

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
(FORT LAUDERDALE DIVISION)
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In re

CASE NO. 13-17273-BKC-JKO, et seq.
CHAPTER 7
(JOINTLY ADMINISTERED)

COMPREHENSIVE CLINICAL
DEVELOPMENT, INC., et al.,¹

Debtors.

CHAPTER 7 TRUSTEE'S MOTION: (A) TO MODIFY BRIEFING SCHEDULE ON TRUSTEE'S MOTION: (i) TO APPROVE SETTLEMENT AND COMPROMISE OF CONTROVERSY WITH GRANT THORNTON, LLP AND REQUEST FOR ENTRY OF BAR ORDER; AND (ii) REQUESTING AUTHORIZATION TO APPROVE AND PAY EARNED CONTINGENCY FEE OF \$61,250.00 TO THE TRUSTEE'S SPECIAL LITIGATION COUNSEL [ECF NO. 980]

AND

(B) TO ESTABLISH A BRIEFING SCHEDULE ON THE MOTION OF CHAPTER 7 TRUSTEE: (i) TO APPROVE SETTLEMENT AND COMPROMISE OF CONTROVERSY WITH MCGLADREY LLP f/k/a MCGLADREY & PULLEN, LLP, RSM MCGLADREY, INC., AND MCGLADREY, INC. AND REQUEST FOR ENTRY OF BAR ORDER; AND (ii) REQUESTING AUTHORIZATION TO APPROVE AND PAY EARNED CONTINGENCY FEE OF \$61,250.00 TO THE TRUSTEE'S SPECIAL LITIGATION COUNSEL [ECF NO. 1008]

Marc P. Barmat (the "Trustee"), not individually but as Chapter 7 Trustee of the bankruptcy estates of the above-captioned Debtors, files this *Motion: (A) to Modify Briefing Schedule on Trustee's Motion: (i) to Approve Settlement and Compromise of Controversy with Grant Thornton, LLP and Request for Entry of Bar Order; and (ii) Requesting Authorization to Approve and Pay Earned Contingency Fee of \$61,250.00 to the Trustee's Special Litigation Counsel [ECF No. 980] and (B) to Establish a Briefing Schedule on the Motion of Chapter 7*

¹ The jointly administered Debtors in these proceedings are: (i) Comprehensive Clinical Development, Inc., Case No. 13-17273-BKC-JKO; and (ii) Comprehensive Clinical Development NW, Inc., Case No. 13-17282-BKC-JKO (collectively, the "Debtors").

Trustee: (i) to Approve Settlement and Compromise of Controversy with McGladrey LLP f/k/a McGladrey & Pullen, LLP, RSM McGladrey, Inc., and McGladrey, Inc. and Request for Entry of Bar Order; and (ii) Requesting Authorization to Approve and Pay Earned Contingency Fee of \$61,250.00 to the Trustee's Special Litigation Counsel [ECF No. 1008] (the "Motion"), and says:

1. On March 29, 2013 (the "Petition Date"), the above-styled jointly administered Debtors filed voluntary petitions for relief before the Court in Main Case No. 13-17273-BKC-JKO (the "Main Case") under Chapter 11 of the Bankruptcy Code, in the United States Bankruptcy Court for the Southern District of Florida (the "Bankruptcy Court").

2. By Order of the Bankruptcy Court dated August 29, 2013, the cases were converted to Chapter 7 liquidation proceedings.

3. The Trustee is the duly appointed and acting Chapter 7 Trustee of and for the estates of the Debtors.

Request for Modification of GT Settlement Motion Briefing Schedule

4. On March 26, 2015, the Trustee commenced an adversary proceeding against Grant Thornton before the Bankruptcy Court styled *Marc P. Barmat, Chapter 7 Trustee, Plaintiff v. Grant Thornton, LLP, Defendant*, Adv. No. 15-01233-BKC-JKO-A (the "Adversary Proceeding"), seeking to avoid certain transfers made to Grant Thornton pursuant to 11 U.S.C. §§ 544 and/or 548 of the Bankruptcy Code, and to recover such transfers from Grant Thornton for the benefit of the Debtors' bankruptcy estate in the total aggregate sum of \$259,335.00 pursuant to 11 U.S.C. § 550(a).

5. On August 24, 2015, the Trustee filed his Motion: (i) to Approve Settlement and Compromise of Controversy with Grant Thornton, LLP and Request for Entry of Bar Order; and

(ii) Requesting Authorization to Approve and Pay Earned Contingency Fee of \$61,250.00 to the Trustee's Special Litigation Counsel [ECF No. 980] (the "GT Settlement Motion"). The GT Settlement Motion is set to be heard at an evidentiary hearing on January 7, 2016. [ECF No. 1019].

