

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

OREXIGEN THERAPEUTICS, INC.,

Debtor.¹

Chapter 11

Case No. 18-10518 (KG)

Re: D.I. 10 & 44

**CERTIFICATION OF COUNSEL REGARDING DEBTOR'S MOTION FOR ENTRY
OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTOR TO PAY
CERTAIN PREPETITION TAXES AND REGULATORY FEES IN THE ORDINARY
COURSE OF BUSINESS AND (II) AUTHORIZING BANKS AND
FINANCIAL INSTITUTIONS TO HONOR AND PROCESS
CHECKS AND TRANSFERS RELATED THERETO**

I, Jose F. Bibiloni, of Morris, Nichols, Arsht & Tunnell LLP, proposed bankruptcy co-counsel to the above-captioned debtor and debtor-in-possession (the "Debtor"), hereby certify as follows regarding the attached revised form of order approving the *Debtor's Motion For Entry Of Interim And Final Orders (I) Authorizing The Debtor To Pay Certain Prepetition Taxes And Regulatory Fees In The Ordinary Course Of Business And (II) Authorizing Banks And Financial Institutions to Honor And Process Checks And Transfers Related Thereto* (D.I. 10) (the "Motion"):

1. On March 12, 2018, the Debtor filed and served the Motion.
2. On March 13, 2018 the Court entered an order granting the relief sought in the Motion on an interim basis (D.I. 44).
3. The deadline to file objections to the entry of a final order was April 3, 2018 at 4:00 p.m. (ET) (the "Objection Deadline"), which was extended for the Official Committee of Unsecured Creditors (the "Committee") until April 6, 2018 at 4:00 p.m. (ET) and Wilmington Trust as Trustee for the 2.75% Convertible Senior Notes Due 2020 until April 9, 2018 at 12:00

¹ The last four digits of the Debtor's federal tax identification number are 8822. The Debtor's mailing address for purposes of this Chapter 11 Case is 3344 North Torrey Pines Court, Suite 200, La Jolla, CA 92037.



(noon) (ET). No party filed a formal objection to the Motion before the Objection Deadline.

4. The Debtor received informal comments on the Motion from the Committee prior to the Objection Deadline.

5. The Debtor agreed to revise the proposed final order granting the Motion. Attached hereto as **Exhibit A** is a revised proposed final order granting the Motion (the "**Proposed Final Order**"). Attached as **Exhibit B** is a redline of the Proposed Final Order showing the changes made to the order that was originally filed with the Motion.

6. The Committee has reviewed the Proposed Final Order and has no objection to its entry.

WHEREFORE, the Debtor respectfully requests that the Court enter the Proposed Final Order attached as **Exhibit A** at its earliest convenience.

Dated: April 10, 2018
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jose F. Bibiloni

Robert J. Dehney (No. 3578)
Andrew R. Remming (No. 5120)
Jose F. Bibiloni (No. 6261)
1201 N. Market St., 16th Floor
P.O. Box 1347
Wilmington, DE 19899-1347
Telephone: (302) 658-9200
Facsimile: (302) 658-3989
rdehney@mnat.com
aremming@mnat.com
jbibiloni@mnat.com

- and -

Christopher R. Donoho, III (admitted *pro hac vice*)
Christopher R. Bryant (admitted *pro hac vice*)
John D. Beck (admitted *pro hac vice*)

HOGAN LOVELLS US LLP

875 Third Avenue
New York, NY 10022
Telephone: (212) 918-3000
Facsimile: (212) 918-3100
chris.donoho@hoganlovells.com
christopher.bryant@hoganlovells.com
john.beck@hoganlovells.com

Proposed Counsel for Debtor and Debtor in Possession

EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Orexigen Therapeutics, Inc.

