

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

TRICIDA, INC.,¹

Debtor.

Chapter 11

Case No. 23-10024 (JTD)

Ref. Docket Nos. 9, 49, & 93

**CERTIFICATION OF COUNSEL REGARDING PROPOSED
FINAL ORDER (I) AUTHORIZING THE DEBTOR
(A) TO CONTINUE USE OF ITS EXISTING
CASH MANAGEMENT SYSTEM, BANK ACCOUNTS,
CHECKS, CREDIT CARD PROGRAM, AND BUSINESS
FORMS, AND (B) TO PAY RELATED PREPETITION
OBLIGATIONS; (II) WAIVING CERTAIN INVESTMENT
AND DEPOSIT GUIDELINES; AND (III) GRANTING RELATED RELIEF**

On January 11, 2023, the above-captioned debtor and debtor in possession (the “Debtor”) filed the *Debtor’s Motion for Entry of Interim and Final Orders (I) Authorizing the Debtor (A) to Continue Use of Its Existing Cash Management System, Bank Accounts, Checks, Credit Card Program, and Business Forms, and (B) to Pay Related Prepetition Obligations; (II) Waiving Certain Investment and Deposit Guidelines; and (III) Granting Related Relief* [Docket No. 9] (the “Motion”). Responses to the entry of the proposed final form of order (the “Proposed Final Order”) attached to the Motion were to be filed and served no later than 4:00 p.m. (ET) on February 2, 2023 (the “Objection Deadline”).

Prior to the Objection Deadline, the Debtor received informal comments from the Office of the United States Trustee (the “U.S. Trustee”). As a result of discussions between the Debtor and the U.S. Trustee, such comments have been resolved as reflected in the revised Proposed Order attached hereto as **Exhibit A** (the “Revised Proposed Order”). For the convenience of the Court

¹ The Debtor in this chapter 11 case, together with the last four digits of the Debtor’s federal tax identification number, is Tricida, Inc. (2526). The Debtor’s service address is 7000 Shoreline Court, Suite 201, South San Francisco, CA 94080.



and interested parties, a blackline comparing the Revised Proposed Order to the Proposed Order is attached hereto as **Exhibit B**. No other responses were received by the Debtor.

The Debtor submits that the Revised Proposed Order is appropriate and consistent with the relief requested in the Motion and its discussions with the U.S. Trustee, and that the U.S. Trustee does not object to entry of the Revised Proposed Order. Accordingly, the Debtor respectfully requests that the Court enter the Revised Proposed Order at its earliest convenience without further notice or hearing.

Dated: February 6, 2023
Wilmington, Delaware

/s/ Allison S. Mielke

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Proposed Counsel to the Debtor, Tricida, Inc.

Exhibit A

Revised Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
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In re:

TRICIDA, INC.,¹

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Re: Docket No. 9

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OBLIGATIONS; (II) WAIVING CERTAIN INVESTMENT
AND DEPOSIT GUIDELINES; AND (III) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of Tricida, Inc., as debtor and debtor in possession in the above-captioned chapter 11 case (the “Debtor”), for entry of a final order (I) authorizing, but not directing, the Debtor to continue (a) use of its existing cash management system, bank accounts, checks, corporate credit card, and business forms, and (b) payment of related prepetition obligations, (II) waiving certain investment and deposit guidelines, and (III) granting related relief, each as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and the Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of this proceeding and the Motion in

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² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Motion.

this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and appropriate notice of and opportunity for a hearing on the Motion having been given; and the relief requested in the Motion being in the best interests of the Debtor's estate, its creditors, and other parties in interest; and the Court having determined 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, it is HEREBY ORDERED THAT:

