

MIDDLEBROOK PHARMACEUTICALS, INC.

FORM 8-K (Current report filing)

Filed 06/22/10 for the Period Ending 06/18/10

Address	20425 SENECA MEADOWS PARKWAY GERMANTOWN, MD 20878
Telephone	(301) 944-6600
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SIC Code	2834 - Pharmaceutical Preparations
Industry	Biotechnology & Drugs
Sector	Healthcare
Fiscal Year	12/31

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **June 18, 2010**

MIDDLEBROOK PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

Delaware (State or other Jurisdiction of Incorporation)	000-50414 (Commission File Number)	52-2208264 (IRS Employer Identification No.)
7 Village Circle, Suite 100, Westlake, Texas (Address of Principal Executive Offices)		76262 (Zip Code)

Registrant's telephone number, including area code: **(817) 837-1200**

N/A

(Former name or former address if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On June 18, 2010, the Board of Directors of MiddleBrook Pharmaceuticals, Inc. (“MiddleBrook” or the “Company”) approved the MiddleBrook Pharmaceuticals, Inc. Management Incentive Plan (the “Plan”), which provides for incentive payment(s) to six employees (each, a “Covered Employee”), including each of the Company’s named executive officers: David Becker, the Company’s Executive Vice President, Chief Financial Officer and Acting Chief Executive Officer and President; Brad Cole, the Company’s Senior Vice President and General Counsel; Timothy Miller, the Company’s Senior Vice President, Sales Operations and Administration; and Donald Treacy, the Company’s Senior Vice President, Manufacturing and Product Development. As previously disclosed on May 4, 2010, MiddleBrook filed a voluntary petition for bankruptcy protection on April 30, 2010 under Chapter 11 of the United States Bankruptcy Code. The filing was made in the United States Bankruptcy Court in the District of Delaware (the “Bankruptcy Court”), case number 10-11485, and the Plan is subject to the approval of the Bankruptcy Court (the Bankruptcy Case”).

Pursuant to the Plan, each Covered Employee will be entitled to receive a payment from a pool established under the Plan, subject to satisfaction of the following conditions: (i) the Covered Employee remains employed by the Company through the earlier of: (x) the closing date of a sale of the Company’s KEFLEX and MOXATAG assets (an “Asset Sale”), (y) a stand alone plan of reorganization is confirmed in the Bankruptcy Case, or (z) his or her termination of employment by the Company for any reason other than for cause (in either case, the “Covered Employee Date”), (ii) the Company’s satisfaction in full of all liabilities to creditors through the bankruptcy process, with funds remaining available for distribution to holders of MiddleBrook common stock of more than \$7.5 million, and (iii) the Covered Employee agrees to a reduction of twelve and one-half percent (12.5%) in the value of any severance he or she is entitled to receive under the Company’s standard employee severance policy or a separate employment arrangement with the Company. Each Covered Employee’s distribution from the pool will be determined by multiplying his or her current annual base salary by the Company’s achievement of pre-established metrics related to the bankruptcy proceedings, including the remaining dollar value of funds available for distribution to MiddleBrook common stockholders. The maximum aggregate amount payable to the Covered Employees under the pool is \$2.30 million, which excludes any amount a Covered Employee may receive as severance under the Company’s standard employee severance policy or under a separate employment arrangement with the Company. If the Covered Employee’s employment is terminated by the Company for cause or the Covered Employee voluntarily terminates his or her employment with the Company for any reason prior to the Covered Employee Date, he or she will not be entitled to receive an incentive payment under the Plan.

The Plan also provides for incentive payments to certain other employees equal to one additional week’s pay for each week of continued service, which will be paid in one lump sum payment on the earlier of such employee’s termination without cause, or August 1, 2010. These payments began to accrue on May 1, 2010, and will continue to accrue until the earlier of (i) August 1, 2010, (ii) the date the participant terminates his or her employment for any reason, or (iii) the date the Company terminates his or her employment for any reason other than for cause. None of the Company’s named executive officers participate in this component of the Plan.

Except as described above with respect to the reduction in the Covered Employees’ severance, payments under the Plan will be in addition to any salary and benefits earned during the employee’s continued employment with the Company, any accrued but unused vacation payments through the date of termination, and any severance payments under the Company’s standard employee severance policy or the severance provided under the employee’s employment arrangement with the Company.

Item 7.01. Regulation FD Disclosure.

On June 21, 2010, MiddleBrook filed its unaudited monthly operating report (the “Monthly Operating Report”) for the period May 1, 2010 through May 31, 2010 with the Bankruptcy Court. A copy of the Monthly Operating Report is attached to this Current Report on Form 8-K as Exhibit 99.1 and is incorporated herein by reference.

The Monthly Operating Report is limited in scope, covers a limited time period and has been prepared solely for the purpose of complying with reporting requirements of the Bankruptcy Court and the Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"). The financial information contained in the Monthly Operating Report is preliminary and unaudited and does not purport to show the Company's financial statements in accordance with generally accepted accounting principles ("GAAP") and, therefore, may exclude items required by GAAP. The Monthly Operating Report also does not include footnotes that would ordinarily be contained in the financial statements in the Company's quarterly and annual reports filed pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"). The Monthly Operating Report contains information for periods that may be shorter or otherwise different from those contained in reports required pursuant to the Exchange Act. The financial information has not been reviewed or otherwise verified for accuracy or completeness by our independent registered public accountants, and there can be no assurance that the Monthly Operating Report is complete. The Company cautions readers not to place undue reliance on the Monthly Operating Report, which may be subject to revision. The Monthly Operating Report is in the format required by the Bankruptcy Court and the Bankruptcy Code and should not be used for investment purposes. The information in the Monthly Operating Report should not be viewed as indicative of future results.

The information furnished pursuant to Item 7.01 and Exhibit 99.1 of this Current Report on Form 8-K shall not be deemed to be "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section. The information in Item 7.01 of this Current Report shall not be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, whether made before or after the date of this Current Report, regardless of any general incorporation language in the filing.

Item 8.01. Other Events.

On June 7, 2010, the Bankruptcy Court entered a Final Order Establishing Notification and Hearing Procedures for Transfers of Equity Securities (the "Final Order"). The Final Order establishes notice and waiting periods to govern certain transfers of MiddleBrook's equity securities, as well as procedures for objecting to such transfers in certain circumstances, and provides that transfers of MiddleBrook equity securities in violation of such procedures are void.

The foregoing description of the terms of the Final Order does not purport to be complete and is qualified in its entirety by reference to the Final Order, which is attached hereto as Exhibit 99.2 and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

The following exhibits are furnished with this Current Report on Form 8-K:

Exhibit Number	Description
99.1	Monthly Operating Report for the Period from May 1, 2010 to May 31, 2010
99.2	Final Order Establishing Notification and Hearing Procedures for Transfers of Equity Securities

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

MIDDLEBROOK PHARMACEUTICALS, INC.