6. On September 18, 2015, Defendants in a separate adversary proceeding (the "Objectors") pending before the Bankruptcy Court styled *Marc P. Barmat, Chapter 7 Trustee, Plaintiff v. John McGovern, et al. Defendants*, Adv. No. 15-01232-BKC-JKO-A, filed a Joint Memorandum in Opposition of Motion to Approve Settlement and Compromise of Controversy with Grant Thornton [ECF No. 987], Joinder to and Supplemental Memorandum in Support of Opposition to Trustee's Motion to Approve Settlement [ECF No. 989], and Joinder [ECF No. 992] (collectively, the "Opposition Filings").

7. On October 21, 2015, the Court entered an Order Granting Chapter 7 Trustee's Agreed Ex-Parte Motion for Extension of Time to Respond to ECF Nos. 987, 989 and 992 filed by Objectors, which called for the Trustee to file his Responses to the Objections no later than November 4, 2015, and for the Objectors to file their Replies no later than November 11, 2015. [ECF No. 1019].

8. In light of the continuance of the GT Settlement Motion evidentiary hearing to January 7, 2016, the Trustee requests a modification of the briefing schedule in connection with the GT Settlement Motion. The Trustee proposes that any responses to the Joint Objection [ECF 987], the Supplemental Objection [ECF 989], and the Joinder [ECF 992] be filed on or before December 11, 2015 and that the Objectors' replies be filed on or before December 31, 2015.

Request to Establish McGladrey Settlement Motion Briefing Schedule

9. On June 19, 2015, the Trustee commenced an adversary proceeding against

McGladrey LLP f/k/a McGladrey & Pullen, LLP, RSM McGladrey, Inc., and McGladrey, Inc. (“McGladrey”) before the Bankruptcy Court styled *Marc P. Barmat, Chapter 7 Trustee, Plaintiff v McGladrey LLP f/k/a McGladrey & Pullen, LLP, RSM McGladrey, Inc., and McGladrey, Inc., Defendants*, Adv. No. 15-01411-BKC-JKO-A (the “McGladrey Adversary Proceeding”), seeking, among other things, to avoid certain transfers made to McGladrey pursuant to 11 U.S.C. §§ 544 and/or 548 of the Bankruptcy Code, and to recover such transfers from McGladrey for the benefit of the Debtors’ bankruptcy estate in the total aggregate sum of \$666,423.00 pursuant to 11 U.S.C. § 550(a).

10. On October 13, 2015, the Trustee filed his Motion: (i) to Approve Settlement and Compromise of Controversy with McGladrey LLP f/k/a McGladrey & Pullen, LLP, RSM McGladrey, Inc., and McGladrey, Inc. and Request for Entry of Bar Order; and (ii) Requesting Authorization to Approve and Pay Earned Contingency Fee of \$61,250.00 to the Trustee’s Special Litigation Counsel [ECF No. 1008] (the “McGladrey Settlement Motion”). The McGladrey Settlement Motion is also set to be heard at an evidentiary hearing on January 7, 2016. [ECF No. 1023].

11. Objectors to the GT Settlement Motion have advised undersigned counsel that they intend to file objections to the McGladrey Settlement Motion for reasons similar to the GT Settlement Motion objections.

12. Accordingly, the Trustee seeks to establish a briefing schedule in connection with the McGladrey Settlement Motion which would coincide with the GT Settlement Motion briefing schedule. Specifically, the Trustee proposes the following briefing schedule: (i) parties in interest shall file any objection(s) to the McGladrey Settlement Motion on or before November 13, 2015; (ii) parties in interest shall file any responses to any objections(s) to the

McGladrey Settlement Motion on or before December 11, 2015; and (iii) any replies thereto shall be filed on or before December 31, 2015.

WHEREFORE, the Trustee requests the entry of an Order, in the form attached hereto as Exhibit A: (i) granting the Motion; (ii) modifying the GT Settlement Motion briefing schedule as set forth herein; (iii) establishing the McGladrey Settlement Motion briefing schedule as set forth herein to coincide with the GT Settlement Motion briefing schedule; and (iv) granting such other and further relief as the Court deems appropriate.

Respectfully submitted this 3rd day of November, 2015.

