

SUBSTANTIVE RIGHTS MAY BE AFFECTED BY THIS OBJECTION. CLAIMANTS RECEIVING THIS OBJECTION SHOULD REVIEW IT TO SEE IF THEIR NAMES APPEAR ON THE EXHIBIT ATTACHED HERETO TO DETERMINE WHETHER THE OBJECTION AFFECTS THEIR CLAIMS. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT TRUSTEE’S COUNSEL, SCOTT ZILUCK AT 212-765-9100 EXT. 130 OR BY EMAIL SZILUCK@HALPERINLAW.NET

**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: July 20, 2021 at 11:00 a.m. (ET)

Objection Deadline: July 13, 2021 at 4:00 p.m. (ET)

**FOURTEENTH OMNIBUS OBJECTION OF THE TRUSTEE OF
THE INSYS LIQUIDATION TRUST TO CLAIMS (NON-SUBSTANTIVE)
(Amended and Superseded, Insufficient Documentation, and Late Filed Claims)**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 files this fourteenth omnibus objection (the “Objection”), pursuant to §§ 105(a) and 502 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 3007(d) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 3007-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), seeking entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”) disallowing and expunging in full the amended and superseded claims listed

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).

on **Exhibit 1** attached to the Proposed Order (the “Amended and Superseded Claims”); disallowing and expunging in full the insufficient documentation claims listed on **Exhibit 2** attached to the Proposed Order (the “Insufficient Documentation Claims”); and disallowing and expunging in full the late filed claims listed on **Exhibit 3** attached to the Proposed Order (the “Late Filed Claims”). In support of this Objection, the Trustee submits the *Declaration of Edward A. Phillips Pursuant to 28 U.S.C. § 1746 and Local Rule 3007-1 in Support of the Fourteenth Omnibus Objection of the Liquidating Trustee of the Insys Liquidation Trust to Claims (Non-Substantive)* (the “Phillips Declaration”) attached hereto as **Exhibit B**. In further support of this Objection, 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”).
2. On June 11, 2019, this Court entered an order authorizing and approving the retention of Epiq Corporate Restructuring, LLC as claims and noticing agent in these Chapter 11 Cases (the “Agent”) [Docket No. 48].
3. 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.
4. In the ordinary course of business pre-petition, the Debtors maintained books and records that reflected the nature and amounts of the Debtors’ obligations to creditors, as well as payments made on account of such obligation (the “Books and Records”).

5. On July 30, 2019, each of the Debtors filed with this Court its *Schedule of Assets and Liabilities* [Docket Nos. 363, 365, 367, 369, 371, 373, and 375] (the “Schedules”).

6. 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. As provided for in the Confirmation Order, all assets and liabilities of the Debtors were substantively consolidated and substantive consolidation would be implemented for distribution purposes in accordance with the Plan (the “Substantive Consolidation”).

7. 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.

8. Also, on the Effective Date, in accordance with the Plan, Confirmation Order and that certain *Victims Restitution Trust Agreement* (the “VRT Trust Agreement”), the Victims Restitution Trust was established and Carmin Reiss was appointed as the Liquidating Trustee for the Victims Restitution Trust (the “VRT Trustee”), for the purpose of administering the Class 9 Personal Injury Claims.³

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 “Personal Injury Claim” is defined in Section 1.1 of the Plan as “any Claim for alleged personal injury, wrongful death, or other similar Claim or Cause of Action against the Debtors, including any such Claim held by a NAS Child.”

9. In accordance with the Plan and the Trust Agreement, from and after the Effective Date, objections to various claims⁴ may be prosecuted by the Trustee. *See e.g.*, Section 7.1 of the Plan.

10. Pursuant to an order dated July 15, 2019 (the “Bar Date Order”), [Docket No. 294], this Court established the following deadlines: (a) September 16, 2019 as the last day for non-governmental entities to file pre-petition claims against the Debtors and their estates (the “General Bar Date”); (b) December 9, 2019 as the last day for governmental entities and Native American tribes to file pre-petition claims against the Debtors and their estates (the “Government Bar Date”)⁵; and (c) October 24, 2019 as the last day to file administrative claims arising between the Petition Date and September 9, 2019, excluding professional claims and claims asserting administrative priority and arising out of the ordinary course of business after the Petition Date (together with the General Bar Date and the Government Bar Date, the “Bar Dates”).

