

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

In re:

INSYS THERAPEUTICS, INC., *et al.*,

Liquidating Debtors.¹

Chapter 11

Case No. 19-11292 (JTD)

(Jointly Administered)

Hearing Date: June 16, 2020, at 10:00 a.m. (ET)

Objection Deadline: June 9, 2020, at 4:00 p.m. (ET)

**MOTION OF THE LIQUIDATING TRUSTEE OF THE INSYS
LIQUIDATION TRUST FOR ENTRY OF AN ORDER EXTENDING THE
TIME TO OBJECT TO CLAIMS (OTHER THAN ADMINISTRATIVE CLAIMS)**

William Henrich, in his capacity as liquidating trustee (the “Trustee”) of the Insys Liquidation Trust (the “Liquidation Trust”), as successor in interest to the above-captioned debtors and debtors in possession (collectively, the “Debtors”), hereby moves this Court (the “Motion”) for entry of an order, pursuant to sections 105(a) of 11 U.S.C. §§ 101-1532 (as amended and applicable herein, the “Bankruptcy Code”) and Rules 3007 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), extending the Claims Objection Deadline (as defined below) through and including February 16, 2021. In support of the Motion, the Trustee respectfully represents as follows:

BACKGROUND

1. On June 10, 2019 (the “Petition Date”), the Debtors each commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”).

¹ The Liquidating Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Insys Therapeutics, Inc. (7886); IC Operations, LLC (9659), Insys Development Company, Inc. (3020); Insys Manufacturing, LLC (0789); Insys Pharma, Inc. (9410); IPSC, LLC (6577); and IPT 355, LLC (0155).

2. On June 20, 2019, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an official committee of unsecured creditors in these Chapter 11 Cases (the “Committee”). No trustee or examiner has been appointed in these Chapter 11 Cases.

3. On January 16, 2020, this Court entered an order [Docket No. 1115] (the “Confirmation Order”) confirming the *Second Amended Joint Chapter 11 Plan of Liquidation of Insys Therapeutics, Inc. and Its Affiliated Debtors* (the “Plan”) in the Chapter 11 Cases.

4. On February 18, 2020 (the “Effective Date”), the Plan became effective in accordance with its terms and, in accordance with the Plan, Confirmation Order and that certain *Trust Agreement for Insys Liquidation Trust* (the “Trust Agreement”), certain assets² of the Debtors existing as of such date were transferred to and became vested in the Liquidation Trust, and William Henrich was appointed the Trustee of the Liquidation Trust.

5. In accordance with the Plan and the Trust Agreement, from and after the Effective Date, objections to various claims³ may be prosecuted by the Trustee. *See e.g.*, Section 7.1 of the Plan.

6. Pursuant to the Confirmation Order and the Plan, the deadline to object to claims (other than Administrative Claims) (the “Claims”) is one-hundred eighty (180) days following the later of the (a) Effective Date and (b) the date that a proof of claim is filed or amended or on such later date as fixed by this Court (the “Claims Objection Deadline”). *See* Section 7.1 of the Plan.

² These assets include all assets of the Debtors other than (i) the VRT Operating Reserve, (ii) the Products Liability Insurance Rights, and (iii) any Interests held by Liquidating Debtors in other Liquidating Debtors, as defined in the Plan.

³ Other than Personal Injury Claims (as defined in the Plan).

7. Given the foregoing, the Trustee's current Claims Objection Deadline is August 16, 2020 and for the reasons set forth below, the Trustee seeks to extend the Claims Objection Deadline to February 16, 2021.

JURISDICTION AND VENUE

8. The Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334 and Sections VII and II of the Plan. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

9. The statutory predicate for the relief requested herein is Bankruptcy Code sections 105(a) and 502. Such relief is also warranted under Bankruptcy Rules 3007 and 9006 and Local Rule 9006-2.

10. The Trustee consents pursuant to Local Rule 9013-1(f) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

RELIEF REQUESTED

11. By this Motion, the Trustee seeks entry of an order, substantially in the form attached hereto, pursuant to sections 102 and 105 of the Bankruptcy Code, Bankruptcy Rules 3007 and 9006 and Local Rule 9006-2, extending the Claims Objection Deadline by six (6) months through and including February 16, 2021.