1. The relief requested in the Motion is GRANTED on a final basis as set forth herein.
2. The Debtor is authorized, but not directed, to (a) designate, maintain, and continue to use its Cash Management System and any or all of its existing Bank Accounts in the names and with the account numbers existing immediately before the Petition Date; (b) deposit funds in and withdraw funds from such accounts by all usual means, including checks, wire transfers, ACH transfer, and other debits; (c) maintain the Credit Card Program and to pay all balances outstanding, up to a cap of \$50,000, whether arising before or after the Petition Date, in the ordinary course of business, (d) pay prepetition and ordinary course Bank Fees for the Bank Accounts, and (e) treat its prepetition Bank Accounts for all purposes as debtor-in-possession accounts.
3. The Debtor is authorized to continue using its existing Business Forms without alteration; *provided, however*, that once the Debtor's existing check stock has been used, the Debtor shall, when reordering checks, require the designation "Debtor in Possession" and the bankruptcy case number on all checks; *provided further* that with respect to checks that the Debtor or its agents print themselves, the Debtor print the "Debtor in Possession" legend and the bankruptcy case number on such items.

4. The Debtor is authorized to open any new bank accounts or close its existing Bank Accounts as it may deem necessary and appropriate in its sole discretion and make ordinary-course changes to the Bank Accounts in a manner consistent with prepetition practices without further order of the Court; *provided, however*, that the Debtor shall give notice of the opening or closing of any such bank account within fifteen (15) days to (a) the U.S. Trustee and (b) counsel to any statutory committee appointed in this chapter 11 case, and as consistent with this final order. Any new bank account opened by the Debtor shall be established at an institution that is a party to a Uniform Depository Agreement with the U.S. Trustee or is willing to immediately execute a Uniform Depository Agreement.

5. The Banks with which the Debtor maintains Bank Accounts as of the Petition Date are authorized and directed to continue to maintain, service, and administer the Bank Accounts without interruption and in the usual and ordinary course and to receive, process, honor, and pay all checks presented for payment and honor all fund transfer requests made by the Debtor related thereto, to the extent that sufficient funds are on deposit in those accounts; *provided, however*, that nothing contained herein shall authorize any Bank to honor any check, draft, wire, or other transfer issued or dated prior the Petition Date, except as otherwise provided by order of this Court; *provided further* that any financial institution is authorized to accept and rely on all representations made by the Debtor with respect to which checks, drafts, wires, or ACH transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or ACH transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

6. The Debtor shall maintain accurate records of all transfers into and out of the Bank Accounts so that all postpetition transfers and transactions shall be adequately and promptly

documented in, and readily ascertainable from, its books and records, to the same extent maintained by the Debtor before the Petition Date.

7. The requirement in the Guidelines that the Debtor establish a specific new bank account for tax payments is waived. The Debtor shall have thirty (30) days (or such additional time as the Court may order) from the date of the entry of this final order within which to either comply with section 345(b) of the Bankruptcy Code or to make such other arrangements as agreed to by the U.S. Trustee; *provided, however*, that such extension is without prejudice to the Debtor's right to request a further extension or waiver of the requirements of section 345(b) of the Bankruptcy Code.

8. The Debtor is authorized, but not directed, to (a) obtain credit through its use of the Credit Card Program on an uninterrupted and ongoing basis pursuant to section 364 of the Bankruptcy Code and continue the Credit Card Program, subject to any terms and conditions under the applicable servicing agreements, on a postpetition basis consistent with its past practices.

9. The Debtor is authorized, but not directed, to reduce the aggregate limit of credit available under the Credit Card Program to an amount not less than \$50,000 and, in connection with such reduction, establish an account within thirty (30) days following entry of this final order (the "Credit Card Account") and maintain cash equal to at least \$50,000 in the Credit Card Account to support this reduced credit limit.

10. The Debtor is authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of prepetition obligations and claims as set forth in an order of this Court, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of this chapter 11 case.

11. Nothing in this final order constitutes (a) an admission as to the validity of any claim against the Debtor; (b) a waiver of the Debtor's or any party in interest's rights to dispute the amount of, basis for, or validity of any claim or interest under applicable law or nonbankruptcy law; (c) a promise or requirement to pay any claim; (d) a waiver of the Debtor's or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (e) a request for or granting of approval for assumption of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code. Any payment made pursuant to this order is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtor's rights to subsequently dispute such claim.