11. In accordance with the Bar Date Order, the Agent served a Notice of Bar Dates and the related documents and forms as evidence by the affidavits of service filed with this Court (the “Bar Date AOS”) [Docket Nos. 315, 406, 504, 587, 713, 821, and 887]. Additionally, in accordance with the Bar Date Order, the Debtors published notice of the Bar Dates once in the national editions of the New York Times and USA Today, and once in the following publications: Memphis Commercial Appeal, Indianapolis Star, Florida Times Union (Jacksonville), Las Vegas Review Journal Sun, Saginaw News, Arizona Republic, Dallas

⁴ Other than Personal Injury Claims, which are the purview of the VRT Trustee.

⁵ The Government Bar Date was later extended to January 31, 2019 to any State pursuant to the *Order Approving Stipulation By and Between the Debtors, the Official Committee of Unsecured Creditors, and Certain States Regarding Extending the Bar Date* [Docket No. 948].

Morning News, Miami Herald, Los Angeles Times, and San Antonio Express News (the “Publication Notices”).

12. Pursuant to the Confirmation Order and the Plan, the deadline to object to claims (other than Administrative 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. *See* Section 7.1 of the Plan. Additionally, 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 2.2 of the Plan. By order dated May 14, 2021, the deadline to object to all claims was extended through and including January 28, 2022 [Docket No. 1661].

JURISDICTION AND VENUE

13. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

14. By this Objection, and for the reasons set forth more fully below, the Trustee objects to the Amended and Superseded Claims, the Insufficient Documentation Claim, and the Late Filed Claims pursuant to §§ 105(a) and 502 of the Bankruptcy Code, Bankruptcy Rules 3007 and 9014, and Local Rule 3007-1 and requests entry of the Proposed Order disallowing and expunging in full the Amended and Superseded Claims as reflected on **Exhibit 1** to the Proposed Order; disallowing and expunging in full the Insufficient Documentation Claims as reflected on **Exhibit 2** to the Proposed Order; and disallowing and expunging in full the Late Filed Claims as reflected on **Exhibit 3** to the Proposed Order.

OBJECTION TO CLAIMS

15. As set forth in the Declaration, the Trustee's professionals examined proofs of claim filed against the Debtors, all supporting documentation provided by the claimants, if any, and the Books and Records, and have identified certain claims that can be identified as Amended and Superseded Claims.

16. Pursuant to § 502 of the Bankruptcy Code, “[a] claim or interest, proof of which is filed under 501 of [the Bankruptcy Code], is deemed allowed, unless a party in interest...objects.” U.S.C. § 502(a).

17. When asserting a proof of claim against a bankruptcy estate, a claimant must allege facts that, if true, would support a finding that the debtor is legally liable to the claimant. *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173 (3d Cir. 1992); *Matter of Int'l Match Corp.*, 69 F.2d 73, 76 (2d Cir. 1934) (finding that a proof of claim should at least allege facts from which legal liability can be seen to exist). Where a claimant alleges sufficient facts to support its claim, its claim is afforded prima facie validity. *In re Allegheny Int'l, Inc.*, 954 F.2d at 173. A party wishing to dispute such a claim must produce evidence in sufficient force to negate the claim's prima facie validity. *Id.* In practice, the objecting party must produce evidence that would refute at least one of the allegations essential to the claim's legal sufficiency. *Id.* Once the objecting party produces such evidence, the burden shifts back to the claimant to prove the validity of his or her claim by a preponderance of the evidence. *Id.* The burden of persuasion is always on the claimant. *Id.*

A. Amended and Superseded Claims

18. In the absence of prejudice, bankruptcy courts generally allow amendments to proofs of claim to cure a defect in a claim as filed or to describe the claim with greater

particularity. *See In re Edison Bros. Stores*, 2002 Bankr. LEXIS 1228 at *10 (Bankr. D. Del. May 15, 2002) (amendments are to be allowed where the original claim prompted notice to the court of the existence, nature, and amount of the claim).