12. To date, over four thousand-two hundred (4,200) Claims aggregating about twelve (12) billion dollars⁴ have been filed. In the short 3 ½ month time period (since the Effective Date), the Trustee and his professionals have been diligently setting up various

⁴ These figures do not include Personal Injury Claims.

processes for reconciling and reviewing claims (including the Third Party Payor data submissions and reconciliation process contemplated under the Plan), and have been in discussions with certain holders of Administrative Claims in an effort to consensually resolve such claims, in which some instances have already resulted in settlements. While the Trustee and his professionals have set up multiple tracks on reviewing and reconciling all claims, their focus at this juncture is to comprehensively review certain claims, including Administrative Claims. Additionally, the Trustee and his professionals have been addressing tax issues and returns, following up on the wind down of the Insys 401K plan, securing insurance and addressing insurance issues, coordinating with multiple defense counsel and assisting with various court reports and updates, evaluating potential causes of action, responding to various governmental inquiries, and responding to creditor inquiries, among other things. Given the competing demands and the sheer volume of Claims filed in these cases, the Trustee believes he will require more time than he currently has in order to review, conduct due diligence and object, if necessary, to all Claims. Lastly, as expected, efforts to set up processes to review and reconcile claims have been further complicated by the disruption caused by the Coronavirus pandemic that has effectively shut down much of society and complicated work in general. Given the complexity of the Plan and claims filed along with the unanticipated complications created by the current pandemic, the Trustee will require more time to review, analyze and object to the Claims.

APPLICABLE AUTHORITY

13. Bankruptcy Rule 9006(b) provides that the Court may extend a time period provided under the Bankruptcy Rules or order of the Court, except for time periods provided under certain Bankruptcy Rules that are not applicable here. *See* Fed. R. Bankr. P. 9006(b).

14. Bankruptcy Code section 105(a) provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). In addition, it is generally recognized that “[s]ection 105(a) authorizes the bankruptcy court, or the district court sitting in bankruptcy, to fashion such orders as are required to further the substantive provisions of the Code.” *See In re Morristown & E. R. Co.*, 885 F.2d 98, 100 (3d Cir. 1989) (citing COLLIER ON BANKRUPTCY, ¶ 105.04 at 105-15 & n. 5 (15th rev. ed. 1989)). Moreover, the Confirmation Order provides that the Claims Objection Deadline may be extended to a date as designated in a final order of this Court.

15. In this instance, sufficient cause exists to extend further the Claims Objection Deadline. The requested extension of time will provide the Trustee the opportunity to continue its claims review and analysis, object to Claims that are factually and legally unsupportable, and attempt to negotiate the resolution of such objections.

NOTICE

16. Notice of this Motion has been given to the Office of the United States Trustee and any other party entitled to notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Trustee submits that no further notice is required.

CONCLUSION

WHEREFORE, the Trustee respectfully requests that the Court enter an order, substantially in the form attached hereto, extending the Claims Objection Deadline through and including February 16, 2021 and granting to the Trustee such other and further the relief as is just and proper.

Dated: June 2, 2020

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*Counsel to the Trustee of the Insys
Liquidation Trust*

PROPOSED ORDER

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

In re:

INSYS THERAPEUTICS, INC., *et al.*,

Liquidating Debtors.¹

Chapter 11

Case No. 19-11292 (JTD)

(Jointly Administered)

Re: _____

**ORDER GRANTING MOTION OF THE LIQUIDATING TRUSTEE OF THE
INSYS LIQUIDATION TRUST FOR ENTRY OF AN ORDER EXTENDING
THE TIME TO OBJECT TO CLAIMS (OTHER THAN ADMINISTRATIVE CLAIMS)**

Upon the motion (the “Motion”)² of the William Henrich, in his capacity as liquidating trustee (the “Trustee”) of the Insys Liquidation Trust (the “Liquidation Trust”), as successor in interest to the above captioned debtors and debtors in possession (collectively, the “Debtors”), for entry of an order, pursuant to sections 105 and 502 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, Rules 3007 and 9006 of the Federal Rules of Bankruptcy Procedure, and Rule 9006-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, extending the time to object to Claims filed in the Chapter 11 Cases, all as more fully set forth in the Motion; and it appearing that the Court has jurisdiction over this matter; and it appearing that the notice of the Motion as set forth therein is sufficient, and that no other or further notice need be provided; and it further appearing that the relief requested in the Motion is in the best interests of the Liquidation Trust, its beneficiaries and all other parties-in-interest; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is hereby

¹ The Liquidating Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Insys Therapeutics, Inc. (7886); IC Operations, LLC (9659), Insys Development Company, Inc. (3020); Insys Manufacturing, LLC (0789); Insys Pharma, Inc. (9410); IPSC, LLC (6577); and IPT 355, LLC (0155).

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Claims Objection Deadline is hereby extended through and including February 16, 2021.
3. Entry of this Order is without prejudice to the rights of the Liquidation Trust to seek further extensions of the Claims Objection Deadline.

Dated: June _____, 2020
Wilmington, Delaware

THE HONORABLE JOHN T. DORSEY
UNITED STATES BANKRUPTCY JUDGE