



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed April 5, 2024


United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

EIGER BIOPHARMACEUTICALS, INC., *et al.*¹

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO
HONOR AND CONTINUE CERTAIN CUSTOMER PROGRAMS AND CUSTOMER
OBLIGATIONS IN THE ORDINARY COURSE OF BUSINESS AND (II)
AUTHORIZING BANKS TO HONOR AND PROCESS CHECKS AND ELECTRONIC
TRANSFER REQUESTS RELATED THERETO**

Upon the motion (“Motion”)² of the debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) for entry of an order (this “Interim Order”) (a) authorizing the Debtors, in their sole discretion, to honor certain prepetition obligations

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: Eiger BioPharmaceuticals, Inc. (1591); EBPI Merger Inc. (9986); EB Pharma LLC (8352); Eiger BioPharmaceuticals Europe Limited (N/A); and EigerBio Europe Limited (N/A). The Debtors’ service address is 2155 Park Boulevard, Palo Alto, California 94306.

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



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incurred in connection with the Customer Programs and to otherwise continue certain prepetition Customer Programs in the ordinary course of business, (b) authorizing the Banks to honor and process checks and electronic transfer requests related to the Customer Programs, and (c) 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 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 it appearing to the Court that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409;³ 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 Debtors' estates, their 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 Debtors are authorized to continue the Customer Programs and pay, setoff, and/or recoup prepetition amounts incurred in connection with the Customer Programs in the ordinary course of their business.

2. The Debtors are authorized to honor the Customer Programs and the Debtors and their Customers are authorized, in the ordinary course of business, to set off undisputed prepetition debts arising under the Customer Programs against both pre- and post-petition obligations to the Debtors in the ordinary course of business of the Debtors and such Customer.

³ Nothing in this Interim Order shall preclude any later order of the Court approving a motion to transfer venue.

3. The Debtors, in their business judgment, are authorized, but not directed, to continue, renew, replace, implement, modify and/or terminate their Customer Programs, in the ordinary course of business and consistent with the Debtors' prepetition practices, without further application to the Court.

4. The final hearing (the "Final Hearing") on the Motion shall be held on May 7, 2024 at 9:30 a.m. (prevailing Central Time) in the United States Bankruptcy Court for the Northern District of Texas, Courtroom 1, Floor 14, 1100 Commerce Street, Dallas, TX 75242-1496. Any objections or responses to entry of a final order on the Motion shall be filed on or before May 5, 2024 at 4:00 p.m. (prevailing Central Time) and served on the following parties: (i) (a) the Debtors; (b) proposed attorneys for the Debtors, Sidley Austin LLP, 787 Seventh Avenue New York, NY 10019, Attn: Thomas R. Califano (tom.califano@sidley.com), William E. Curtin (wcurtin@sidley.com), Anne Wallice (anne.wallice@sidley.com), and Charles M. Persons (cpersons@sidley.com); (c) the Office of the United States Trustee, Northern District of Texas, Region 6, 1100 Commerce Street, Room 976, Dallas, Texas 75242, Attn: Elizabeth A. Young (elizabeth.a.young@usdoj.gov); (d) counsel to Innovatus Life Sciences Lending Fund I, LP, as agent to the Debtors' secured lenders; and (e) counsel to any official committee appointed in these chapter 11 cases (collectively, the "Notice Parties"). In the event no objections to entry of a final order on the Motion are timely received, this Court may enter such final order without need for the Final Hearing.

5. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any party in interest's rights to dispute any

claim or interest on any grounds; (c) a promise or requirement to pay any claim; (d) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; (e) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or any other order granting the relief requested in this motion or a finding that any particular claim is an administrative expense claim or other priority claim; (f) an approval to assume, adopt, or reject any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code; or (g) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates. Any payment made pursuant to this Interim 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 Debtors' rights to subsequently dispute such claim.

6. Notwithstanding anything to the contrary herein, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court authorizing the Debtors' use of cash collateral and/or any budget in connection therewith.

7. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved in this Interim Order.

8. The Debtors are authorized to issue postpetition checks or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests that are dishonored

as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

9. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take all such reasonable actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

12. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

END OF ORDER

Submitted By:

SIDLEY AUSTIN LLP

Thomas Califano (TX Bar No. 24122825)
William Curtin (*pro hac vice* pending)
Anne Wallice (*pro hac vice* pending)
787 Seventh Avenue
New York, NY 10019
Telephone: (212) 839-5300
Facsimile: (212) 839-5599
Email: tom.califano@sidley.com
wcurtin@sidley.com
anne.wallice@sidley.com

Charles Persons (TX Bar No. 24060413)
2021 McKinney Avenue, Suite 2000
Dallas, Texas 75201
Telephone: (214) 981-3300
Facsimile: (214) 981-3400
Email: cpersons@sidley.com

*Proposed Attorneys for the Debtors and
Debtors in Possession*