19. The Trustee and his professionals have reviewed the Amended and Superseded Claims identified on **Exhibit 1** to the Proposed Order (in the column under the heading “Amended Claim to be Disallowed) and determined that they have each been amended and superseded by a later filed claim, filed by the same claimant for the same liability. *See* Phillips Declaration. The Trustee therefore seeks to disallow and expunge in their entirety the Amended and Superseded Claims, which have been superseded by the later filed claims (the “**Surviving Claims**”), which are also identified on **Exhibit 1** to the Proposed Order (in the column under the heading “Surviving Claim”).

20. Unless the Amended and Superseded Claims are disallowed, the claimants listed on **Exhibit 1** will receive an excess recovery from the Debtors’ estates. Conversely, the claimants affected by this objection will not be prejudiced if the Amended and Superseded Claims are expunged, because each claimant will retain the corresponding Surviving Claim against the Debtors’ estates that is identified on **Exhibit 1**, to the extent not objectionable on other grounds.⁶

B. Insufficient Documentation Claims

21. The Insufficient Documentation Claims identified in **Exhibit 2** to the Proposed Order should be disallowed and expunged in their entirety because they were filed without sufficient documentation to constitute prima facie evidence of the validity and amount of the

⁶ As the claims reconciliation process is ongoing, the Trustee reserves and preserves all rights to object to any proofs of claim, including but not limited to the Remaining Claims, on any grounds and file subsequent substantive or non-substantive objections based upon such grounds.

claim asserted. Indeed, these claims merely list an amount, without including any invoices, invoice information, statements, agreements, or other supporting documentation providing indicia of a debt owed by the Debtors.

22. The Trustee's professionals have reviewed and made reasonable efforts to research and reconcile the Insufficient Documentation Claims with the Debtors' books and records, and have found no evidence of the validity or amount of the Claims. *See Phillips Declaration.*

23. While Bankruptcy Rule 3001(f) provides that a proof of claim executed and filed in accordance with the rules of procedure (i.e., includes the facts and documents necessary to support the claim) constitutes prima facie evidence of the validity and amount of the claim, this Court has recognized the position that a proof of claim lacking the supporting documentation required by Bankruptcy Rule 3001 does not receive the presumption of *prima facie* validity; rather, the claimant maintains the burden of proving its claim by a preponderance of the evidence. *See e.g., In re New Century TRS Holdings, Inc.*, 495 B.R. 625, 633, (Bankr. D. Del. 2013) (citing *In re Kincaid*, 388 B.R. 610, 614 (Bankr. E.D. Pa. 2008)); Fed. R. Bankr. P. 3001(f).

24. The Insufficient Documentation Claims lack any supporting documentation and are not supported in the Books and Records. As such, the Trustee seeks to disallow and expunge the Insufficient Documentation Claims identified in **Exhibit 2** to the Proposed Order.

C. Late Filed Claims

25. The Trustee's professionals have identified the Late Filed Claims which should be disallowed and expunged because the Claimant was duly served with the Bar Date Order and the

Plan but the claims were filed untimely after the applicable Bar Dates. *See* Phillips Declaration. A list of the Late Filed Claims is set forth on **Exhibit 3** attached to the Proposed Order.

26. Bankruptcy Rule 3003(c)(3) authorizes courts to set bar dates by which proofs of claim or interest must be filed. This rule contributes to one of the main purposes of bankruptcy law, which is securing -- within a limited time -- the prompt and effectual administration and settlement of a debtor's estate. *In re New Century TRS Holdings, Inc.*, 465 B.R. 38, 46 (Bankr. D. Del. 2012) (citing *In re Smidth & Co.*, 413 B.R. 161, 165 (Bankr. D. Del. 2009)). While setting an outside limit for the time to assert a right triggers due process concerns of which every court must be cognizant, this concern is resolved through notice. *Id.* As set forth in the Bar Date AOS and the Publication Notices, direct and reasonable notice of the Bar Dates was given to all holders of the Late Filed Claims, thus, due process is satisfied.

27. For creditors who receive proper notice, the bar date is a "drop-dead date" that prevents a creditor from asserting prepetition claims unless he can demonstrate excusable neglect. *In re TransWorld Airlines, Inc.*, 96 F.3d 687, 690 (3d Cir. 1996). Here, none of the claimants requested an enlargement of the time to file their proofs of claim prior to the applicable Bar Dates; nor did any of the claimants file a motion requesting leave to file their Claims after the expiration of the applicable Bar Dates. Allowing the Late Filed Claims would hinder the bankruptcy process because parties that filed late claims will receive a recovery (to which they are not entitled), to the detriment of other creditors. *See e.g., Bank of Am. Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 453 (1999) (bar dates play an essential role in the important goal of maximizing property available to satisfy creditors).