GENOVESE JOBLOVE & BATTISTA, P.A.
Counsel for the Trustee
100 Southeast 2nd Street, 44th Floor
Miami, FL 33131
Tel: (305) 349-2300
Fax: (305) 428-8804

By: /s/ David C. Cimo
David C. Cimo, Esq.
Fla. Bar No. 775400
Email: dcimo@gjb-law.com
Marilee A. Mark, Esq.
Fla. Bar No. 725961
Email: mmark@gjb-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served upon the parties listed in the below service list in the manner indicated therein on November 3, 2015.

By: David C. Cimo
David C. Cimo

SERVICE LIST

Via U.S. Mail

Edward A. Marod, Esq.
GUNSTER, YOAKLEY & STEWART, PA
Attorneys for the Defendant
777 South Flagler Drive, Suite 500 East
West Palm Beach, FL 33401
Tel: (561) 655-1980
Email: emarod@gunster.com

David M. Buckner, Esq.
Grossman Roth, P.A.
2525 Ponce de Leon, Suite 1150
Miami, FL 33134

Amanda M. MacDonald, Esq.
Steven M. Farina, Esq.
Nicholas G. Gamse, Esq.
Tamara A. Rubb, Esq.
Williams & Connolly LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005

James C. Moon, Esquire
MELAND RUSSIN & BUDWICK, P.A.
3200 Southeast Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131

Nicholas G. Gamse, Esq.
Tamara A. Rubb, Esq.
c/o MELAND RUSSIN & BUDWICK, P.A.
3200 Southeast Financial Center

200 South Biscayne Boulevard
Miami, Florida 33131

David M. Buckner, Esq.
Grossman Roth, P.A.
2525 Ponce de Leon, Suite 1150
Miami, FL 33134

Amanda M. MacDonald, Esq.
Steven M. Farina, Esq.
Nicholas G. Gamse, Esq.
Tamara A. Rubb, Esq.
Williams & Connolly LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005

James C. Moon, Esquire
MELAND RUSSIN & BUDWICK, P.A.
3200 Southeast Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131

Nicholas G. Gamse, Esq.
Tamara A. Rubb, Esq.
c/o MELAND RUSSIN & BUDWICK, P.A.
3200 Southeast Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131

Nicolette C. Vilmos, Esq.
Broad and Cassel
390 North Orange Avenue
Suite 1400
Orlando, Florida 32801

David A. Crichlow, Esq.
Karen B. Dine, Esq.
Rebecca Kinburn, Esq.
Katten Muchin Rosenman LLP
575 Madison Ave.
New York, NY 10022-2585

Neil P. Linden, Esq.
Ivan J. Reich, Esq.
Fernando Menendez, Esq.
Gray Robinson, P.A.

333 S.E., 2nd Avenue, Suite 3200
Miami, Florida 33131

Ryan D. O'Quinn, Esq.
Elan A. Gershoni, Esq.
O'Quinn Stumphauzer & Sloman
One SE Third Avenue, Suite 1820
Miami, Florida 33131

Via Email

Elan A Gershoni on behalf of Defendant John McGovern
egershoni@osslaw.com

Ryan D O'Quinn on behalf of Defendant John McGovern
roquinn@osslaw.com

Neil Linden, Esq. on behalf of Defendant Margarita Morales-Perez at neil.linden@gray-robinson.com

Fernando Menendez @ fernando.menendez@gray-robinson.com

David A. Crichlow, Esq. at david.crichlow@kattenlaw.com

Karen B. Dine, Esq. at karen.dine@kattenlaw.com

Rebecca Kinburn, Esq. at rebecca.kinburn@kattenlaw.com

And All Parties Listed on the Master Service List Attached Hereto

By regular U.S. Mail to:

Jonathan E Aberman
222 N LaSalle #2600
Chicago, IL 60601

Joseph Corrigan
745 Atlantic Ave, 10 Floor
Boston, MA 02111

Micheal D. Disota
Court Plaza North
25 Main St
Hackensack, NJ 07601

Kathleen Embry

Community Clinical Research, Inc.
8334 Cross Park Drive
Austin, TX 78754

IBM Corporation
ATTN- National Bankruptcy Coordinator
275 Viger East #400
Montreal, QC H2X 3R7

Brian A Jennings
1201 3 Ave #4800
Seattle, WA 98101

William A Johnsen
600 Madison Ave
New York, NY 10022

Soneet R Kapila
1000 S Federal Hwy #200
Ft. Lauderdale, FL 33316
Sharon Makosy
668 Highland Ave
POB 335
Revloc, PA 15948

