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*Proposed Attorneys for the Debtors
and Debtors in Possession*

**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)

Related to Docket Nos. 16, 93

**DECLARATION OF DOUGLAS STAUT,
PROPOSED CHIEF RESTRUCTURING OFFICER OF EIGER
BIOPHARMACEUTICALS INC., IN SUPPORT OF THE DEBTORS' EMERGENCY
MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(I) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL; (II) GRANTING
ADEQUATE PROTECTION TO PREPETITION TERM LOAN SECURED PARTIES;
(III) MODIFYING AUTOMATIC STAY; AND (IV) SCHEDULING A FINAL HEARING**

I, Douglas Staut, hereby declare under penalty of perjury as follows:

1. I submit this declaration (this "Declaration") in further support of the *Debtors'*

Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Use Cash

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 2100 Ross Avenue, Dallas, Texas 75201.



Collateral; (II) Granting Adequate Protection to Prepetition Term Loan Secured Parties; (III) Modifying the Automatic Stay; and (IV) Scheduling a Final Hearing (the “Motion”).²

2. The statements in this Declaration are, except where specifically noted, based on my personal knowledge or opinion, on information that I have from the Debtors’ advisors or employees working directly with me or under my supervision, direction, or control, or from the Debtors’ books and records maintained in the ordinary course of business. I am not being specifically compensated for this testimony other than through payments received by Alvarez & Marsal North America, LLC (“A&M”) as a professional proposed to be retained by the Debtors. If I were called upon to testify, I could and would competently testify to the facts set forth herein on that basis. I am authorized to submit this Declaration on behalf of the Debtors.

Professional Background and Qualifications

3. I am the proposed Chief Restructuring Officer of Eiger BioPharmaceuticals, Inc. I am a Managing Director at A&M with over seventeen (17) years of financial experience and nine (9) years of experience providing financial advisory services to healthcare clients nationwide. During my tenure with A&M, I have provided interim management, cash and financial forecasting, strategic planning, crisis management, turnaround consulting, refinancing advisory and operational improvement services to clients both in and out of court. I have also developed detailed cash flow and operating models, liquidation analyses, operational improvement analyses, refinancing and business plan projections in preparation for restructurings and change of control.

4. I earned a bachelor’s degree from the University of Kentucky and a master’s degree in business administration from the Columbia Business School. I am familiar with the Debtors’ businesses, financial affairs, and capital structure. Since A&M’s initial engagement by the Debtors

² Capitalized terms used but not defined herein have the meanings given to such terms in the Motion.

on February 8, 2024, I have worked closely with the Debtors' management and other professionals in assisting with the myriad requirements of these Chapter 11 Cases. Consequently, I have developed significant relevant experience and expertise regarding the Debtors, their operations and the unique circumstances of these cases.

5. Additionally, I am familiar with the Debtors' need for use of Cash Collateral, the Final Order, and the Debtors' proposed cash collateral budget (the "Budget"), including the payments ascribed to each vendor therein and the need for such payments to be made to preserve value in the Debtors' Remaining Assets.

Cash on Hand

6. The Debtors recently completed the successful auction of Zokinvy, which resulted in the increase of the gross cash proceeds of the Base Price by approximately \$15.2 million.³ . Specifically, the final Base Price is equal to \$46,100,000 *less* a credit in the amount of \$900,000 for the Termination Fee resulting in a net Base Price in the amount of \$45,200,000 (assuming a Closing on April 24, 2024) (the "Zokinvy Purchase Price"). Based upon the Zokinvy Purchase Price, as of the week ending April 26, 2024, Innovatus's asserted claim would be less than the Debtors' anticipated cash on hand (assuming Closing on April 24, 2024).

7. Innovatus's ultimate security position, however, remains subject to the value accrued from any Remaining Asset Sale Transaction(s). The Debtors have generated significant interest in their Remaining Assets and expect additional funds to be brought into the estate through future sales. However, such increase in distributable value remains subject to successful closing of the Remaining Asset Sale Transactions. Therefore, it is my belief that the Debtors' Budget is a

³ This was in addition to the \$4 million increase the Debtors received to the original \$26 million Stalking Horse Bid.

reasonable estimation of the disbursements necessary to preserve value for the Remaining Assets and reduce the risk of any diminution in value of Innovatus's collateral.

8. Further, the Debtors have proposed a significant adequate protection package to Innovatus in an effort to reach an agreement on the consensual usage of cash collateral. This adequate protection package includes: (i) an interim paydown of \$15 million following the closing of the Zokinvy Sale Transaction without prejudice to any parties' rights; (ii) a payment of Innovatus's professional fees on an ongoing basis; (iii) replacement liens; and (iv) typical budgetary controls. It is my belief that this package has been proposed in good faith and is proper, sufficiently covers the various concerns of Innovatus, and facilitates the ongoing need for cash collateral to fund these bankruptcy cases and proceed with further asset sales.

The Budget Contains Critical Payments Necessary to Retain Value

9. The Debtors' management, in coordination with myself and the advisors at A&M, developed the Budget. We individually reviewed each vendor and determined whether the vendor or such payments were necessary to retain value attributable the Debtors' assets. Further, in reviewing the vendor and the payments, and after determining such vendor was critical to preservation of value, we discussed whether each vendor's scope of work and/or fees would change during the bankruptcy and sale process. Based off this iterative review, the Debtors and myself, alongside my colleagues at A&M, created a Budget that reflects only the Debtors' most critical needs on an ongoing basis.

10. These expenses are essential to maximize the value of the asset sales. The Debtors neither own nor operate manufacturing facilities for the production of its products and therefore rely heavily on third parties for the commercial manufacturing of all of its clinical product candidates. Additionally, R&D has traditionally been a critical component to maintaining value

of the Debtors' core programs. The R&D / Post-Marketing Disbursements reflected in the Budget are critical expenses necessary to maintain value in the Debtors' assets.

11. Additionally, as of the Petition Date, the Debtors employed only nine full-time employees across the United States and Europe, down from a former total of twenty-five employees at the end of 2023. Each of these employees is necessary to support the Debtors' ongoing sale process, satisfy the post-close obligations to the Zokinvy purchaser, and operate the business during these cases. These nine employees represent the absolute minimum number of employees needed to safely and appropriately manage ongoing operations and the sale process.

12. Without access to the cash collateral, it is my belief that the Debtors would be forced to shutter operations and dismiss these chapter 11 cases, damaging the Debtors' prospects as a going concern and denying creditors with the right to fair and impartial distribution of Debtors' assets in accordance with the principles of bankruptcy law. Additionally, absent final relief, the Debtors will be unable to, among other things, provide vital drugs, fund payroll for employees, satisfy their other working capital and general corporate requirements, and continue operating their business. Any delay in the Debtors' ability to access cash collateral would irreparably harm the Debtors and their estates.

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Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

April 21, 2024

/s/ Douglas Staut

Douglas Staut
Proposed Chief Restructuring Officer
Eiger BioPharmaceuticals, Inc.