Date: June 21, 2010

By: /s/ David Becker

David Becker
Executive Vice President, Chief Financial Officer and
Acting President and Chief Executive Officer

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
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99.1	Monthly Operating Report for the Period from May 1, 2010 to May 31, 2010
99.2	Final Order Establishing Notification and Hearing Procedures for Transfers of Equity Securities

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re: MiddleBrook Pharmaceuticals, Inc.
Debtor

Case No. 10-11485
Reporting Period: May 1 — May 31, 2010

MONTHLY OPERATING REPORT

File with Court and submit copy to United States Trustee within 20 days after end of month

Submit copy of report to any official committee appointed in the case.

REQUIRED DOCUMENTS	Form No.	Document Attached	Explanation Attached	Affidavit/Supplement Attached
Schedule of Cash Receipts and Disbursements	MOR-1	X		
Bank Reconciliation (or copies of debtor's bank reconciliations)	MOR-1a	X		
Schedule of Professional Fees Paid	MOR-1b	X		
Copies of bank statements				
Cash disbursements journals				
Statement of Operations	MOR-2	X		
Balance Sheet	MOR-3	X		
Status of Postpetition Taxes	MOR-4	X		
Copies of IRS Form 6123 or payment receipt				
Copies of tax returns filed during reporting period				
Summary of Unpaid Postpetition Debts	MOR-4	X		
Listing of aged accounts payable	MOR-4	X		
Accounts Receivable Reconciliation and Aging	MOR-5	X		
Debtor Questionnaire	MOR-5	X		

I declare under penalty of perjury (28 U.S.C. Section 1746) that this report and the attached documents are true and correct to the best of my knowledge and belief.

Signature of Debtor

Date

Signature of Joint Debtor

Date

/s/ David Becker

21-Jun-10

Signature of Authorized Individual*

Date

David Becker

EVP, CFO and Acting President and CEO

Printed Name of Authorized Individual

Title of Authorized Individual

* Authorized individual must be an officer, director or shareholder if debtor is a corporation; a partner if debtor is a partnership; a manager or member if debtor is a limited liability company.

MOR
(04/07)

MOR 1

	Current Month		Cumulative Filing to Date	
	Actual	Forecast	Actual	Forecast
Beginning Date	3-May-10	3-May-10	3-May-10	3-May-10
Ending Date	30-May-10	30-May-10	30-May-10	30-May-10
Cash — Beginning Balance	\$ 5,257,718	\$ 5,255,857	\$ 5,257,718	\$ 5,255,857
Receipts				
Lockbox	\$ 82,435	\$ 127,550	\$ 82,435	\$ 127,550
Misc Deposit (Item 3)	\$ 36,567		\$ 36,567	
Total Receipts	\$ 119,003	\$ 127,550	\$ 119,003	\$ 127,550
Operating Disbursements				
Broadpoint	\$ 0	\$ (100,000)	\$ 0	\$ (100,000)
Cardinal Co-Pay Redemptions	\$ 0	\$ 0	\$ 0	\$ 0
Dr Directory	\$ 0	\$ (74,160)	\$ 0	\$ (74,160)
Legal & Deal fees	\$ 0	\$ (150,000)	\$ 0	\$ (150,000)
Payroll	\$ (260,909)	\$ (248,353)	\$ (260,909)	\$ (248,353)
Severance	\$ 0	\$ 0	\$ 0	\$ 0
Vacation Payout	\$ 0	\$ 0	\$ 0	\$ 0
Invoices in A/P Aging	\$ (164,286)	\$ (260,126)	\$ (164,286)	\$ (260,126)
Misc (TX rent, Insurance, ICS)	\$ (33,373)	\$ (75,000)	\$ (33,373)	\$ (75,000)
Other (Item 3)	\$ (3,548)	\$ (140,000)	\$ (3,548)	\$ (140,000)
Total Operating Disbursements	\$ (462,116)	\$(1,047,639)	\$ (462,116)	\$(1,047,639)
Net Operating Cash Flow	\$ (343,113)	\$ (920,089)	\$ (343,113)	\$ (920,089)
Non-Operating Disbursements				
Capex				
Professional Fees				
Total Non-Operating Disbursements	\$ 0	\$ 0	\$ 0	\$ 0
Net Operating Cash Flow Before Financing	\$ (343,113)	\$ (920,089)	\$ (343,113)	\$ (920,089)
Financing Activities				
Interest Payments				
Financing Activities	\$ 0	\$ 0	\$ 0	\$ 0
Cash Flow	\$ (343,113)	\$ (920,089)	\$ (343,113)	\$ (920,089)
Ending Cash Balance (per books)	\$ 4,914,605	\$ 4,335,768	\$ 4,914,605	\$ 4,335,768
DISBURSEMENTS FOR CALCULATING U.S. TRUSTEE QUARTERLY FEES: (FROM CURRENT MONTH ACTUAL COLUMN)				
TOTAL DISBURSEMENTS			\$ (462,116)	
LESS: TRANSFERS TO DEBTOR IN POSSESSION ACCOUNTS				0
PLUS: ESTATE DISBURSEMENTS MADE BY OUTSIDE SOURCES (i.e. from escrow accounts)				0
TOTAL DISBURSEMENTS FOR CALCULATING U.S. TRUSTEE QUARTERLY FEES			\$ (462,116)	



Disbursements Journal

Checks cut during period						
GL Posting	Source Document	Checkbook Amount	CM Trx Number	Voided	Paid To/Rcvd From	
Date						
5/5/2010	PMCHK	\$ 159.30	2489	No	Lifework Strategies	
5/5/2010	PMCHK	\$ 38,869.78	2490	No	United Healthcare Insurance Co.	
5/5/2010	PMCHK	\$ 2,245.88	2491	No	UNUM Life Insurance	
5/5/2010	PMCHK	\$ 1,449.16	2492	No	VSP - (AT)	
5/6/2010	PMCHK	\$ 0.00	2493	Yes	ExecuSuites I-270, Inc.	
5/6/2010	PMCHK	\$ 0.00	2494	Yes	ExecuSuites I-270, Inc.	
5/6/2010	PMCHK	\$ 3,250.00	2495	No	ExecuSuites I-270, Inc.	
5/20/2010	PMCHK	\$ 2,894.02	2496	No	ADP	
5/20/2010	PMCHK	\$ 1,000.00	2497	No	American Stock Transfer & Trust Co	
5/20/2010	PMCHK	\$ 688.84	2498	No	David Becker	
5/20/2010	PMCHK	\$ 3,385.25	2499	No	Robin N. Belsaas	
5/20/2010	PMCHK	\$ 8,304.92	2500	No	Brad Cole	
5/20/2010	PMCHK	\$ 100.00	2501	No	Commonwealth of PA/DRP	
5/20/2010	PMCHK	\$ 183.42	2502	No	Department of Veterans Affairs	
5/20/2010	PMCHK	\$ 1,480.97	2503	No	Gary Herman	
5/20/2010	PMCHK	\$ 650.00	2504	No	Christine Higgins	
5/20/2010	PMCHK	\$ 156.12	2505	No	Iron Mountain	
5/20/2010	PMCHK	\$ 1,566.98	2506	No	Montgomery County, MD	
5/20/2010	PMCHK	\$ 22.06	2507	No	Nevada Department of Taxation	
5/20/2010	PMCHK	\$ 149.22	2508	No	Prostar Services, Inc	
5/20/2010	PMCHK	\$ 200.00	2509	No	State of New Jersey Div	
5/20/2010	PMCHK	\$ 179.03	2510	No	New Jersey Wraparound Drug Rebate	
5/20/2010	PMCHK	\$ 132.08	2511	No	State of Washington	
5/20/2010	PMCHK	\$ 83.91	2512	No	State of New Jersey Dept Health/Senior Serv	
5/20/2010	PMCHK	\$ 10.44	2513	No	State of New Jersey PAAD Drug Rebate	
5/20/2010	PMCHK	\$ 0.00	2514	Yes	Treasurer State of Maine	
5/20/2010	PMCHK	\$ 1,584.79	2515	No	United States Treasury	
5/20/2010	PMCHK	\$ 408.61	2516	No	Verizon Wireless	
5/20/2010	PMCHK	\$ 10.44	2517	No	Wisconsin Dept of Health	
5/20/2010	PMCHK	\$ 447.71	2518	No	Dr. Donald J. Treacy	
5/27/2010	PMCHK	\$ 0.00	2519	Yes	AT&T	
5/27/2010	PMCHK	\$ 3,136.45	2520	No	Robin N. Belsaas	
5/27/2010	PMCHK	\$ 0.00	2521	Yes	Christine Higgins	
5/27/2010	PMCHK	\$ 1,685.00	2522	No	Pure Compliance	
5/27/2010	PMCHK	\$ 3,250.00	2523	No	RX Sample Solution	
5/27/2010	PMCHK	\$ 1,785.59	2524	No	Marcus Schestopol	
5/27/2010	PMCHK	\$ 50.00	2525	No	Shred-it USA, DBA Shred-it Dallas	
5/27/2010	PMCHK	\$ 81,035.25	2526	Yes	Travelers (voided in June)	
5/27/2010	PMCHK	\$ 3,730.38	2527	No	Dr. Donald J. Treacy	
5/27/2010	PMCHK	\$ 0.00	2528	Yes	WorldWide express	
		\$164,285.60			Checks Cut	