Debtor.¹

Chapter 11

Case No. 18-10518 (KG)

Re: D.I. 10, 44, 59

FINAL ORDER (I) AUTHORIZING THE DEBTOR TO PAY CERTAIN PREPETITION TAXES AND ASSESSMENTS IN THE ORDINARY COURSE OF BUSINESS AND (II) AUTHORIZING BANKS AND FINANCIAL INSTITUTIONS TO HONOR AND PROCESS CHECKS AND TRANSFERS RELATED THERETO

Upon consideration of the motion (the “Motion”)² of the debtor and debtor in possession in the above-captioned case (the “Debtor”) for the entry of interim and final orders pursuant to sections 105(a) and 363 of title 11 of the Bankruptcy Code, (i) authorizing but not directing the Debtor to pay or honor, in the Debtor’s sole discretion, certain prepetition taxes and assessments in the ordinary course of business, and (ii) authorizing banks and financial institutions to honor and process checks and transfers related thereto; and upon the *Declaration of Michael A. Narachi in Support of First Day Relief* (the “First Day Declaration”); and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 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 Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408

¹ The last four digits of the Debtor’s federal tax identification number are 8822. The Debtor’s mailing address for purposes of this Chapter 11 Case is 3344 North Torrey Pines Court, Suite 200, La Jolla, CA, 92037.

² Capitalized terms not defined in this Order are defined in the Motion.

and 1409; and due and proper notice of the Motion having been provided; and the relief requested being in the best interests of the Debtor and its estate and creditors; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on a final basis to the extent set forth herein.
2. The Debtor is authorized but not directed, in the Debtor's sole discretion, to pay and remit Taxes and Assessments in the ordinary course of business without regard to whether the Taxes or Assessments accrued or arose before or after the Petition Date, including prepetition Taxes and Assessments.
3. In accordance with this Order and any other order of this Court, the financial institutions at which the Debtor maintains its accounts (the "Banks") shall be, and hereby are, authorized, when requested by the Debtor (in the Debtor's sole discretion), to honor and pay all checks or electronic fund transfers drawn on the Debtor's accounts for the payments authorized pursuant to this Order, whether such payments were presented prior to or following the Petition Date, provided that sufficient funds are on deposit in such accounts to honor and make such payments.

4. The Banks may rely on the representations of the Debtor with respect to whether any check or electronic fund transfers drawn or issued by the Debtor prior to the Petition Date should be honored pursuant to this Order, and any such Bank shall not have any liability to any party for relying on such representations by the Debtor as provided for in this Order.

5. The Debtor is authorized to issue postpetition checks, or to effect postpetition electronic fund transfers, in replacement of any checks or electronic fund transfers in respect of payments authorized by this Order that are dishonored or rejected after the Petition Date.

6. The Debtor shall provide to counsel for the Official Committee of Unsecured Creditors copies of its tax returns for any years requested.

7. Nothing in the Motion or this Order, nor as a result of any payment made pursuant to this Order, shall be deemed or construed as (a) an admission as to the validity, amount, classification, or priority of any claim or lien against the Debtor, (b) a waiver of the right of the Debtor, or shall impair the ability of the Debtor, to contest the validity, amount, classification, or priority of any claim, lien, or payment made pursuant to this Order; or (c) a request or an approval to assume any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code.

8. The Debtor is authorized and empowered to take such actions as may be reasonably necessary to implement and effectuate this Order.

9. Notwithstanding any applicability of any of the Bankruptcy Rules, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

10. This Court shall retain jurisdiction over the Debtor and any party receiving payment from the Debtor pursuant to this Order with respect to any matters, claims, rights, or disputes arising from or related to the Motion, the implementation of this Order, or the validity of any of claims against the Debtor or payment made pursuant to this Order.

_____, 2018
Wilmington, Delaware

THE HONORABLE KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Redline of Proposed Order to
Original Order Filed on March 12, 2018

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Orexigen Therapeutics, Inc.