David S. Meyer
601 Lexington Ave
New York, NY 10022-4611

Mark P. Naughton
9 Parkway North #300
Deerfield, IL 60015

Office of Unemployment Compensation Tax Services, Dept of Labor and Industry,
Commonwealth of Pennsylvania
c/o Timothy Bortz
625 Cherry St #203
Reading, PA 19602

Ricoh USA Inc
3920 Arkwright Rd #400
Macon, GA 31210

Jon L Ruckle MD
1402 S Brookside Terr
Tacoma, WA 98465

Alan D. Smith
1201 Third Ave #4900
Seattle, WA 98101

Brent Williams
55 East 52 St 31 Fl
New York, NY 10055

Sean Woo
For Tissue Inc.
9605 Medical Center Dr #200
Rockville, MD 20850

Felice R. Yudkin
Court Plaza North
25 Main St
Hackensack, NJ 07601

PCM Sales
1940 E Mariposa Ave
El Segundo CA 90245

Lee County Tax Collector
C/o Legal Department
PO Box 850
Fort Myers FL 33902-0850

Summer D. Jensen
29105 N.E. Tolt Hill Road
Carnation, WA 98014

McKesson Medical-Surgical, Inc.
c/o Neil J Orleans
1201 Elm St #4800
Dallas TX 75270

Pedro Gonzalez.
6289 W 22 Ln
Hialeah, FL 33016-3924

Yuca Productions
3011 SW 84 Ave.
Miami, FL 33155

JKO
2200 E Hallandale Beach Blvd Apt 406
Hallandale Beach, FL 33009

Ruben Bembibre
2200 E Hallandale Beach Blvd Apt 406
Hallandale Beach, FL 33009

Touch Sound & Vision
10926 Hortense St.
Los Angeles, CA 91602

Brian Halls Richardson
4035 Majestic Lane
Apt. B
Fairfax, VA 22033

Air-Eze Air Conditioning, Inc.
2034 Thomas Street
Hollywood, FL 33020

Job Finder Publications
1240 SE Maynard Road
Suite 104
Cary, NC 27519

Newell Hargett MD
1133 20th St NW Suite B150
Washington, 20036

Call-Em-All, LLC
2611 Internet Blvd Suite 120
Frisco, Tx 75034

Rex Three
15431 SW 14th Street
Fort Lauderdale, FL 33326

Karina Arauz
20620 Highland Lakes Blvd
Miami, FL 33179

Clean Harbors Environmental Services, In
42 Longwater Dr.
Norwell, MA 02061

STAT Promo Solutions
8550 Northwest 47th Court
Lauderhill, FL 33351-5437

Ruben Bembibre
2200 E Hallandale Beach Blvd Apt 406
Halandale Beach, FL 33009

Comprehensive Clinical Development
MultiCare Health System dba Laboratories NW
315 MLK Way
Mailbox: 4L-315-LAB
Tacoma, WA 98405-0299

AT Conference, Inc
PO Box 2939
Southampton, NY 11969

Pro Research, Inc.
8601 Sardonyx Drive SW
Lakewood, WA 98498

W W Grainger Inc
c/o Special Collections Dept
7300 N Melvina
Niles, IL 60714

Southern California Edison Co
Attn: Credit and Payment Services
1551 W San Bernardino Rd
Covina CA 91722

Staples, Inc.
Attn: Daneen Kastanek
1 Environmental Way
Broomfield, CO 80021

Great America Leasing Corp
POB 609
Cedar Rapids IA 52406

CyberCoders, Inc.
6591 Irvine Center Dr Suite 200
Irvine, CA 92618-2131

Internal Revenue Service
7850 SW 6 Court
Mail Stop 5730
Fort Lauderdale, FL 33324

Broward County Records, Taxes & Treasury
Attn: Bankruptcy Section
115 S. Andrews Ave. # A-100
Ft. Lauderdale, FL 33301

Health Care Logistics Inc
PO Box 25
Circleville, OH 43113-0025

Sharon Ramnarine
40 Conistan road
Unionville, Ontario L3R8K7
Canada

Maria C. Isesalaya
P.O. BOX 112158
Hialeah, FL 33011

Pitney Bowes Inc
4901 Belfort Rd, Ste 120
Jacksonville FL 32256

ALG Worldwide Logistics
ALG Worldwide
Attn: Barbara Font
2409 Dearborn, Ste L
Missoula, MT 59801