Debits to bank other than checks

Transaction Date	Description	Amount	Bank Ref#	Customer Ref. #	Text
5/7/2010	ACH DEBIT	\$ 884.25	3309	0	ADP PAYROLL FEES ADP - FEES MIDDLEBROOK PHARMA. IN
5/10/2010	ACH DEBIT	\$ 33,339.17	1700	0	AMERICAN UNITED PENSIONPMT G30349MIDDLEBROOK PHAR
5/12/2010	WIRE TRANSFER DEBIT	\$ 66,212.14	2161	0	WIRE OUT 100512L1B77D1C000218201013201402;BNF ADP TAX SVCS INC. REV. WIRE IMPOUND;REF 050
5/13/2010	WIRE TRANSFER	\$ 47,996.13	2007	0	WIRE OUT

DEBIT

100513L1B77D1C000212201013301254;BNF
ADP INC FUNDSMGMT;OBI ID# 557YP
7132090VV;

5/17/2010	ACH DEBIT	\$ 6,320.76	652	0	AMERICAN UNITED PENSIONPMT G30349MIDDLEBROOK PHAR
5/18/2010	ACH DEBIT	\$ 442.02	332	0	TUC 613-591-9800 PURCHASE 708648894
5/21/2010	ACH DEBIT	\$ 766.94	1687	0	ADP PAYROLL FEES ADP - FEES MIDDLEBROOK PHARMA. IN
5/24/2010	ACH DEBIT	\$ 0.00	1345	0	ADP PAYROLL FEES ADP - FEES MIDDLEBROOK PHARMA, IN
5/24/2010	ACH DEBIT	\$ 122.59	1344	0	ADP PAYROLL FEES ADP - FEES MIDDLEBROOK PHARMA, IN
5/26/2010	SERVICE CHARGE	\$ 1,264.41	13651	0	ANALYSIS SERVICE CHARGE
5/26/2010	WIRE TRANSFER DEBIT	\$ 68,812.34	2857	0	WIRE OUT 100526L1B77D1C000439201014601951;BNF ADP TAX SVCS INC. REV. WIRE IMPOUND;REF 575
5/27/2010	WIRE TRANSFER DEBIT	\$ 38,228.74	2479	0	WIRE OUT 100527L1B77D1C000246201014701597;BNF ADP INC FUNDSMGMT;OBI ID# 557YP 7186921VV;
5/28/2010	ACH DEBIT	\$ 67.65	1767	0	ADP PAYROLL FEES ADP - FEES MIDDLEBROOK PHARMA. IN
5/28/2010	WIRE TRANSFER DEBIT	\$ 33,372.85	2391	0	WIRE OUT 100528L1B77D1C000192201014801470;BNF MAGUIRE PARTNERS SOLONA LP;OBI MIDDLEBROOK
		<u>\$ 297,829.99</u>	Debits to Bank other than Checks		

\$ 462,115.59 total disbursements

Checks cleared by bank:

5/3/2010	DEBIT MEMO	\$ 397.86	25	0	CONTROL DISBURSEMENT
5/6/2010	DEBIT MEMO	\$ 180.00	8	0	CONTROL DISBURSEMENT
5/7/2010	DEBIT MEMO	\$ 107.06	8	0	CONTROL DISBURSEMENT
5/10/2010	DEBIT MEMO	\$ 1,449.16	11	0	CONTROL DISBURSEMENT
5/12/2010	DEBIT MEMO	\$ 44,365.66	14	0	CONTROL DISBURSEMENT
5/18/2010	DEBIT MEMO	\$ 159.30	140	0	CONTROL DISBURSEMENT
5/24/2010	DEBIT MEMO	\$ 11,500.00	20	0	CONTROL DISBURSEMENT
5/25/2010	DEBIT MEMO	\$ 22.06	96	0	CONTROL DISBURSEMENT
5/26/2010	DEBIT MEMO	\$ 8,437.00	16	0	CONTROL DISBURSEMENT
5/27/2010	DEBIT MEMO	\$ 2,584.79	18	0	CONTROL DISBURSEMENT
5/28/2010	DEBIT MEMO	\$ 9,099.08	52	0	CONTROL DISBURSEMENT
		<u>\$ 78,301.97</u>			

In re: MiddleBrook Pharmaceuticals, Inc.
Debtor

Case No. 10-11485
Reporting Period: May 1 — 31, 2010

See bank reconciliation in separate attachment *

* bank reconciliation provided to the United States Trustee and not filed with the Bankruptcy Court.

