

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION

In re:

OGGUSA, Inc., *et al.*,¹

Debtors.

Chapter 11

Case No. 20-50133-grs

(Jointly Administered)

Honorable Gregory R. Schaaf

STIPULATION AND AGREED ORDER RESOLVING OBJECTION OF MARIMED PARTIES TO PLAN CONFIRMATION, MODIFYING BALLOT TO VOTE IN FAVOR OF THE PLAN, ALLOWING PROOF OF CLAIM, AND RELATED MATTERS

OGGUSA, Inc. (“GCG Opco”) and its affiliated debtors and debtors in possession (collectively, the “Debtors”), the Official Committee of Unsecured Creditors (the “Committee”), MariMed Hemp, Inc. (“MHI”), and MariMed, Inc. (“MariMed,” and together with MHI, the “MariMed Parties”) (the foregoing, collectively, the “Parties”), by and through their respective undersigned counsel, hereby agree and stipulate as follows:

RECITALS

A. **The MariMed Claim**. On June 22, 2020, MHI filed a Proof of Claim asserting an unsecured, nonpriority claim against GCG Opco in the amount of \$33,592,942.55 (the “Claim”). The Claim was assigned claim number 79 by the Bankruptcy Clerk’s office and claim number 209 by the court-appointed claims agent, Epiq Corporate Restructuring, LLC (“Epiq”). The Debtors moved to estimate the Claim for voting purposes only [Docket No. 1455] (the “Estimation Motion”), the MariMed Parties objected to the relief requested [Docket No. 1473], and the Debtors

¹ The Debtors in these chapter 11 bankruptcy cases are (with the last four digits of their federal tax identification numbers in parentheses): OGGUSA, Inc., f/k/a GenCanna Global USA, Inc. (0251); OGG, Inc., f/k/a GenCanna Global, Inc. (N/A); and Hemp Kentucky, LLC (0816).

filed a reply in respect thereof [Docket No. 1484]. The Estimation Motion remains pending before the Court.

B. The Automatic Stay Motion and Appeal. On June 26, 2020, the Debtors filed the *Motion for Entry of an Order Enforcing the Voting Agreement Governing Constitution of Parent's Board or, in the Alternative, (I) Enforcing the Automatic Stay, (II) Enjoining Certain Actions to Replace the Debtors' Board Members and Management and (III) Rescinding Unauthorized Use of Estate Property* [Docket No. 1011] (the "Automatic Stay Motion"). The MariMed Parties objected to the Automatic Stay Motion on June 29, 2020 [Docket No. 1013]. On July 2, 2020, the Court entered its *Memorandum Opinion and Order* [Docket No. 1030] (the "Automatic Stay Order") granting the Automatic Stay Motion as set forth therein. On July 16, 2020, the MariMed Parties filed a notice of appeal in respect of the Automatic Stay Order [Docket 1081], and the appeal is currently pending before the Bankruptcy Appellate Panel for the United States Court of Appeals for the Sixth Circuit, Case No. 20-8022 (the "Appeal").

C. The Reimbursement Motion. On August 7, 2020, the Debtors filed a motion [Docket No. 1177] (the "Reimbursement Motion") requesting that the MariMed Parties be required to reimburse the Debtors for professional fees and expenses incurred in connection with the Automatic Stay Motion and related matters. MariMed filed a response opposing the relief on August 26, 2020 [Docket No. 1295]. The Reimbursement Motion remains pending before the Court.

D. The MGG Settlement. On July 30, 2020, the Debtors filed a motion to approve a global settlement agreement and release with MGG Investment Group LP and affiliated parties on the terms set forth in the *Settlement Agreement and Release* attached thereto [Docket No. 1145] (the "MGG Settlement Motion"). On August 18, 2020, the MariMed Parties filed a response

joining in objections raised by the Committee in respect of the MGG Settlement Motion [Docket No. 1230] (the “Joinder”). On October 9, 2020, the Debtors filed the *First Amended Settlement and Mutual Release* dated October __, 2020, by and among the Debtors and the MGG Parties [Docket No. 1407] following mediation with the Committee and the MGG Parties (as amended, the “MGG Settlement”).

E. The Plan. On October 9, 2020, the Debtors filed the *Debtors’ Second Amended Joint Plan of Liquidation* [Docket No. 1405]. On October 28, 2020, the MariMed Parties objected to confirmation of the Plan [Docket No. 1464] (the “Confirmation Objection”). MHI also returned a timely Class 4 Ballot voting to reject the Plan. On November 6, 2020, the Debtors made certain modifications to the Plan as set forth in the *Debtor’s Second Amended Joint Plan of Liquidation (With Modifications)* [Docket No. 1496] (together with all schedules, exhibits, appendices and supplements, the “Plan”).²

F. The MariMed Settlement. In advance of the November 9, 2020 hearing to consider approval of the MGG Settlement and confirmation of the Plan, the Parties reached an agreement to resolve all outstanding objections to those matters on the terms set forth herein. The terms of the settlement were read into the record of the hearing, and the Plan was confirmed and the MGG Settlement was approved based on, among other things, the Parties memorializing their agreement in a separate order.

NOW THEREFORE, it is hereby STIPULATED, AGREED, AND UPON APPROVAL OF THE COURT, IT SHALL BE ORDERED that:

² Capitalized terms not otherwise defined herein have the meanings ascribed to such terms in the Plan.

1. The MariMed Parties hereby withdraw with prejudice all of their objections to the MGG Settlement and the Plan, including, without limitation, those set forth in the Joinder and the Confirmation Objection.

2. MHI is hereby granted an Allowed Class 4 General Unsecured Claim against GCG Opco in the reduced amount of \$31,000,000.00 for voting, distribution, and all other purposes under the Plan.

3. MHI hereby withdraws its vote to reject the Plan, and instead is deemed to have timely voted the entirety of the Claim (as allowed herein) as a Class 4 Claim (General Unsecured Claim) in favor of the Plan.

4. The Estimation Motion is hereby withdrawn as moot.

5. The Debtors or the Plan Administrator under the Plan, as applicable, and the MariMed Parties mutually agree to the immediate dismissal of the Appeal with prejudice, and to take all necessary or appropriate steps to effectuate such dismissal as soon as practicable.

6. The Reimbursement Motion is hereby withdrawn with prejudice.

7. Except as expressly set forth herein with respect to the fixing of the Allowed amount of the Claim, neither the Debtors, nor the Marimed Parties, nor the Debtors' and the MariMed Parties' respective officers, directors, shareholders, employees, managers, agents, attorneys, representatives, successors, or assigns waive or release any other claim, cause of action, defense, objection or any other right or remedy that might exist as to any matters involving the Parties or their principals or representatives, all of which are expressly reserved and preserved for the benefit of (a) as to the Debtors, the Debtors' Estates and the Wind-Down Trust, as applicable, and (b) the Marimed Parties. For the avoidance of doubt, this Order does not modify, and is without prejudice to the enforcement of, the terms of the Plan and the Confirmation Order.

8. The terms of this Order shall be effective immediately upon entry.

9. The Court shall retain exclusive jurisdiction with respect to the interpretation, implementation, and enforcement of this order and as to any and all disputes arising out of or relating to this order and the matters addressed herein.

(Signature Page to Follow)

AGREED:

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The affixing of this Court's electronic seal below is proof this document has been signed by the Judge and electronically entered by the Clerk in the official record of this case.



Signed By:
Gregory R. Schaaf
Bankruptcy Judge
Dated: Wednesday, November 11, 2020
(grs)