12. Notice of the Motion shall be deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are waived by such notice.

13. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this final order are immediately effective and enforceable upon its entry.

14. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this final order in accordance with the Motion.

15. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation and enforcement of this final order.

Exhibit B

Blackline

**IN THE UNITED STATES BANKRUPTCY COURT
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In re:

TRICIDA, INC.,¹

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this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and appropriate notice of and opportunity for a hearing on the Motion having been given; and the relief requested in the Motion being in the best interests of the Debtor's estate, its creditors, and other parties in interest; and the Court having determined 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, it is HEREBY ORDERED THAT:

1. The relief requested in the Motion is GRANTED on a final basis as set forth herein.
2. The Debtor is authorized, but not directed, to (a) designate, maintain, and continue to use its Cash Management System and any or all of its existing Bank Accounts in the names and with the account numbers existing immediately before the Petition Date; (b) deposit funds in and withdraw funds from such accounts by all usual means, including checks, wire transfers, ACH transfer, and other debits; (c) maintain the Credit Card Program and to pay all balances outstanding, up to a cap of \$50,000, whether arising before or after the Petition Date, in the ordinary course of business, (d) pay prepetition and ordinary course Bank Fees for the Bank Accounts, and (e) treat its prepetition Bank Accounts for all purposes as debtor-in-possession accounts.
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5. The Banks with which the Debtor maintains Bank Accounts as of the Petition Date are authorized and directed to continue to maintain, service, and administer the Bank Accounts without interruption and in the usual and ordinary course and to receive, process, honor, and pay all checks presented for payment and honor all fund transfer requests made by the Debtor related thereto, to the extent that sufficient funds are on deposit in those accounts; *provided, however*, that nothing contained herein shall authorize any Bank to honor any check, draft, wire, or other transfer issued or dated prior the Petition Date, except as otherwise provided by order of this Court; *provided further* that any financial institution is authorized to accept and rely on all representations made by the Debtor with respect to which checks, drafts, wires, or ACH transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or ACH transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

6. The Debtor shall maintain accurate records of all transfers into and out of the Bank Accounts so that all postpetition transfers and transactions shall be adequately and promptly

documented in, and readily ascertainable from, its books and records, to the same extent maintained by the Debtor before the Petition Date.

7. The requirement in the Guidelines that the Debtor establish a specific new bank account for tax payments is waived. The Debtor shall have thirty (30) days (or such additional time as the ~~U.S. Trustee may agree to or this~~ Court may order) from the date of the entry of this final order within which to either comply with section 345(b) of the Bankruptcy Code or to make such other arrangements as agreed to by the U.S. Trustee; *provided, however*, that such extension is without prejudice to the Debtor's right to request a further extension or waiver of the requirements of section 345(b) of the Bankruptcy Code.

8. The Debtor is authorized, but not directed, to (a) obtain credit through its use of the Credit Card Program on an uninterrupted and ongoing basis pursuant to section 364 of the Bankruptcy Code and continue the Credit Card Program, subject to any terms and conditions under the applicable servicing agreements, on a postpetition basis consistent with its past practices.

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9.10. The Debtor is authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of prepetition obligations and claims as set forth in an order of this Court, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of this chapter 11 case.

~~10.11.~~ Nothing in this final order constitutes (a) an admission as to the validity of any claim against the Debtor; (b) a waiver of the Debtor's or any party in interest's rights to dispute the amount of, basis for, or validity of any claim or interest under applicable law or nonbankruptcy law; (c) a promise or requirement to pay any claim; (d) a waiver of the Debtor's or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (e) a request for or granting of approval for assumption of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code. Any payment made pursuant to this order is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtor's rights to subsequently dispute such claim.

~~11.12.~~ Notice of the Motion shall be deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are waived by such notice.

~~12.13.~~ Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this final order are immediately effective and enforceable upon its entry.

~~13.14.~~ The Debtor is authorized to take all actions necessary to effectuate the relief granted in this final order in accordance with the Motion.

~~14.15.~~ This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation and enforcement of this final order.