In re: MiddleBrook Pharmaceuticals, Inc.
Debtor

Case No. 10-11485
Reporting Period: May 1 — 31, 2010

		May 2010	Cumulative Filing to Date
45000	Gross Sales	\$ 253,103	\$ 253,103
45100	Chargebacks	(2,531)	(2,531)
45200	Medicaid Rebates	(8,371)	(8,371)
45300	Returns	(15,186)	(15,186)
45400	Cash Discounts	(5,062)	(5,062)
45500	Wholesaler Rebates	(13,568)	(13,568)
45600	Product Shortage Deductions	492	492
45700	Coupon POS Discounts	92,152	92,152
	Revenue	<u>301,029</u>	<u>301,029</u>
55101	COGS — Cost of Goods Sold	11,433	11,433
50100	COGS — Scrap	375,218	375,218
51000	COGS — Mfg Equipment Depreciation	21,675	21,675
56000	COGS — Keflex Royalties	4,658	4,658
	Cost of Goods Sold	<u>412,984</u>	<u>412,984</u>
60010	Salaries Expense	228,581	228,581
60030	Severance Expense	14,292	14,292
60380	Commissions	0	0
	Salaries, Bonus & Temp Labor	<u>242,873</u>	<u>242,873</u>
60300	Benefits	1,748	1,748
60310	Employee Benefit Programs Exp	0	0
60320	Health Insurance Expense	(2,120)	(2,120)
60330	Payroll Tax Expense	16,542	16,542
62010	Recruiting	0	0
62020	Relocation	0	0
60370	Professional Development Exp	0	0
	Benefits, Taxes, Recruiting & Relo	<u>16,170</u>	<u>16,170</u>
	Subtotal: Salaries & Benefits	<u>259,043</u>	<u>259,043</u>
60015	Stock Based Comp Exp: Employee	0	0
60016	Stock Based Comp Exp: Non-Employee/Consultant	(40,272)	(40,272)
	Stock-Based Compensation	<u>(40,272)</u>	<u>(40,272)</u>
66010	Advertising Expense	0	0
66020	Dues and Subscriptions Exp	846	846
66110	Meetings & Conferences	0	0
	Marketing & Advertising	<u>846</u>	<u>846</u>
63020	Meals and Entertainment Exp	545	545
63030	Travel Expense	15,432	15,432
	Travel & Entertainment	<u>15,977</u>	<u>15,977</u>

In re: MiddleBrook Pharmaceuticals, Inc.
Debtor

Case No. 10-11485
Reporting Period: May 1 — 31, 2010

		May 2010	Cumulative Filing to Date
64020	LAN, Computer, Alarm Exp.	(5,208)	(5,208)
64030	Office Cleaning Exp	0	0
65010 + (67200)	Maintenance & Repair Expense	211	211
65021	Building Maintenance Expense	0	0
65030	Rent or Lease Expense	49,707	49,707
65040	Rental and Lease — Equip Exp.	0	0
65060	Utilities Expense	0	0
64090	Kitchen Supplies Expense	149	149
65070	Telephone Expense	5,067	5,067
	Facilities and Equipment Related	49,926	49,926
60340	Insurance Expense-Wkrs Comp	0	0
64110 + (65050)	Insurance Expense	84,092	84,092
	Insurance	84,092	84,092
65102	Distribution Expense — ICS	99,497	99,497
	Distribution Expense	99,497	99,497
64050	Office Supplies & Expense	796	796
64070	Printing and Reproduction Exp	508	508
64071	Publications & Subscriptions	0	0
64060	Postage Expense	0	0
67100	Freight Expense	(32)	(32)
68010 + (64080)	General LAB Supplies & Exp.	(72)	(72)
79010	Other Expenses	0	0
	Office & General Lab Supplies	1,200	1,200
61010	Consulting Fees Expense	1,324	1,324
69010	Legal Expense	742,239	742,239
	Consulting & Legal Fees	743,563	743,563
69030	Patents	45,000	45,000
69020	Compliance Fees	0	0
72500	Penalties & Fines	0	0
70300 + (73000)	Licensing & Filing Expense	51,587	51,587
	Patents & Licensing	96,587	96,587
64075	SEC Filing Expense	5,162	5,162
64215	Annual Report Expense	0	0
69040	Auditing & Accounting	0	0
65071	Newswire Expense	487	487
65072	Audio Conference Call Expense	99	99
65073	Web Casting Expense	0	0
64040	Payroll Service Fee	7,601	7,601
64210	Bank Charges	1,332	1,332

		May 2010	Cumulative Filing to Date
66015	Stock Transfer Fees	9,005	9,005
66016	Trustee stock plan administration	0	0
	Audit, IR & Financial Fees	23,687	23,687
65090	Personal Prop. Tax Exp-Equipmen	0	0
65091	Franchise Tax	1,066	1,066
79030	Other Taxes	7	7
95016	Taxes-Real Estate	0	0
	Non-Income Taxes	1,073	1,073
66030	Gifts Expense	0	0
	Gifts and Charitable Contributions	0	0
70100	Depreciation Expense	161,405	161,405
70200	Amortization Expense	209,871	209,871
	Depreciation and Amortization	371,276	371,276
72000	Outside Directors	20,917	20,917
	Director and SAB Fees	20,917	20,917
	Subtotal: FTE Expenses	<u>1,727,411</u>	<u>1,727,411</u>
61029	Market Research	0	0
61030	Samples — Reps	0	0
61037	Field Aids	0	0
61039	Coupons	3,250	3,250
61040	Tokens/Direct Promotions	0	0
66200	Trade Association	0	0
61041	MD Telemarketing	0	0
61042	Journal Ads	0	0
61045	Public Relations	0	0
61047	Ad Agency Fees	0	0
61048	Managed Care	0	0
61050	CSO Expense	50,000	50,000
61051	Trade Shows	5,000	5,000
63010	Auto Expense	(9,080)	(9,080)
61054	Launch Meeting	0	0
	Marketing Costs	<u>49,170</u>	<u>49,170</u>

In re: MiddleBrook Pharmaceuticals, Inc.
Debtor

Case No. 10-11485
Reporting Period: May 1 — 31, 2010

		May 2010	Cumulative Filing to Date
82000	Development Materials	0	0
83000 +(83100)	Contract R & D	114,706	114,706
84000	Project Consultants	0	0
	Direct Project Costs	114,706	114,706
	Total Expenses	<u>2,304,270</u>	<u>2,304,270</u>
	Income (Loss) from Operations	(2,003,241)	(2,003,241)
90100	Interest Income	199	199
	Interest Income	199	199
95020	Interest Expense	0	0
95050	Gain or (Loss) on sale of assets	2,905	2,905
	Other income (expense)	<u>2,905</u>	<u>2,905</u>
	Net Income (Loss) Before Taxes	<u>(2,000,137)</u>	<u>(2,000,137)</u>
	Net Income (Loss)	<u><u>\$(2,000,137)</u></u>	<u><u>\$ (2,000,137)</u></u>