28. The Trustee respectfully submits that any party who did not file its claim in a timely manner should not be entitled to receive a recovery in connection therewith. Therefore,

the Trustee respectfully requests that the Court enter an order disallowing and expunging the Late Filed Claims identified in **Exhibit 3** to the Proposed Order.

RESPONSES TO OBJECTION

29. Filing and Service of Responses. To contest this Objection, a holder of a Claim must file and serve a written response to this Objection (a “Response”) so that it is received no later than 4:00 p.m. (Eastern Time) on July 13, 2021 (the “Response Deadline”). Claimants should read the Proposed Order and Exhibits attached carefully.

30. Every Response should be filed with the Office of the Clerk, United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801; and served upon the following, so that the Response is received no later than the Response Deadline at the following addresses:

HALPERIN BATTAGLIA BENZIJA, LLP
Scott A. Ziluck
Ligee Gu
40 Wall Street, 37th Floor
New York, NY 10005
sziluck@halperinlaw.net
lgu@halperinlaw.net

-and-

MORRIS, NICOLS, ARSHT & TUNNELL LLP
Matt Talmo
1201 North Market Street
PO Box 1347
Wilmington, DE 19899
mtalmo@morrisnichols.com

31. Content of Responses. Every Response to this Objection must contain, at a minimum, the following:

- (a) a caption setting forth the name of the Court, the name of the Debtor, the case number and the title of this Objection to which the Response is directed;
- (b) the name of the claimant and description of the basis for the amount of the disputed claim;
- (c) a concise statement setting forth the reasons why the relief in this Objection should not be granted, including, but not limited to, the specific factual and legal bases upon which the claimant relies in opposing this Objection;
- (d) all documentation or other evidence supporting the disputed claim not previously filed with the Bankruptcy Court or the Agent, upon which the claimant relies in opposing this Objection; and
- (e) the name, address, telephone number, email and fax number of the person(s) (which may be the claimant or a legal representative thereof) to whom counsel for the Trustee should serve a reply, if any, to the Response and who possesses authority to reconcile, settle or otherwise resolve the objection to the claim on behalf of the claimant.

32. Timely Response Required. If a claimant fails to file and serve a timely Response, then without further notice to the claimant or a hearing, the Trustee will present to the Court an order, substantially in the form of the order attached hereto.

NOTICE

33. A copy of this Objection and all related exhibits will be served on (i) the Office of the United States Trustee for the District of Delaware; (ii) each holder of the Claims subject to this Objection; and (iii) other parties entitled to notice under the Plan and Bankruptcy Rule 2002. The Trustee respectfully submits that no further notice of this Objection is required.

34. Pursuant to Bankruptcy Rule 3007, the Trustee has provided all claimants affected by this Objection with at least thirty (30) days' notice of the hearing to consider this Objection.

NO PRIOR REQUEST

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

STATEMENT OF COMPLIANCE WITH LOCAL RULE 3007-1

36. To the extent that a response is filed regarding any Claim listed in this Objection and the Trustee is unable to resolve the response, each such Claim, and the objection by the Liquidation Trust to each such Claim asserted herein, shall constitute a separate contested matter as contemplated by Bankruptcy Rule 9014. Any order entered by the Court regarding an objection asserted in the Objection shall be deemed a separate order with respect to each Claim.

RESERVATION OF RIGHTS

37. The Trustee hereby reserves the right to object in the future to any of the claims listed in this Objection on any ground in accordance with Local Rule 3007-1, and to amend, modify, and/or supplement this Objection, including, without limitation, to object to amended or newly filed Proofs of Claim. Separate notice and hearing may be scheduled for any such objection.

