

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

In re:

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

Liquidating Debtors.<sup>1</sup>

Chapter 11

Case No. 19-11292 (JTD)

(Jointly Administered)

**Hearing Date: December 1, 2020 at 10:00 a.m.  
(ET)**

**Objection Deadline: November 23, 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 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, substantially in the form attached hereto as **Exhibit A** (the “Proposed 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 Administrative Claims Objection Deadline (as defined below) through and including June 17, 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”).

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<sup>1</sup> 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 assets<sup>2</sup> 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 claims<sup>3</sup> 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 file for unpaid claims arising between the Petition Date and through and including the Effective Date (the “Administrative Claims”) is April 20, 2020 (the “Administrative Bar Date”). Under the Plan, objections to Administrative Claims are to be filed no later than one hundred-twenty (120) days after the Effective Date, or such other date may be fixed by the Bankruptcy Court. *See* Section

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<sup>2</sup> 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.

<sup>3</sup> Other than Personal Injury Claims (as defined in the Plan).

2.2 of the Plan. Given the foregoing, the Trustee's initial deadline to file objections to Administrative Expense Claims (other than Professional Fee Claims) was June 17, 2020. Such deadline was extended by *Order Granting Motion of the Liquidating Trustee of the Insys Liquidation Trust for Entry of an Order Extending the Time to Object to Administrative Claims* through and including December 17, 2020 (the "Administrative Claims Objection Deadline") [Docket No. 1337].

7. On July 24, 2020, the Trustee filed *First Omnibus Objection of the Trustee of the Insys Liquidation Trust to Claims (Non-Substantive)* [Docket No. 1382] and order granting the same was entered on August 20, 2020 [Docket No. 1396]. Subsequently, on October 29, 2020 the Trustee has filed eight (8) more omnibus claim objections (the "Pending Claim Objections"). See Docket Nos. 1416, 1417, 1418, 1419, 1420, 1421, 1422, and 1423. Separately, the Trustee has also entered into stipulations with holders of Administrative Claims (the "Settlements"). See Docket Nos. 1344 and 1350.

### **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 the Proposed Order pursuant to sections 102 and 105 of the Bankruptcy Code, Bankruptcy Rules 3007 and 9006 and Local Rule 9006-2, extending the Administrative Claims Objection Deadline by six (6) months through and including June 17, 2021.

12. The Pending Claim Objections were the first step towards cleaning up the claims register and reducing the aggregate claims pool, including the Administrative Claims. If the Pending Claim Objections are granted, there will remain approximately forty-four (44) Administrative Claims which aggregate to over \$25 million. The Trustee is discussing potential resolutions with some of these remaining Administrative Claims and the Trustee and his professionals are continuing to make progress in their review of the others.

13. Since the Trust's initial request for extending the Administrative Claims Objection Deadline, the Trustee was able to reduce the number of filed Administrative Claims by almost half through the Claim Settlements and the Pending Claim Objections. As discussed, the Trustee and his professionals continue to discuss resolutions with certain holders of complex Administrative Claims, and will only resort to filing formal objections only if it settlements cannot be achieved. The additional time will allow the parties to continue in these discussions and, hopefully, minimize or eliminate the need to waste judicial resources on claim objections.

14. In the past several months, the Trustee and his professionals have been working diligently on reviewing and reconciling claims, and attending to the many tasks of the Liquidation Trust administration. Not surprisingly, these efforts have been substantially affected

by the Covid-19 pandemic impacting almost everyone in the United States. The associated business disruption and economic slowdown has made communications with some claimants more difficult. Although the Trustee has made substantial progress with the Administrative Claims, he believes he requires significant additional time to review, analyze, and if necessary, object to the remaining Administrative Claims.

### **APPLICABLE AUTHORITY**

15. 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).

16. 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 Administrative Claims Objection Deadline may be extended to a date as designated in a final order of this Court.

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

### **NOTICE**

18. Notice of this Motion has been given to: (i) the Office of the United States Trustee; (ii) claimants who have filed Administrative Claims; (iii) 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 the Proposed Order, extending the Administrative Claims Objection Deadline through and including June 17, 2021 and granting to the Trustee such other and further the relief as is just and proper.