	Current Month	Petition Date
10105 - SVB Operating Account	\$ 4,914,605	\$ 5,257,718
10215 - SVBAM Cash	0	0
Cash & Cash Equivalents	4,914,605	5,257,718
11300 - A/R Product Sales	605,932	437,031
11304 - A/R (Contra) - Cash Discounts	(11,166)	(8,929)
11305 - A/R (Contra) accrued chargebacks	(254,924)	(259,023)
11307 - A/R (Contra) - accrued wholesaler rebates	(668,056)	(659,567)
Accounts Receivable	(328,214)	(490,487)
12100 - Inventory - Raw Materials	739,348	602,263
12110 - Inventory - Bulk	660,305	660,305
12120 - Inventory - Finished Goods	3,331,764	3,343,197
12200 - Inventory - Reserve for obsolete/slow moving	(2,392,607)	(2,392,607)
Inventory	2,338,810	2,213,158
11030 - Other Receivables	15,329	15,329
14010 - Prepaid Expenses	366,697	863,286
14020 - Prepaid Rent	33,373	36,623
14030 - Prepaid SAB/BOD	0	0
14050 - Prepaid Insurance	416,210	500,302
14115 - Prepaid Travel	0	0
14200 - Employee Advances	(16)	0
14500 - Prepaid Samples	2,391,421	1,981,566
Prepaid and Other Current Assets	3,223,013	3,397,106
17100 - Furniture & Fixtures	613,506	834,472
17115 - Equipment -Pharm Development	3,150,304	3,200,488
17130 - Equipment-Telephone System	198,613	244,938
17140 - Equipment-Security System	16,420	19,920
17150 - LAN & Phone Wiring-Equip	48,793	48,793
17200 - Automobiles	0	0
17400 - Leasehold Improvements	6,849,683	9,239,394
17600 - Computer Equipment	230,844	753,769
18100 - Accum. Deprec. - F&F	(593,821)	(811,507)
18115 - Acc Dep- Equip-Pharm Development	(1,631,286)	(1,664,702)
18130 - Accum. Deprec. - Telephone	(173,529)	(218,054)
18140 - Accum. Deprec. - Security Sys	(16,420)	(19,920)
18150 - Accum. Deprec. - LAN	(46,910)	(46,775)
18200 - Accum. Deprec. - Automobil	0	0
18400 - Accum. Amortization - Leasehol	(6,830,756)	(9,220,282)
18600 - Accum. Deprec. - Computer	(117,673)	(479,686)
Property and Equipment, net	1,697,768	1,880,848
10130 - Allfirst-CD/loan collateral	0	0
Restricted Cash	0	0
19000 - Deposits	525,714	533,714
19005 - Deposits-Coupon Program	145,666	146,866
Deposits and Other Assets	671,380	680,580
17800 - Intellectual Property	120,000	120,000
17810 - Keflex Acquired Intangibles	11,757,529	11,757,529
18800 - Accum. Amort. - Intellectual P	(120,000)	(120,000)
18810 - Accum. Amort - Keflex Intangibles	(2,733,089)	(2,523,218)

Intangible Assets, net	9,024,440	9,234,311
Total Assets	\$ 21,541,803	\$ 22,173,234

	<u>Current Month</u>	<u>Petition Date</u>
20000 - Accounts Payable - post-petion	(178,584)	—
20100 - Accrued Payables	0	—
21110 - Accrued Severance	0	—
21201 - Accrued Payable to Lilly	(4,658)	—
21210 - Accrued Professional Fees	(20,917)	—
21250 - Accrued R&D Costs	0	—
21275 - Accrued Keflex Copay Assistance	(206)	—
21276 - Accrued Moxatag Copay Assistance	(3,355)	—
21281 - Accrued Medicaid Rebates Payable	(8,371)	—
21282 - Accrued Returns	(15,186)	—
21290 - Other Accrued Expenses	(482,498)	—
23200 - Wages Payable	(15,831)	—
23215 - Accrued Commissions	0	—
23260 - Relocation Accrual	0	—
23620 - Employee Benefits Pay-401k	(6,321)	—
23650 - Employee Benefits - Flex Spending	(792)	—
25000 - Other Current Liabilities	0	—
Accounts Payable and Accrued Expenses - Post-Petition	(736,719)	0
20000 - Accounts Payable - pre-petion	(2,247,920)	(1,214,588)
21110 - Accrued Severance	(279,793)	(281,258)
21201 - Accrued Payable to Lilly	(5,252)	(5,252)
21210 - Accrued Professional Fees	(244,917)	(199,917)
21250 - Accrued R&D Costs	(136,067)	(136,067)
21275 - Accrued Keflex Copay Assistance	(1,857)	(9,276)
21276 - Accrued Moxatag Copay Assistance	(3,615,540)	(3,705,035)
21281 - Accrued Medicaid Rebates Payable	(437,995)	(563,001)
21282 - Accrued Returns	(1,958,072)	(1,945,797)
21290 - Other Accrued Expenses	(119,107)	(292,773)
23200 - Wages Payable	(306,521)	(306,521)
23215 - Accrued Commissions	0	(0)
23260 - Relocation Accrual	0	0
23620 - Employee Benefits Pay-401k	0	(33,339)
23650 - Employee Benefits - Flex Spending	(3,015)	(3,899)
25000 - Other Current Liabilities	(4,823,076)	(4,810,772)
Accounts Payable and Accrued Expenses - Pre-Petition	(14,179,132)	(13,507,496)
27051 - Deferred contract revenue - non-current PAR (pre-petition)	(11,625,000)	(11,625,000)
Deferred Contract Revenue - non-current (pre-petition)	(11,625,000)	(11,625,000)
27010 - Deferred Rent	(18,963)	(18,340)
Def Credit on Lease Concession	(18,963)	(18,340)
27000 - Other long term liabilities	0	0
Other long-term liabilities	0	0
31000 - Common Stock	(865,119)	(865,119)
31100 - Additional Paid-in Capital	(333,148,706)	(333,188,978)
31110 - APIC-BCF	20,907,620	20,907,620
APIC	(312,241,086)	(312,281,358)
32000 - Retained Earnings	299,240,744	299,240,744
YTD P&L	18,883,473	16,883,336
Accumulated Deficit	318,124,217	316,124,080

Stockholders' Equity	5,018,012	2,977,602
Liabilities & Stockholders' Equity	\$ (21,541,803)	\$ (22,173,234)

In re: MiddleBrook Pharmaceuticals, Inc.
Debtor

Case No. 10-11485
Reporting Period: May 1 — 31, 2010

Other Post-petition liabilities

Professional bankruptcy fees - KCC estimate	\$ 45,000.00
Professional bankruptcy fees - creditors' committee counsel & FA	300,000.00
DoctorDirectory (May estimate)	50,000.00
ICS (May estimate)	51,603.26
Other miscellaneous May accruals - no invoices yet	<u>35,774.89</u>
	<u>\$482,378.15</u>

STATUS OF POSTPETITION TAXES

The beginning tax liability should be the ending liability from the prior month or, if this is the first report, the amount should be zero. Attach photocopies of IRS Form 6123 or payment receipt to verify payment or deposit of federal payroll taxes. Attach photocopies of any tax returns filed during the reporting period.

	<u>Beginning Tax Liability</u>	<u>Amount Withheld or Accrued</u>	<u>Amount Paid</u>	<u>Date Paid</u>	<u>Check No. or EFT</u>	<u>Ending Tax Liability</u>
Federal						
Withholding	0					0
FICA-Employee	0	see attached ADP report for payroll taxes due and paid. **				0
FICA-Employer	0					0
Unemployment	0					0
Income	0					0
Other: _____	0					0
Total Federal Taxes	0					0
State and Local						
Withholding	0					0
Sales	0					0
Excise	0		132.08			0
Unemployment	0					0
Real Property	0					0
Personal Property	0		676.39			0
Other: _____	0					0
Total State and Local	0	0	808.47	0	0	0
Total Taxes	0	0	808.47	0	0	0

** ADP payroll report provided to the United States Trustee and not filed with the Bankruptcy Court.

SUMMARY OF UNPAID POSTPETITION DEBTS

Attach aged listing of accounts payable.