WHEREFORE the Trustee respectfully requests entry of an order substantially in the form of the Proposed Order attached hereto as **Exhibit A** granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 18, 2021

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Matthew O. Talmo

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

-and-

HALPERIN BATTAGLIA BENZIJA, LLP

Alan D. Halperin

Scott A. Ziluck

Lige Gu

40 Wall Street, 37th Floor

New York, NY 10005

Telephone: (212) 765-9100

Facsimile: (212) 765-0964

ahalperin@halperinlaw.net

sziluck@halperinlaw.net

lgu@halperinlaw.net

*Counsel to the Trustee of the Insys
Liquidation Trust*

SUBSTANTIVE RIGHTS MAY BE AFFECTED BY THE OBJECTION. CLAIMANTS RECEIVING THE OBJECTION SHOULD REVIEW IT TO SEE IF THEIR NAMES APPEAR ON THE EXHIBIT ATTACHED THERETO TO DETERMINE WHETHER THE OBJECTION AFFECTS THEIR CLAIMS. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT TRUSTEE'S COUNSEL, SCOTT ZILUCK AT 212-765-9100 EXT. 130 OR BY EMAIL SZILUCK@HALPERINLAW.NET

**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: July 20, 2021 at 11:00 a.m. (ET)

Objection Deadline: July 13, 2021 at 4:00 p.m. (ET)

**NOTICE OF FOURTEENTH OMNIBUS OBJECTION OF THE TRUSTEE OF
THE INSYS LIQUIDATION TRUST TO CLAIMS (NON-SUBSTANTIVE)
(Amended and Superseded, Insufficient Documentation, and Late Filed Claims)**

PLEASE TAKE NOTICE that today, William Henrich, in his capacity as liquidating trustee (the "Trustee") of the Insys Liquidation Trust (the "Liquidation Trust"), filed the *Fourteenth Omnibus Objection of the Trustee of The Insys Liquidation Trust to Claims (Non-Substantive) (Amended and Superseded, Insufficient Documentation, and Late Filed Claims)* (the "Objection").

PLEASE TAKE FURTHER NOTICE that to contest this Objection, a holder of a Claim must file and serve a written response to this Objection (a "Response") so that it is received no later than **4:00 p.m. (Eastern Time) on July 13, 2021** (the "Response Deadline"). Claimants should read the Proposed Order and Exhibits attached carefully.

PLEASE TAKE FURTHER NOTICE THAT only responses 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 every Response should be filed with the Office of the Clerk, United States Bankruptcy Court for the District of Delaware, 824 Market

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).

Street, 3rd Floor, Wilmington, Delaware 19801; and served upon the following, so that the Response is received no later than the Response Deadline at the following addresses:

HALPERIN BATTAGLIA BENZIJA, LLP
Scott A. Ziluck
40 Wall Street, 37th Floor
New York, NY 10005
sziluck@halperinlaw.net

-and-

MORRIS, NICOLS, ARSHT & TUNNELL LLP
Matthew O. Talmo
1201 North Market Street
PO Box 1347
Wilmington, DE 19899
mtalmo@morrisnichols.com

Content of Responses. Every Response to this Objection must contain, at a minimum, the following:

- (a) a caption setting forth the name of the Court, the name of the Debtor, the case number and the title of this Objection to which the Response is directed;
- (b) the name of the claimant and description of the basis for the amount of the disputed claim;
- (c) a concise statement setting forth the reasons why the relief in this Objection should not be granted, including, but not limited to, the specific factual and legal bases upon which the claimant relies in opposing this Objection;
- (d) all documentation or other evidence supporting the disputed Claim not previously filed with the Bankruptcy Court or the Agent, upon which the claimant relies in opposing this Objection; and
- (e) the name, address, telephone number, email and fax number of the person(s) (which may be the claimant or a legal representative thereof) to whom counsel for the Trustee should serve a reply, if any, to the Response and who possesses authority to reconcile, settle or otherwise resolve the objection to the Claim on behalf of the claimant.

Timely Response Required. If a claimant fails to file and serve a timely Response, then without further notice to the claimant or a hearing, the Trustee will present to the Court an order, substantially in the form of the order attached hereto. **IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE OBJECTION WITHOUT FURTHER NOTICE OR HEARING.**

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE OBJECTION WILL BE HELD ON **JULY 20, 2021 at 11:00 a.m. (ET)** VIA

VIDEOCONFERENCE BEFORE THE HONORABLE JOHN T. DORSEY OF THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE.