Personally Yours Services, Inc.
P.O. Box 267085
Weston, FL 33326

Nancy Mitchell
2201 Fieldmont Court
Raleigh NC 27614

M.H. Adams & Associates, Inc.
c/o Esperanza Segarra, Esq.
Hinshaw & Culbertson LLP
2525 Ponce de Leon Blvd. 4 Flr
Coral Gables, FL 33134

Keller Eye Associates, Inc. A Medical Group
1010 W. LaVeta
Suite 175
Orange, CA 92868-4301

McKesson Medical-Surgical, Inc.
c/o Neil J Orleans
1201 Elm St #4800
Dallas TX 75270

Clinical Research of Atlanta
175 COUNTRY CLUB DR
BLDG 100, STE A
Stockbridge, GA 30281-7380

DATATRAK International, Inc.
5900 Landerbrook Drive
Suite 170
Mayfield Heights, OH 44124

WMOR
PO Box 26882
Lehigh Valley, PA 18002-6882

Kim M. Lanphear, M.D.
3711 Pine Ridge Road
Canastota, NY 13032

Kim M. Lanphear, M.D.
3711 Pine Ridge Road
Canastota, NY 13032

Independent Data Integrator, LLC
401 East Las Olas Blvd
Suite 130-395
Fort Lauderdale, FL 33301

R & N Car Service
179-36 Hillside Avenue
Jamaica, NY 11432

WMOR This TV - Hearst Television, Inc
214 N Tryon St 33fl
Charlotte NC 28202

Clear Channel
11700 Central Parkway
Attn: Jeff Worthington
Jacksonville, FL 32224

Central Kentucky Research Associates Inc
3475 Richmond Rd 3rd Flr
Lexington, KY 40509
Elane Zaleski
12561 Gemstone Court
Fort Myers, FL 33913

WTOG TV CW44
365 105 Terr NE
St Petersburg FL 33716

Laboratory Corporation of America
P.O. Box 12140
Burlington, NC 27216-2140

Integra
1201 NE Lloyd Blvd #500
Portland OR 97232

AM New York -Newsday Media Group
235 PineLawn Rd
Melville, NY 11746

Consolidated Edison Co of New York Inc.
Bankruptcy Group
4 Irving Place #1875-S
New York, NY 10003

Flatiron Capital, a division of Wells Fargo Bank,
c/o Ronald M. Emanuel, P.A.
7900 Peters Road, Executive Court at Jac
Plantation, FL 33324

State of New Jersey
Division of Taxation
Compliance Activity

POB 245
Trenton, NJ 08646

Phenix Research Products
73 Ridgeway Road
Candler, NC 28715

Avail Clinical
860 Peachwood Dr
Deland, FL 32720-0834

Maria J Gutierrez M.D
Maria J. Gutierrez M.D
540 East Tall Oaks dr
Palm Beach Gardens, FL 33410

Devhash, Inc
628 E 20th St # 10 A
New York, NY 10009

Sheri Shubin
Robert Jacobsen
1240 East Ontario Ave., Suite 102
Corona, CA 92881

Rosemarie J. Melchor, MD, Inc
11432 South ST #376
Cerritos, CA 90703

Gonzalo Cruz
320 W Vermont #105
Anaheim CA

Dombrowski Catering
3544 S. Wilkeson St.
Tacoma, WA 98418

Pennsylvania Department of Revenue
Bureau of Compliance Attn: Mark Morabito
POB 280946
Harrisburg PA 17128-0946

College Hospital, Inc.
11627 Telegraph Road Suite 200
Santa Fe Springs, CA 90670-6803

J. Alex Kress and William Connolly
c/o Riker Danzig Scherer Hyland & Perretti LL
Morristown, NJ 07962-1981

Los Angeles County Treasurer and Tax Collector
Attn: ManLing Kuo Tax Service Clerk
POB 54110
Los Angeles CA 90054

Wells Fargo Bank, N.A.
c/o Drew M. Dillworth, Esq.
Stearns Weaver Miller
150 W. Flagler St., #2200
Miami, FL 33130

SB New York Inc
120 Broadway
6th Fl
New York, NY

Odin Feldman & Pittleman, P.C.
1775 Wiehle Ave #400
Reston, VA 20190

Massachusetts Department of Revenue
Bankruptcy Unit
P.O. Box 9564
Boston, MA 02114

Alliance Supply
2431 SW 35th Terrace
Ft. Lauderdale, FL 33312

Employment Guide
Dominion Enterprises
150 Granby Street,
Attn: Joseph Doherty
Norfolk, VA 23510