	<u>Number of Days Past Due</u>					<u>Total</u>
	<u>Current</u>	<u>0-30</u>	<u>31-60</u>	<u>61-90</u>	<u>Over 90</u>	
Accounts Payable	177,651.21	932.83	—	—	—	\$178,584.04
Wages Payable (401k contributions)	6,320.76	—	—	—	—	\$ 6,320.76
Taxes Payable (payroll-related taxes)	—	—	—	—	—	—
Rent/Leases-Building	—	—	—	—	—	—
Rent/Leases-Equipment	—	—	—	—	—	—
Secured Debt/Adequate Protection Payments	—	—	—	—	—	—
Professional Fees	—	—	—	—	—	—
Amounts Due to Insiders*	—	—	—	—	—	—
Other: _____	—	—	—	—	—	—
Other: _____	—	—	—	—	—	—
Total Postpetition Debts	183,971.97	932.83	—	—	—	\$184,904.80

Explain how and when the Debtor intends to pay any past-due postpetition debts.

The \$932.83 in the 0-30 days past due category was paid at the beginning of June and is no longer outstanding.

* "Insider" is defined in 11 U.S.C. Section 101(31).



ACCOUNTS RECEIVABLE RECONCILIATION AND AGING

Accounts Receivable Reconciliation	Amount	
Total Accounts Receivable at the beginning of the reporting period	\$ 437,031.42	
+ Amounts billed during the period	253,103.16	
- Amounts collected during the period	(82,435.11)	
- Other adjustments during period	(1,766.99)	
Total Accounts Receivable at the end of the reporting period	\$ 605,932.48	

Accounts Receivable Aging	Amount	
0 - 30 days old	\$ 284,528.44	
31 - 60 days old	309,995.67	
61 - 90 days old	10,000.86	
91+ days old	1,233.16	
Total Accounts Receivable	605,758.13	
Amount considered uncollectible (Bad Debt)	—	
Accounts Receivable (Net)	\$ 605,758.13	174.35 reconciling item

DEBTOR QUESTIONNAIRE

Must be completed each month	Yes	No	
1. Have any assets been sold or transferred outside the normal course of business this reporting period? If yes, provide an explanation below.		X	
2. Have any funds been disbursed from any account other than a debtor in possession account this reporting period? If yes, provide an explanation below.		X	
3. Have all postpetition tax returns been timely filed? If no, provide an explanation below.	X		
4. Are workers compensation, general liability and other necessary insurance coverages in effect? If no, provide an explanation below.	X		
5. Has any bank account been opened during the reporting period? If yes, provide documentation identifying the opened account(s). If an investment account has been opened provide the required documentation pursuant to the Delaware Local Rule 4001-3.		X	new account opened in June

We created new accounts at Capital One Bank in June and provided the account numbers under separate cover.

We are still in the process of establishing the lockbox account at Capital One Bank.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
MIDDLEBROOK PHARMACEUTICALS, INC., ¹)	Case No. 10-11485 (MFW)
)	
)	
Debtor. _____)	

**FINAL ORDER ESTABLISHING NOTIFICATION AND HEARING
PROCEDURES FOR TRANSFERS OF EQUITY SECURITIES**

Upon the *Motion for Interim and Final Order Pursuant to Sections 105, 362, and 541 of the Bankruptcy Code and Bankruptcy Rule 3001 Establishing Notification and Hearing Procedures for Trading in Equity Securities* (the “**Motion**”), filed by MiddleBrook Pharmaceuticals, Inc., the above-captioned debtor and debtor in possession, (the “**Debtor**”), seeking, among other things, an order, pursuant to Sections 105(a), 362, and 541 of the Bankruptcy Code, (i) establishing notice and waiting periods to govern transfers of MiddleBrook Stock (as defined herein) and procedures for objecting to such transfers in certain circumstances (the “**Securities Trading Procedures**”) and (i) determining that any transfer of a beneficial interest in MiddleBrook Stock in violation of the Securities Trading Procedures is void *ab initio* ; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion 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 upon the issuance of an interim order approving the Motion (the “**Interim Order**”) [Docket No. 31]; and due and proper notice of the Motion having been provided; and upon the *Declaration of David Becker, the Debtor’s Executive Vice President, Chief Financial Officer, and Acting President and Chief Executive Officer of MiddleBrook Pharmaceuticals, Inc., in Support of Chapter 11 Petition and First Day Motions* ; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtor, its estate and its stakeholders, and all parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

¹ The last four digits of the Debtor’s taxpayer identification number are 8264. The Debtor’s mailing address is 7 Village Circle, Suite 100, Westlake, Texas 76262.

THE COURT HEREBY FINDS THAT:

1. The Debtor's net operating loss (" **NOL** ") carryforwards are property of the Debtor's estate and are protected by the automatic stay under Section 362 of the Bankruptcy Code.

2. Unrestricted trading of MiddleBrook Stock before the Debtor's emergence from Chapter 11 could severely limit the Debtor's ability, in connection with its eventual emergence from bankruptcy, to take future deductions and losses attributable to its NOLs and to utilize its other tax attributes for U.S. federal and state income tax purposes.

3. The Securities Trading Procedures and restrictions set forth herein are necessary and proper to preserve the Debtor's ability to take future deductions and losses attributable to its NOLs and to use its other tax assets and are, therefore, in the best interests of the Debtor, its estate, and its stakeholders.

4. The relief requested in the Motion is authorized under Sections 105(a), 362, and 541 of the Bankruptcy Code.

IT IS THEREFORE ORDERED THAT

5. The Motion is GRANTED in all respects.

6. Any transfer of a beneficial interest in MiddleBrook Stock in violation of the Securities Trading Procedures is void *ab initio*.

7. The following Securities Trading Procedures shall apply to transfers of MiddleBrook Stock:

a. **Definitions**: For purposes of this Final Order:

- i. “ **MiddleBrook Stock** ” is any equity security in the Debtor, including, without limitation, common stock and options.
- ii. An “ **option** ” to acquire stock includes all interests described in Treasury Regulations Section 1.382-4(d)(9), including any contingent purchase, warrant, convertible debt, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless whether it is contingent or otherwise not able to be currently exercised.
- iii. “ **beneficial ownership** ” of MiddleBrook Stock shall be determined in accordance with the constructive ownership rules that apply for purposes of Section 382 and the Treasury Regulations thereunder, and shall include, without limitation, indirect ownership (for example, (i) a holding company is considered to beneficially own stock owned by its subsidiaries, (ii) a partner in a partnership (or other entity treated as a partnership for U.S. federal income tax purposes) is considered to beneficially own a proportionate interest in stock owned by the partnership, and (iii) persons or entities acting in concert with a holder to make a coordinated acquisition may be treated as a single entity), and any variations of the term “ownership” (for example, “own” or “owner”) shall have correlative meanings;
- iv. A “ **Substantial Equityholder** ” is any person or entity that beneficially owns at least 4,109,315 shares of MiddleBrook Stock, which represents approximately 4.75 percent of all issued and outstanding shares of MiddleBrook Stock.²

b. **Procedure for Transfers of MiddleBrook Stock**:

- i. **Notice of Substantial MiddleBrook Stock Ownership**: Any person or entity (for purposes of the Motion and this Final Order, as such terms are defined for purposes of Section 382, and including persons acting pursuant to a formal or informal understanding among themselves to make a coordinated acquisition) that beneficially owns, at any time on or after the date this Motion was filed (the “ **Motion Date** ”), MiddleBrook Stock in an amount sufficient to qualify such person or entity as a Substantial Equityholder must file with this Court and serve upon the Debtor and counsel to the Debtor, a notice of such status, in the form attached hereto as Exhibit A, on or before the later of (A) 20 calendar days after the effective date of the notice of entry of the Final Order or (B) 10 calendar days after becoming a Substantial Equityholder.