Dated: June 18, 2021

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Matthew O. Talmo

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

-and-

**HALPERIN BATTAGLIA BENZIJA,
LLP**

Alan D. Halperin
Scott A. Ziluck
Ligee Gu
40 Wall Street, 37th Floor
New York, NY 10005
Telephone: (212) 765-9100
Facsimile: (212) 765-0964
ahalperin@halperinlaw.net
sziluck@halperinlaw.net
lgu@halperinlaw.net

*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.¹

Chapter 11

Case No. 19-11292 (JTD)

(Jointly Administered)

**ORDER GRANTING FOURTEENTH OMNIBUS OBJECTION OF THE TRUSTEE OF
THE INSYS LIQUIDATION TRUST TO CLAIMS (NON-SUBSTANTIVE)
(Amended and Superseded, Insufficient Documentation, and Late Filed Claims)**

Upon the *Fourteenth Omnibus Objection of the Trustee of the Insys Liquidation Trust to Claims* (the “Objection”) for entry of an order disallowing and expunging the claims set forth on Exhibits 1, 2, and 3 (each a “Claim” and collectively, the “Claims”), all as more fully set forth in the Objection; and upon the *Declaration of Edward A. Phillips Pursuant to 28 U.S.C. § 1746 and Local Rule 3007-1 in Support of the Fourteenth Omnibus Objection of the Trustee of the Insys Liquidation Trust to Claims* filed contemporaneously with the Objection and in support thereof; and this Court having jurisdiction to consider the Objection and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Objection and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Objection having been provided, and no other or further notice being required; and the Court having considered all responses to the Objection, if any, and all such responses having been either overruled or withdrawn; and upon all proceedings had before the Court; and the Court

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).

having determined that the legal and factual bases set forth in the Objection establish just cause for the relief granted herein; and

This Court having **FOUND AND DETERMINED THAT:**

A. The holders of the Claims listed on **Exhibits 1, 2 and 3** attached hereto were properly and timely served with a copy of the Objection and all of its accompanying exhibits and notice of a hearing on the Objection and response deadline,

B. Any entity known to have an interest in the Claims subject to the Objection has been afforded reasonable opportunity to respond to, or be heard regarding, the relief requested in the Objection, and

C. The relief requested in the Objection is in the best interests of the Liquidation Trust, its beneficiaries, the Debtors, their estates, their creditors, and other parties in interest; And after due deliberation and sufficient cause appearing therefor,

IT IS THEREFORE ORDERED THAT:

1. The Objection is **GRANTED**.
2. The Claims listed in the column entitled “Amended Claims to be Disallowed” on **Exhibit 1** attached hereto are hereby disallowed and expunged in their entirety.
3. The Claims listed on **Exhibits 2 and 3** hereto are hereby disallowed and expunged in their entirety.
4. Epiq Corporate Restructuring, LLC is authorized and directed to disallow and expunge the Claims listed on **Exhibits 1, 2 and 3** as reflected therein on the official claims registry pursuant to this Order and to make other changes to the official claims registry as necessary to reflect the terms of this Order.
5. Each Claim addressed in the Objection constitutes a separate contested matter as

contemplated by Bankruptcy Rule 9014. This Order shall be deemed a separate Order with respect to each Claim. Any stay of this Order pending appeal by any of the claimants whose Claims are subject to this Order shall apply only to the contested matter which involves such claimant and shall not act to stay the applicability and/or finality of this Order with respect to other contested matters covered hereby.

6. Nothing contained in the Objection or this Order is intended to be or shall be deemed as (i) an admission as to the validity of any claim against the Debtors or its estates, (ii) waiver of rights to dispute the amount of, basis for, or validity of any claim, (iii) a waiver of rights under Bankruptcy Code or any applicable non-bankruptcy law, (iv) an agreement or obligation to pay any claims, or (v) a waiver of any claims or causes of action which may exist against any creditor or interest holder.

7. Nothing in the Objection or this Order shall be construed as an allowance of any Claim.

8. The Trustee's rights to amend, modify, or supplement the Objection, to file additional objections to the Claims, any other claims (filed or not) which have or may be asserted against the Debtors or their estates, and to seek further reduction of any Claim, are preserved. Additionally, should the grounds of objection stated in the Objection be dismissed, the Trustee's right to object on other stated grounds or any other grounds that the Trustee discovers during the pendency of these cases are further preserved.