Nancy Beth Bloss Tumarkin
13127 Kensington Isle Way
Seminole, FL 33776

Mid-County Investments, Inc.
11201 CORPORATE CIRCLE N STE 120
St. Petersburg, FL 33716-3701

Crowell Moring
1001 Pennsylvania Ave NW
Washington DC 20004

The Holliswood Hospital
87 37 Palermo St
Holliswood NY 11423

James D. Utterback
15901 Collins Avenue, Unit 4306
Sunny Isles Beach, FL 33160

Employment Guide
Dominion Enterprises
150 Granby Street,
Attn: Joseph Doherty
Norfolk, VA 23510

Employment Guide
Dominion Enterprises
150 Granby Street,
Attn: Joseph Doherty
Norfolk, VA 23510

Comprehensive Clinical Development
MultiCare Health System dba Laboratories NW
315 MLK Way
Mailbox: 4L-315-LAB
Tacoma, WA 98405-0299

David A. Dworaczyk
7101 Millstone Ridge Court
Raleigh, NC 27614 Claim No: 86

The Holliswood Hospital
87 37 Palermo St
Holliswood NY 11423

Steve Stork
100-11 67th Rd., Apt. #305; 302
Forest Hills, NY 11375

Hunter Group CPA LLC
Tod A Christianson
17-17 Route 208
Fair Lawn, NJ 07410

Schulman Associates IRB
4445 Lake Forest Drive Suite 300
Cincinnati, OH 45242

The Flynn
201 Kelsley Ln
Tampa FL 33619

WA State Dept of Labor & Industries
Bankruptcy Unit
POB 44171
Olympia, WA 98504-4171

Alere Toxicology
1342 Court Street
Portsmouth, VA 23704

FIA Card Services, N.A. as successor to
Bank of America, N.A. (USA)
and MBNA America Bank, N.A.
P O Box 982284
El Paso, TX 79998-2238

David Hennessy
9 Summit Hennessy
New Milford, CT 06776

Goal Advertisement Marketing and Promoti
1819 S Inlet Drive
Marco Island, FL 34145

N. Rahbar MD Inc.
17822 Beach Blvd #100
Huntington Beach CA 92647

GE Capital Information Technology Solutions Inc
GECITS
Attn: Bankruptcy Administrator
POB 13708
Macon, GA 31208

American Express Travel Related Services Company
Inc
c/o Becket and Lee LLP
POB 3001
Malvern PA 19355-0701

Margarita Nunez MD
P.O. Box 39329
Greensboro, NC 27438-

AccelaRx LLC
2641 Galliano Cir
Winter Park, FL 32792

Oliver L Mason MD
3325 PALO VERDE AVE STE 207
LONG BEACH, CA 90808-4132

Ikon Office Solutions
Ricoh USA Inc
3920 Arkwright Rd #400
Macon GA 31210

CIGNA Health and Life Insurance Co.
c/o Wilelmina L Bergland
900 Cottage Grove Rd B6LPA
Hartford, CT 06152

American Express Travel Related Services Company
Inc
c/o Becket and Lee LLP
POB 3001
Malvern PA 19355-0701

Columbia Research Group, Inc.
c/o David P. Weiner, Esq.
1515 SW Fifth Avenue, Suite 600
Portland, OR 97201

Clinical Research Resources LLC
POB 309
Estero FL 33929

Life Insurance Co of North America
c/o Wilhelmina L Bergland
900 Cottage Grove Rd #B6LPA
Hartford, CT 06152

R.I. Division of Taxation
One Capitol Hill
Providence RI 02908

Fidelity Security Life Insurance/Eyemed
POB 632530
Cincinnati, OH 45263-2530

Florida Sentinel Bulletin
ATTN: LaVora Edwards
2207 East 21 Avenue
Tampa, FL 33605

Autonomy, Inc
Hewlett-Packard Comp
5555 Windward Pkwy
Alpharetta, GA 30004

Georgetown Center Investment Group, Inc.
c/o Josh Rataezyk
Davis Wright Tremaine LLP
1201 Third Avenue, Suite 2200
Seattle, WA 98104-3045

Humanetics Corporation
Ravich Meyer Law Firm
Attn: Will R. Tansey
4545 IDS Center
80 South Eighth Street

Alpha IRB (Alpha Independent Review Board, Inc.)
1001 Avenida Pico Suite C 497
San Clemente, CA 92673

Embarq Florida, Inc. - South Florida
CenturyLink Bankruptcy
359 Bert Kouns Industrial Loop
Shreveport, LA 71106