² As of the Petition Date, the Debtor had approximately 86,511,898 outstanding shares of common stock.

- ii. **Acquisition of MiddleBrook Stock:** At least 30 calendar days before the effective date of any transfer of MiddleBrook Stock that would result in an increase in the amount of MiddleBrook Stock beneficially owned by a person or entity that is or subsequently becomes a Substantial Equityholder or would result in a person or entity becoming a Substantial Equityholder, such person or entity must serve on the Debtor and counsel to the Debtor, advance written notice, in the form attached hereto as Exhibit B of the intended transfer of MiddleBrook Stock.
- iii. **Disposition of MiddleBrook Stock:** At least 30 calendar days before the effective date of any transfer of MiddleBrook Stock that would result in a decrease in the amount of MiddleBrook Stock beneficially owned by a person or entity that is a Substantial Equityholder or would result in a person or entity ceasing to be a Substantial Equityholder, such person or entity must serve on the Debtor and counsel to the Debtor, advance written notice, in the form attached hereto as Exhibit C of the intended transfer of MiddleBrook Stock.
- iv. **Objection Procedures:** The Debtor shall have 30 business days after receipt of any of the aforementioned notices to file with this Court and serve on the person or entity providing such notice an objection to any proposed transfer of MiddleBrook Stock described in the notice on the grounds that such transfer might adversely affect the Debtor's ability to use its Tax Attributes. If the Debtor files an objection, the transaction described in the notice shall not be effective unless approved by a final, nonappealable order of this Court. If the Debtor does not object within the 30 business day period, the transaction described in the notice may proceed solely as set forth in the notice. Any further transactions by the person or entity providing the notice must be the subject of additional notices as set forth herein, with an additional 30 calendar day waiting period.
- v. **Noncompliance with the Securities Trading Procedures:** Any purchase, sale, or other transfer of MiddleBrook Stock in violation of the Security Trading Procedures shall be null and void *ab initio* and shall confer no rights on the transferee.

- vi. **Debtor's Right to Waive:** The Debtor may waive, in writing and in its sole discretion, all restrictions, stays, and notification procedures contained in this Final Order or in any other order entered on the Motion.
- vii. **Confidentiality:** The Debtor, its counsel and counsel for any Creditors' Committee (if appointed) shall keep all information provided in acquisition or disposition notices delivered pursuant to this Final and any other order on the Motion strictly confidential and shall not disclose the contents thereof to any person (including any member of any Creditors' Committee (if appointed)), except (i) to the extent necessary to respond to a petition or objection filed with the Court, (ii) to the extent otherwise required by law, or (iii) to the extent that the information contained therein is already public; provided, however, that the Debtor may disclose the contents thereof to its professional financial advisers, who shall keep all such notices strictly confidential and shall not disclose the contents thereof to any other person subject to further Court order. To the extent confidential information is necessary to respond to a petition or objection filed with the Court, such confidential information shall be filed under seal or in redacted form.

8. Notwithstanding Rules 6004 and 7062 of the Federal Rules of Bankruptcy Procedure, the terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry.

9. As soon as reasonably possible, but not later than five business days after entry of this Final Order, the Debtor shall serve this Final Order on (a) the United States Trustee, (b) the United States Securities and Exchange Commission, (c) the Office of the United States Attorney General for the District of Delaware, (d) the Internal Revenue Service, (e) the Debtor's thirty largest unsecured creditors on a consolidated basis, (f) any identified Substantial Equityholder, and (g) American Stock Transfer & Trust Company (the "**Stock Transfer Agent**"). The Debtor may also file a copy of the Final Order as an exhibit to a report on Form 8-K filed with the Securities and Exchange Commission.

10. The Stock Transfer Agent, and any other agent for any MiddleBrook Stock shall serve this Final Order on all holders of more than 2 millions shares of MiddleBrook Stock registered with such agent (the “ **Registered Holders** ”) no later than five business days after being served with the Notice of Order ³ ; provided, however, that if the Stock Transfer Agent or any other agent for the MiddleBrook Stock provides the Debtor with the names and addresses of all holders of such shares of MiddleBrook Stock registered with it no later than three business days after being served the Notice of Order, the Debtors shall serve the Notice of Order on such holders. Such names and addresses shall be delivered in writing to the attorney for the Debtor.

11. The requirements set forth in this Final Order are in addition to the requirements of Bankruptcy Rule 3001(e) and applicable securities, corporate, and other laws, and do not excuse compliance therewith.

12. The relief provided in this Final Order is in addition to, and not in lieu of, any and all other rights and remedies available to the Debtor.

13. This Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Final Order.

Dated: June 7, 2010
Wilmington, Delaware

/s/ Mary F. Walrath
Judge Mary F. Walrath
UNITED STATES BANKRUPTCY JUDGE

³ Capitalized terms not otherwise defined herein shall have the meanings as set forth in the Motion.

EXHIBIT A

[DECLARATION OF STATUS AS SUBSTANTIAL EQUITYHOLDER]

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:) Chapter 11
)
MIDDLEBROOK PHARMACEUTICALS,) Case No. 10- _____ (____)
INC.,⁴)
)
)
Debtor. _____)

DECLARATION OF STATUS AS SUBSTANTIAL EQUITYHOLDER

PLEASE TAKE NOTICE _____ is/has become a Substantial Equityholder⁵ with respect to the equity securities of MiddleBrook Pharmaceuticals, Inc. (“**MiddleBrook**”) or any beneficial interest therein. MiddleBrook is a debtor and debtor in possession in Case No. 10- _____ (____) pending in the United States Bankruptcy Court for the District of Delaware.

PLEASE TAKE FURTHER NOTICE that as of _____, 2010, _____ beneficially owns _____ shares of MiddleBrook Stock. The following table sets forth the date(s) on which _____ acquired beneficial ownership of MiddleBrook Stock (attach additional pages if needed):

**NUMBER OF SHARES OF
MIDDLEBROOK STOCK**

DATE ACQUIRED

PLEASE TAKE FURTHER NOTICE that the last four digits of _____’s taxpayer identification number are _____.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Interim Order Establishing Notification and Hearing Procedures for Transfers of Equity Securities, this Declaration is being (a) filed with the United States Bankruptcy Court for the District of Delaware, (b) served on the Debtor, and (c) counsel to Debtor.

⁴ The last four digits of the Debtor’s taxpayer identification number are 8264. The Debtor’s mailing address is 7 Village Circle, Suite 100, Westlake, Texas 76262.