9. This Court shall retain jurisdiction to hear and determine all matters arising from the interpretation and/or implementation of this Order.

Fourteenth Omnibus Claims Objection

Exhibit 1 - Amended and Superseded Claims

Amended Claims to be Disallowed					Surviving Claims			
Name	Claim or Scheduled #	Debtor	Disallowed Asserted Amount	Reason for Disallowance	Name	Claim or Schedule	Debtor	Surviving Asserted Amount
ADLER POLLOCK & SHEEHAN PC	292000470 296000030	Insys Therapeutics, Inc. Insys Pharma, Inc.	\$28,750.62 \$28,739.25	Claims are amended and superseded by the surviving claim.	ADLER POLLOCK & SHEEHAN PC	32	Insys Therapeutics, Inc.	\$77,444.47
GOODELL, DEVRIES, LEECH & DANN, LLP	292024580 296000620	Insys Therapeutics, Inc. Insys Pharma, Inc.	\$57,153.89 \$4,951.98	Claims are amended and superseded by the surviving claim.	GOODELL, DEVRIES, LEECH & DANN, LLP	10429	Insys Therapeutics, Inc.	\$60,129.41

Case 19-11292-JTD Doc 1708-2 Filed 06/18/21 Page 6 of 7
Fourteenth Omnibus Claims Objection
Exhibit 2 - Insufficient Documentation Claims

<u>Name</u>	<u>Claim No.</u>	<u>Debtor</u>	<u>Claim Amount</u>	<u>Classification</u>	<u>Reason for Disallowance</u>
ANDERSON, TORGNY	10200	Insys Therapeutics, Inc.	\$ 189,333.68	General unsecured	Claim does not provide sufficient or any documentation to determine the validity or amount of the claim.
DEPARTMENT OF TAXATION - STATE OF HAWAII*	2627	Insys Pharma, Inc.	\$ 998.28	Priority- 11 U.S.C. Section 507(a)(8)	Claim does not provide sufficient or any documentation to determine the validity or amount of the claim.
HAMILTON, MALENDIA*	10615	Insys Therapeutics, Inc.	Undetermined	Priority- 11 U.S.C. Section 507(a)(4)	Claim does not provide sufficient or any documentation to determine the validity or amount of the claim.
LIFESTREAM BEHAVIORAL CENTER INC.*	2624	Insys Therapeutics, Inc.	Undetermined	General unsecured	Claim does not provide sufficient or any documentation to determine the validity or amount of the claim.
RAMEY, E. SHANE*	1585	Insys Therapeutics, Inc.	\$ 54.78	Secured	Claim does not provide sufficient or any documentation to determine the validity or amount of the claim.
YOHO, MICHELLE D.*	890	Insys Therapeutics, Inc.	\$ 711.00	Priority- 11 U.S.C. Section 507(a)(4)	Claim does not provide sufficient or any documentation to determine the validity or amount of the claim.

*These claims are also being objected to as Late Filed Claims. See Exhibit 3.

Fourteenth Omnibus Claims Objection

Exhibit 3 - Late Filed Claims

<u>Name</u>	<u>Claim No.</u>	<u>Filed Date</u>	<u>Debtor</u>	<u>Claim Amount</u>	<u>Classification</u>	<u>Reason for Disallowance</u>
DEPARTMENT OF TAXATION- STATE OF HAWAII*	2627	3/30/2021	Insys Pharma, Inc.	\$ 998.28	Priority- 11 U.S.C. Section 507(a)(8)	Filed after applicable bar date.
HAMILTON, MALEND A*	10615	9/24/2019	Insys Therapeutics, Inc.	Undetermined	Priority- 11 U.S.C. Section 507(a)(4)	Filed after applicable bar date.
LIFESTREAM BEHAVIORAL CENTER INC.*	2624	2/18/2021	Insys Therapeutics, Inc.	Undetermined	General unsecured	Filed after applicable bar date.
NEW YORK STATE DEPARTMENT OF LABOR	2623	12/16/2020	IPSC, LLC	\$ 118.53	Priority- 11 U.S.C. Section 507(a)(8)	Filed after applicable bar date.
RAMEY, E. SHANE*	1585	10/16/2019	Insys Therapeutics, Inc.	\$ 54.78	Secured	Filed after applicable bar date.
YOHO, MICHELLE D.*	890	10/7/2019	Insys Therapeutics, Inc.	\$ 711.00	Priority- 11 U.S.C. Section 507(a)(4)	Filed after applicable bar date.