Dated: November 9, 2020

**MORRIS, NICHOLS, ARSHT & TUNNELL LLP**

*/s/ Matthew O. Talmo*

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Derek C. Abbott (No. 3376)  
Matthew O. Talmo (No. 6333)  
1201 N. Market Street, 16<sup>th</sup> Floor  
P.O. Box 1347  
Wilmington, DE 19899-1347  
Telephone: (302) 658-9200  
Facsimile: (302) 658-3989  
dabbott@mnat.com  
mtalmo@mnat.com

-and-

**HALPERIN BATTAGLIA BENZIJA,  
LLP**

Alan D. Halperin  
Ligee Gu  
40 Wall Street, 37<sup>th</sup> Floor  
New York, NY 10005  
Telephone: (212) 765-9100  
Facsimile: (212) 765-0964  
ahalperin@halperinlaw.com  
lgu@halperinlaw.com

*Counsel to the Trustee of the Insys  
Liquidation Trust*

**Exhibit A**

**Proposed Order**

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

In re:

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

Liquidating Debtors.<sup>1</sup>

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 ADMINISTRATIVE CLAIMS**

Upon the motion (the “Motion”)<sup>2</sup> 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 Administrative 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

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<sup>2</sup> 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 Administrative Claims Objection Deadline is hereby extended through and including June 17, 2021.
3. Entry of this Order is without prejudice to the rights of the Liquidation Trust to seek further extensions of the Administrative Claims Objection Deadline.

Dated: November\_\_\_\_\_, 2020  
Wilmington, Delaware

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The Honorable John T. Dorsey  
United States Bankruptcy Judge

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

In re:

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

Liquidating Debtors.<sup>1</sup>

Chapter 11

Case No. 19-11292 (JTD)

(Jointly Administered)

**Hearing Date: December 1, 2020 at 10:00 a.m.  
(ET)**

**Objection Deadline: November 23, 2020 at 4:00  
p.m. (ET)**

**NOTICE OF MOTION OF THE LIQUIDATING TRUSTEE OF THE INSYS  
LIQUIDATION TRUST FOR ENTRY OF AN ORDER EXTENDING THE  
TIME TO OBJECT TO ADMINISTRATIVE CLAIMS**

PLEASE TAKE NOTICE that today, the Liquidating Trustee of the Insys Liquidation Trust filed the *Motion of the Liquidating Trustee of the Insys Liquidation Trust for Entry of an Order Extending the Time to Object to Administrative Claims* (the "Motion").

PLEASE TAKE FURTHER NOTICE that objections, if any, to the approval of the relief requested in the Motion must be (a) in writing; (b) filed with the Clerk of the Bankruptcy Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **November 23, 2020 at 4:00 p.m. (ET)** (the "Objection Deadline"); and (c) served on the undersigned counsel so as to be received on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE that only objections made in writing and timely filed and received, in accordance with the procedures above, will be considered by the Bankruptcy Court at such hearing.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON **DECEMBER 1, 2020 AT 10:00 A.M. (ET)** BEFORE THE HONORABLE JOHN T. DORSEY AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 N. MARKET STREET, 5TH FLOOR, COURTROOM #5, WILMINGTON, DELAWARE 19801.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

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Dated: November 9, 2020

**MORRIS, NICHOLS, ARSHT & TUNNELL LLP**

/s/ Matthew O. Talmo

Derek C. Abbott (No. 3376)  
Matthew O. Talmo (No. 6333)  
1201 N. Market Street, 16<sup>th</sup> Floor  
P.O. Box 1347  
Wilmington, DE 19899-1347  
Telephone: (302) 658-9200  
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dabbott@mnat.com  
mtalmo@mnat.com

-and-

**HALPERIN BATTAGLIA BENZIJA,  
LLP**

Alan D. Halperin  
Ligee Gu  
40 Wall Street, 37<sup>th</sup> Floor  
New York, NY 10005  
Telephone: (212) 765-9100  
Facsimile: (212) 765-0964  
ahalperin@halperinlaw.com  
lgu@halperinlaw.com

*Counsel to the Trustee of the Insys  
Liquidation Trust*