final, non-appealable basis, no further, additional or other consents are necessary to the effectiveness of this Stipulation.

8. The Stipulation constitutes the entire agreement and understanding between the Parties and no Party has made any other promises to or agreements with any Party other than those contained in the Stipulation. No waiver or modification of any term or condition contained herein shall be valid or binding unless in writing and executed by the Parties hereto.

Dated:

By:



Kip Horton
RPA ADVISORS, LLC
45 Eisenhower Drive
Paramus, NJ 07652
Telephone: 201.527.6653

*Liquidating Trustee to the Graceway
Liquidating Trust.*

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Counsel to TRC

the Liquidating Trust and its successors or assigns and agrees not to assert any additional claims against the Liquidating Trust or its successors or assigns.

6. Upon entry of an Order approving the Stipulation, the Liquidating Trustee, on behalf of the Liquidating Trust, shall be deemed to release and waive any and all claims and causes of action arising from Chapter 5 of the Bankruptcy Code that the Debtors, their estates or the Liquidating Trust may have against TRC, including but not limited to the Avoidance Claims asserted by the Demand.

7. The transfers, reductions, releases and waivers set forth herein and other provisions of this Stipulation are conditioned upon the entry of an Order approving the Stipulation on a final, non-appealable basis. The Liquidating Trustee represents and warrants that upon entry of an Order on a final, non-appealable basis, no further, additional or other consents are necessary to the effectiveness of this Stipulation.


8. The Stipulation constitutes the entire agreement and understanding between the Parties and no Party has made any other promises to or agreements with any Party other than those contained in the Stipulation. No waiver or modification of any term or condition contained herein shall be valid or binding unless in writing and executed by the Parties hereto.

Dated:

By: _____

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*Liquidating Trustee to the Graceway
Liquidating Trust.*



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