*These claims are also being objected to as Insufficient Documentation Claims. See Exhibit 2.

Exhibit B

Phillips Declaration

**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)

**DECLARATION OF EDWARD A. PHILLIPS PURSUANT TO 28 U.S.C. § 1746 AND
LOCAL RULE 3007-1 IN SUPPORT OF FOURTEENTH OMNIBUS OBJECTION OF
THE TRUSTEE OF THE INSYS LIQUIDATION TRUST TO CLAIMS (SUBSTANTIVE)
(Amended and Superseded, Insufficient Documentation, and Late Filed Claims)**

Edward A. Phillips, under penalty of perjury hereby declares as follows:

1. I am Managing Director of Getzler Henrich & Associates LLC (“Getzler Henrich”). My professional credentials include: Certified Turnaround Professional; Certified Insolvency & Restructuring Advisor; Certified Fraud Examiner; Certified in Financial Forensics; and Certified Public Account. I have more than 25 years of experience in finding solutions to problems in restructuring, insolvency, liquidation, and forensic accounting matters. I have advised a variety of parties and functioned in numerous roles in bankruptcy proceedings, out-of-court restructurings, forensic accounting engagements and post-confirmation engagements.

2. I submit this declaration in support of the *Fourteenth Omnibus Objection of the Trustee of the Insys Liquidation Trust to Claims (Substantive)* (the “Objection”).

3. Getzler Henrich serves as the financial advisor to the Insys Liquidation Trust (the “Trust”) and Mr. William Henrich, the Trustee of the Trust and has been working in these cases since the Effective Date.² I am the primary Getzler Henrich professional responsible for

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 Objection.

overseeing the claims analysis process. Additionally, I also consult with the Debtors' former Chief Financial Officer and Director of Accounting who currently act as consultants to the Trust and have firsthand knowledge of the Debtors' books and records (the "Books and Records"). As such, I have gained significant familiarity of the Books and Records and their Schedules.

4. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my review (or the review of Trust's counsel, Epiq, and/or Trust's consultants under my supervision) of business records kept by the Debtors in the ordinary course of business, the relevant proofs of claim, and/or the claims register maintained by Epiq, the claims and noticing agent in these cases. The objections set forth in the Objection are based on the review conducted. I have personally reviewed the Objection and to the best of my knowledge and belief, the information contained on Exhibits 1, 2, and 3 to the Objection is true and correct.

5. I and/or the Trust's counsel reviewed the claims identified in Exhibit 1 to the Objection and the supporting documentation, if any, filed with the claims, and have determined that each of the claims has been amended and superseded by a later filed claim, filed by the same claimant for the same liability. Therefore, the claims in Exhibit 1 should be disallowed and expunged as reflected therein.

6. I and/or the Trust's counsel reviewed the claims identified in Exhibit 2 to the Objection and the supporting documentation, if any, filed with the claims, and have determined that they were filed without sufficient documentation to constitute prima facie evidence of the validity and amount of the claim asserted. Indeed, these claims merely list an amount, without including information, statements, agreements, or other supporting documentation providing indicia of a debt owed by the Debtors. The Trustee's professionals have reviewed and made reasonable efforts to research and reconcile the Insufficient Documentation Claims with the

Debtors' books and records, and have found no evidence of the validity or amount of the Claims. Therefore, the claims in **Exhibit 2** should be disallowed and expunged as reflected therein.

7. Finally, I and/or the Trust's counsel reviewed the claims identified in **Exhibit 3** to the Objection and the supporting documentation, if any, filed with the claims, and have determined that the claims were each filed after the applicable bar dates. Therefore, the claims in **Exhibit 3** should be disallowed and expunged.

8. Based on the foregoing, and to the best of my knowledge, information and belief, the information contained in the Objection and exhibits thereto is true and correct.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: June 18, 2021

/s/ Edward A. Phillips
Edward A. Phillips