DANIELLE DELICE
2576 FOX RIDGE CT
WOODBIDGE, VA 22192

SAJE CONSULTING LLC
1101 E 33RD ST STE C310
Baltimore, MD 21218

Daniel R. Scharf
3809 Ingram Dr.
Raleigh, NC

Medimax,LLC
3100 W. 84 Street Unit #35; 3
Hialeah, FL 33018-4902

Iron Mountain Information Management, Inc.
ATTN: Joseph Corrigan
745 Atlantic Avenue, 10th Floor
Boston, MA 02111

Charles River Laboratories, Inc
c/o Rushna Tejani Heneghan
251 Ballardvale St
Wilmington MA

Mallinckrodt LLC
John J. Hall
Lewis, Rice & Fingersh, LC
600 Washington Ave., Suite 2500
St. Louis, MO

Roche Products
c/o Gerry Bohm
150 Clove Road
Suite 8
Little Falls, NJ

Alkermes Inc
c/o Micheal J Pappone
53 State St
Boston MA 02109

Bidalina Soto
Vanessa Vanderbrug
Hanis Irvine Prothero PLLC
6703 South 234th Street, Suite 300
Kent, WA 98032

FedEx Tech Connect Inc as Assignee
of FedEx Express/Ground/Freight/Office
3965 Airways Blvd, Module G, 3rd Floor
Memphis, Tennessee 38116

Oxford Finance, LLC
c/o Jonathan E. Aberman, Esquire
Vedder Price, PC
222 North LaSalle Street - Ste. 2600
Chicago, Illinois

NYC Dept of Finance
TP & P Division/Office of Tax Audits
345 Adams St 5th Floor
Brooklyn, NY 11201

WSFL-THIS
P.O. BOX 27122
Atlanta, GA 30384-7122

WSFL-ThisTV, WSFL-TV
WSFL-AntTV
c/o Kathy Bondi
One Galleria Blvd #850
Metairie, LA 70001

Miami Jewish Health Systems, Inc.
% Ms. Lisa Jo Desmarteau
5200 NE 2 Avenue
Miami, FL 33137

Broward Fire Equipment Svc, In
101 S.W. 6th Street
Ft. Lauderdale, FL

Perrigo Israel Pharmaceuticals Ltd.
c/o Scott A. Underwood
Fowler White Boggs P.A.
P.O. Box 1438
Tampa, FL 33601

Charles River Laboratories, Inc
c/o Rushna Tejani Heneghan
251 Ballardvale St
Wilmington MA 01887

R.J. Reynolds Tobacco Company
c/o Julie B. Pape, Esq.
Womble Carlyle Sandridge & Rice, LLP
One West Fourth Street
Winston-Salem, NC 27101

DCX Inc.
Levin & Gann, P.A.
502 Washington Avenue
8th Floor
Towson, MD 21204

Steak & Stuff Inc DBA Affordable Dry Ice
1700 Latham Rd #5
West Palm Beach, FL 33409-5100

David Hennessy
9 Summit Hennessy
New Milford, CT 06776

Anda Inc
2915 Weston Rd
Weston FL 33331

Sun Life Assurance Company of Canada (USA), Inc.
c/o Paul W. Carey, Esq.
Mirick O'Connell DeMallie & Lougee LLP
100 Front Street
Worcester, MA 01608

City of Miramar
c/o Alcida Martinez-Molina
Weiss Serota Helfman
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, FL 33134

Airgas USA, LLC
2015 Vaughn Rd Bldg 400
Kennesaw, GA 30111
Connecticut Dept of Revenue Svcs

C&E Div., Bankruptcy Sec.
25 Sigourney St
Hartford, CT 06106-5032

NY State Dept Of Taxation Finance
Bankruptcy Section
POB 5300
Albany NY 12205

Commonwealth Of Virginia
Dept Of Taxation
POB 2156
Richmond VA 23816-2156

Liberty Property Limited Partnership
PO Box 828438
Philadelphia, PA 19182-8438

David A Dworaczyk
7101 Millstone Ridge Court
Raleigh, NC 27614

Pitney Bowes Global Financial Services LLC
27 Waterview Drive
Shelton, CT 06484

Southern California Edison Co
Attn: Credit and Payment Services
1551 W San Bernardino Rd
Covina CA 91722