⁵ All capitalized terms not otherwise defined herein shall have the meanings accorded them as set forth in the *Motion for Interim and Final Order Pursuant to Sections 105, 362, and 541 of the Bankruptcy Code and Bankruptcy Rule 3001 Establishing Notification and Hearing Procedures for Trading in Equity Securities* at D.I. 11.

PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1746, under penalties of perjury, _____ hereby declares that he or she has examined this Declaration and accompanying attachments (if any), and, to the best of his or her knowledge and belief, this Declaration and any attachments which purport to be part of this Declaration, are true, correct and complete.

Dated this ____th day of ____, 20 ____.

Respectfully Submitted,

(Name of Substantial Equity Holder)

By: _____
Name: _____
Address: _____
Phone: _____
Fax: _____

EXHIBIT B

**[DECLARATION OF INTENT TO PURCHASE, ACQUIRE, OR
OTHERWISE ACCUMULATE EQUITY SECURITIES]**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:) Chapter 11
)
MIDDLEBROOK PHARMACEUTICALS,) Case No. 10- _____ (____)
INC.,⁶)
)
)
)
Debtor. _____)

**DECLARATION OF INTENT TO PURCHASE, ACQUIRE, OR
OTHERWISE ACCUMULATE EQUITY SECURITIES**

PLEASE TAKE NOTICE that _____ hereby provides notice of its intent to purchase, acquire, or otherwise accumulate one or more shares or beneficial interests of the equity securities of MiddleBrook Pharmaceuticals, Inc. (“**MiddleBrook**”).

PLEASE TAKE FURTHER NOTICE that, if applicable, _____, filed a Declaration of Status as a Substantial Equityholder⁷ with the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) and served copies thereof as set forth therein.

PLEASE TAKE FURTHER NOTICE that _____ currently beneficially owns _____ shares of MiddleBrook Stock.

PLEASE TAKE FURTHER NOTICE that, pursuant to the proposed transfer, _____ proposes to purchase, acquire, or otherwise accumulate _____ shares of MiddleBrook Stock. If the proposed transfer is permitted to occur, _____ will beneficially own _____ shares of MiddleBrook Stock after such transfer becomes effective.

PLEASE TAKE FURTHER NOTICE that the last four digits of the taxpayer identification number of _____ are _____.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Interim Order Establishing Notification and Hearing Procedures for Transfers of Equity Securities, this Declaration is being served on the Debtor and counsel to the Debtor.

⁶ The last four digits of the Debtor’s taxpayer identification number are 8264. The Debtor’s mailing address is 7 Village Circle, Suite 100, Westlake, Texas 76262.

⁷ All capitalized terms not otherwise defined herein shall have the meanings accorded them as set forth in the *Motion for Interim and Final Order Pursuant to Sections 105, 362, and 541 of the Bankruptcy Code and Bankruptcy Rule 3001 Establishing Notification and Hearing Procedures for Trading in Equity Securities* at D.I. 11.

PLEASE TAKE FURTHER NOTICE that the Debtor has 10 business days after receipt of this Declaration to object to the proposed transfer described herein. If the Debtor files an objection, such proposed transfer will not be effective unless approved by a final, non-appealable order of the Bankruptcy Court. If the Debtor does not object within such 10-day period, then after expiration of such period, the proposed transfer may proceed solely as set forth in this Declaration.

PLEASE TAKE FURTHER NOTICE that any further transactions contemplated by _____, which may result in _____ purchasing, acquiring, or otherwise accumulating additional shares of MiddleBrook Stock, will each require an additional notice filed with the Bankruptcy Court to be served in the same manner as this Declaration.

PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1746, under penalties of perjury, _____ hereby declares that he or she has examined this Declaration and accompanying attachments (if any), and, to the best of his or her knowledge and belief, this Declaration and any attachments which purport to be part of this Declaration, are true, correct, and complete.

Dated this ____th day of ____, 20 ____.

Respectfully Submitted,

(Name of Substantial Equity Holder)

By: _____
Name: _____
Address: _____
Phone: _____
Fax: _____

EXHIBIT C

**[DECLARATION OF INTENT TO SELL, TRADE, OR OTHERWISE TRANSFER
EQUITY SECURITIES]**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:) Chapter 11
)
MIDDLEBROOK PHARMACEUTICALS,) Case No. 10- _____ (____)
INC.,⁸)
)
)
Debtor. _____)

**DECLARATION OF INTENT TO SELL, TRADE, OR
OTHERWISE TRANSFER EQUITY SECURITIES**

PLEASE TAKE NOTICE that _____ hereby provides notice of its intent to sell, trade, or otherwise transfer one or more shares or beneficial interests of the equity securities of MiddleBrook Pharmaceuticals, Inc. (“**MiddleBrook**”).

PLEASE TAKE FURTHER NOTICE that, if applicable, _____, filed a Declaration of Status as a Substantial Equityholder⁹ with the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) and served copies thereof as set forth therein.

PLEASE TAKE FURTHER NOTICE that _____ currently beneficially owns _____ shares of MiddleBrook Stock.

PLEASE TAKE FURTHER NOTICE that, pursuant to the proposed transfer, _____ proposes to sell, trade, or otherwise transfer _____ shares of MiddleBrook Stock. If the proposed transfer is permitted to occur, _____ will beneficially own shares of MiddleBrook Stock after such transfer becomes effective.

PLEASE TAKE FURTHER NOTICE that the last four digits of the taxpayer identification number of _____ are _____.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Interim Order Establishing Notification and Hearing Procedures for Transfers of Equity Securities, this Declaration is being served on the Debtor and counsel to the Debtor.

⁸ The last four digits of the Debtor’s taxpayer identification number are 8264. The Debtor’s mailing address is 7 Village Circle, Suite 100, Westlake, Texas 76262.

⁹ All capitalized terms not otherwise defined herein shall have the meanings accorded them as set forth in the *Motion for Interim and Final Order Pursuant to Sections 105, 362, and 541 of the Bankruptcy Code and Bankruptcy Rule 3001 Establishing Notification and Hearing Procedures for Trading in Equity Securities* at D.I. 11.

PLEASE TAKE FURTHER NOTICE that the Debtor has 10 business days after receipt of this Declaration to object to the proposed transfer described herein. If the Debtor files an objection, such proposed transfer will not be effective unless approved by a final, non-appealable order of the Bankruptcy Court. If the Debtor does not object within such 10-day period, then after expiration of such period, the proposed transfer may proceed solely as set forth in this Declaration.

PLEASE TAKE FURTHER NOTICE that any further transactions contemplated by _____, which may result in _____selling, trading, or otherwise transferring additional shares of MiddleBrook Stock, will each require an additional notice filed with the Bankruptcy Court to be served in the same manner as this Declaration.

PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1746, under penalties of perjury, _____hereby declares that he or she has examined this Declaration and accompanying attachments (if any), and, to the best of his or her knowledge and belief, this Declaration and any attachments which purport to be part of this Declaration, are true, correct, and complete.

Dated this ____th day of ____, 20 ____.

Respectfully Submitted,

(Name of Substantial Equity Holder)

By: _____
Name: _____
Address: _____
Phone: _____
Fax: _____