Debtor.¹

Chapter 11

Case No. 18-10518 (KG)

Re: D.I. 10, 44, 59

**FINAL ORDER (I) AUTHORIZING THE DEBTOR TO PAY CERTAIN
PREPETITION TAXES AND ASSESSMENTS IN THE ORDINARY COURSE OF
BUSINESS AND (II) AUTHORIZING BANKS AND FINANCIAL INSTITUTIONS TO
HONOR AND PROCESS CHECKS AND TRANSFERS RELATED THERETO**

Upon consideration of the motion (the "Motion")² of the debtor and debtor in possession in the above-captioned case (the "Debtor") for the entry of interim and final orders pursuant to sections 105(a) and 363 of title 11 of the Bankruptcy Code, (i) authorizing but not directing the Debtor to pay or honor, in the Debtor's sole discretion, certain prepetition taxes and assessments in the ordinary course of business, and (ii) authorizing banks and financial institutions to honor and process checks and transfers related thereto; and upon the *Declaration of Michael A. Narachi in Support of First Day Relief* (the "First Day Declaration"); and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 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 Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States

¹ The last four digits of the Debtor's federal tax identification number are 8822. The Debtor's mailing address for purposes of this Chapter 11 Case is 3344 North Torrey Pines Court, Suite 200, La Jolla, CA, 92037.

² Capitalized terms not defined in this Order are defined in the Motion.

Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and the relief requested being in the best interests of the Debtor and its estate and creditors; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on a final basis to the extent set forth herein.

2. The Debtor is authorized but not directed, in the Debtor’s sole discretion, to pay and remit Taxes and Assessments in the ordinary course of business without regard to whether the Taxes or Assessments accrued or arose before or after the Petition Date, including prepetition Taxes and Assessments.

3. In accordance with this Order and any other order of this Court, the financial institutions at which the Debtor maintains its accounts (the “Banks”) shall be, and hereby are, authorized, when requested by the Debtor (in the Debtor’s sole discretion), to honor and pay all checks or electronic fund transfers drawn on the Debtor’s accounts for the payments authorized pursuant to this Order, whether such payments were presented prior to or following the Petition Date, provided that sufficient funds are on deposit in such accounts to honor and make such payments.

4. The Banks may rely on the representations of the Debtor with respect to whether any check or electronic fund transfers drawn or issued by the Debtor prior to the Petition Date should be honored pursuant to this Order, and any such Bank shall not have any liability to any party for relying on such representations by the Debtor as provided for in this Order.

5. The Debtor is authorized to issue postpetition checks, or to effect postpetition electronic fund transfers, in replacement of any checks or electronic fund transfers in respect of payments authorized by this Order that are dishonored or rejected after the Petition Date.

6. The Debtor shall provide to counsel for the Official Committee of Unsecured Creditors copies of its tax returns for any years requested.

7. ~~6.~~ Nothing in the Motion or this Order, nor as a result of any payment made pursuant to this Order, shall be deemed or construed as (a) an admission as to the validity, amount, classification, or priority of any claim or lien against the Debtor, (b) a waiver of the right of the Debtor, or shall impair the ability of the Debtor, to contest the validity, amount, classification, or priority of any claim, lien, or payment made pursuant to this Order; or (c) a request or an approval to assume any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code.

8. ~~7.~~ The Debtor is authorized and empowered to take such actions as may be reasonably necessary to implement and effectuate this Order.

9. ~~8.~~ Notwithstanding any applicability of any of the Bankruptcy Rules, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

10. ~~9.~~ This Court shall retain jurisdiction over the Debtor and any party receiving payment from the Debtor pursuant to this Order with respect to any matters, claims, rights, or disputes arising from or related to the Motion, the implementation of this Order, or the validity of any of claims against the Debtor or payment made pursuant to this Order.

_____, 2018
Wilmington, Delaware

THE HONORABLE KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE

Summary report:	
Litéra® Change-Pro 7.5.0.135 Document comparison done on 4/9/2018 10:07:30 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original DMS: iw://HLEAST/NEWYORK/8676855/1	
Modified DMS: iw://HLEAST/NEWYORK/8676855/2	
Changes:	
Add	8
Delete	6
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	14