Kim M Lanphear
3711 Pine Ridge Road
Canastota, NY 13032

Nath, Goldberg & Meyer
Attorneys at Law 112 S. West Street
Alexandria, VA 22314

Helene A. Emsellem, MD PC
5454 Wisconsin Avenue
Suite 1725
Chevy Chase, MD 20815

ACCQ Writing Services, Inc.
PO Box 28609
Santa Fe, NM 87592

Pitney Bowes Global Financial Services LLC
27 Waterview Drive
Shelton, CT

MetaClin Research, Inc.
5815 West William Cannon Dr Ste 103
Austin, TX 78749

Fei Wang
807 Blackmar St
Cary, NC

Universal Hospital Services
6625-78 St #300
Minneapolis, MN 55439

Pitney Bowes Global Financial Services LLC
27 Waterview Drive
Shelton, CT 06484

Fisher & Phillips LLP
1075 Peachtree St NE #3500
Atlanta, GA 30309

Akros Pharma, Inc.
c/o Barbra R. Parlin, Esq.
Holland & Knight LLP
31 West 52 Street
New York, NY 10019

Oncothyreon, Inc.
c/o Steven J. Solomon, Esq.
GrayRobinson, PA
1221 Brickell Ave, Suite 1600
Miami, FL 33131

Janssen Research Development LLC
c/o David W Dykhouse
1133 Ave of The Americas
New York NY 10036-6710

Kythera Biopharmaceuticals, Inc.
c/o Matthew J. Riopelle
Foley & Lardner LLP
3579 Valley Centre Drive, Suite 300
San Diego, CA 92130

Cephalon, Inc.
c/o John D. Emmanuel, Esq.
Fowler White Boggs P.A.
P.O. Box 1438
Tampa, FL 33602

Amneal Pharmaceuticals, LLC
c/o Felice R. Yudkin, Esq.
Cole, Schotz, Meisel, Forman & Leonard, P.A.
25 Main Street
Hackensack, NJ 07601

Effort Enterprises of Fl Inc
Atlantic Relocation Systems
1314 Chattahoochee Ave NW
Atlanta GA 30318

Atlas Van Lines Inc
POB 509
1212 St George Rd
Evansville IN 47703

GlaxoSmithKline USA
c/o Bridget Lankford, Senior Counsel
GlaxoSmithKline USA
5 Crescent Drive
Philadelphia, PA 19112

Eagle Pharmaceuticals, Inc.
Sills Cummis & Gross, P.C.
Attn: Valerie A. Hamilton, Esq.
650 College Road East
Princeton, NJ

Mylan Inc. and its wholly owned subsidiary Mylan P
Daniel F. Blanks, Esq.
McGuireWoods LLP
50 N. Laura Street, Suite 3300
Jacksonville, FL 32202

Jeanne Zemaitis Inc
5878 Constitution Ave
Gurnee, IL 60031

Teva Neuroscience, Inc.
c/o John D. Emmanuel, Esq.
P.O. Box 1438
Tampa, FL 33602

L. Perrigo Company
c/o Gordon J. Toering
Warner Norcross & Judd LLP
111 Lyon NW, Suite 900
Grand Rapids, MI 49503-2487

Lilly USA, LLC
c/o Jay Jaffe, Esquire
Faegre Baker Daniels LLP
600 E. 96th St., Suite 600
Indianapolis, IN 46240

Lilly Research Laboratories, div Eli Lilly & Co.
c/o Jay Jaffe, Esquire
Faegre Baker Daniels LLP
600 E. 96th St., Suite 600
Indianapolis, IN 46240

Pfizer, Inc.
c/o Rachel Nanes, Esq.
DLA Piper LLP (US)
200 South Biscayne Boulevard - #2500
Miami, FL 33131

Bristol-Myers Squibb Co
65 Livingston Ave
Roseland NJ 07068

ADP, Inc.
Angela Nowell
100 N Stanton St
El Paso TX 79901

Ruben Bembibre
Alex D. Funes, Esq.
The Funes Law Firm
223 E. Flagler Street, Suite 606
Miami, FL 33131

State of Connecticut
Dept of Revenue Svcs
Collection & Enforcement Division
25 Sigourney St
Hartford, CT 06106

Pitney Bowes Global Financial Services LLC
27 Waterview Drive
Shelton, CT 06484

Dept of Labor & Training
1511 Pontiac Ave
Cranston, RI 02920-4407

State of California
Bankruptcy Section MS A340
Franchise Tax Board
POB 2952
Sacramento, CA 95812

NY State Dept Of Taxation Finance
Bankruptcy Section
POB 5300
Albany NY 12205

South Sound Dispatch
POB 111030
Tacoma WA 98411