

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

OREXIGEN THERAPEUTICS, INC.,

Debtor.<sup>1</sup>

Chapter 11

Case No. 18-10518 (KG)

Re: D.I. 8 & 49

**CERTIFICATION OF COUNSEL REGARDING DEBTOR’S MOTION FOR INTERIM AND FINAL ORDERS PURSUANT TO 11 U.S.C. §§ 105(A), 363, 1107, AND 1108 AND FED. R. BANKR. P. 6003 AND 6004 AUTHORIZING DEBTOR TO (I) HONOR CERTAIN PREPETITION OBLIGATIONS TO CUSTOMERS AND TO CONTINUE CUSTOMER PROGRAMS AND (II) PAY MEDICAID AND OTHER OBLIGATIONS**

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 Interim And Final Orders Pursuant To 11 U.S.C. §§ 105(a), 363, 1107, And 1108 And Fed. R. Bankr. P. 6003 And 6004 Authorizing Debtor To (I) Honor Certain Prepetition Obligations To Customers And To Continue Customer Programs And (II) Pay Medicaid And Other Obligations* (D.I. 8) (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. 49).
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

<sup>1</sup> 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

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*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.<sup>1</sup>

Chapter 11

Case No. 18-10518 (KG)

**Re: D.I. 8, 49, 57**

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105(a), 363, 1107, AND 1108 AND FED. R. BANKR. P. 6003 AND 6004 AUTHORIZING DEBTOR TO (I) HONOR CERTAIN PREPETITION OBLIGATIONS TO CUSTOMERS AND TO CONTINUE CUSTOMER PROGRAMS AND (II) PAY MEDICAID AND OTHER OBLIGATIONS**

Upon the motion (the “Motion”)<sup>2</sup> of the Debtor for a final order (the “Final Order”), pursuant to sections 105(a), 363, 1107, and 1108 of the Bankruptcy Code, and Bankruptcy Rule 6003 and 6004, authorizing the Debtor to continue to (i) honor prepetition obligations owed to Customers and otherwise continue its prepetition Customer Programs and practices in the ordinary course of business and (ii) pay Medicaid and other obligations; and upon the First Day Declaration; and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by the Motion is in the best interests of the Debtor, its estate, its creditors and other parties in interest; and after due deliberation thereon and good and sufficient cause appearing therefor, it is hereby,

**ORDERED, ADJUDGED, AND DECREED that:**

1. The Motion is GRANTED on a final basis as set forth herein.

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<sup>1</sup> 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.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

2. The Debtor is authorized, but not directed, to continue the Customer Programs in the ordinary course of business, including the payment of prepetition amounts not to exceed \$5,620,000 inclusive of the Debtor's Customers setting off prepetition amounts, where applicable, against the Debtor's accounts receivable in the ordinary course and pursuant to prepetition customary terms between the Debtor and the Customers.

3. All applicable banks and financial institutions are (a) authorized and directed to receive, process, honor and pay any and all checks drawn on the payroll, drafts and other forms of payment, including fund transfers, used by the Debtor on account of the Customer Programs, whether presented before, on or after the Petition Date, provided that sufficient funds are on deposit in the applicable accounts to cover such payments, (b) authorized to rely on the representations of the Debtor as to which checks are subject to this Motion, and (c) prohibited from placing any holds on, or attempting to reverse, any automatic transfers on account of the Customer Programs; provided that the Debtor is authorized to issue new postpetition checks to replace any checks, drafts and other forms of payment, or effect new postpetition fund transfers, which may be inadvertently dishonored or rejected and to reimburse any expenses that may be incurred as a result of any bank's failure to honor a prepetition check.

4. The Debtor is authorized, but not directed, to continue, renew, replace, modify and/or terminate such of its Customer Programs as it deems appropriate, in its discretion, and in the ordinary course of business, without further application to the Court.

5. Commencing on the 10<sup>th</sup> day of the month following entry of this Order and on the 10<sup>th</sup> day of each month thereafter until Court approval of the sale of the Debtor's assets, the Debtor shall deliver to counsel for the Official Committee of Unsecured Creditors monthly reconciliation reports.

6. The provisions contained herein shall not be construed to limit, or in any way affect, the Debtor's ability to contest any claims, on any ground permitted by applicable law, and neither the provisions contained herein, nor any actions or payment made by the Debtor pursuant to the Final Order, shall be deemed an admission as to the validity of the underlying obligation or a waiver of any rights the Debtor may have to subsequently dispute such obligation on any ground that applicable law permits.

7. Nothing in the Final Order or the Motion shall be deemed to constitute postpetition assumption, reaffirmation or adoption of any agreement under Bankruptcy Code section 365. Notwithstanding the relief granted herein and any actions taken hereunder, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any person.

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.

9. The requirements set forth in Local Bankruptcy Rule 9013-1(b) are satisfied by the contents of the Motion.

10. The Debtor is authorized and empowered to take all actions necessary to implement the relief granted in the Final Order.

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

Dated: Wilmington, Delaware  
\_\_\_\_\_, 2018

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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.<sup>1</sup>

Chapter 11

Case No. 18-10518 (KG)

**Re: D.I. 8, 49, 57**

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105(a), 363, 1107, AND 1108 AND FED.  
R.**

**BANKR. P. 6003 AND 6004 AUTHORIZING DEBTOR TO (I) HONOR CERTAIN  
PREPETITION OBLIGATIONS TO CUSTOMERS AND TO CONTINUE CUSTOMER  
PROGRAMS AND (II) PAY MEDICAID AND OTHER OBLIGATIONS**

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**ORDERED, ADJUDGED, AND DECREED that:**

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1. The Motion is GRANTED on a final basis as set forth herein.

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3. All applicable banks and financial institutions are (a) authorized and directed to receive, process, honor and pay any and all checks drawn on the payroll, drafts and other forms of payment, including fund transfers, used by the Debtor on account of the Customer Programs, whether presented before, on or after the Petition Date, provided that sufficient funds are on deposit in the applicable accounts to cover such payments, (b) authorized to rely on the representations of the Debtor as to which checks are subject to this Motion, and (c) prohibited from placing any holds on, or attempting to reverse, any automatic transfers on account of the Customer Programs; provided that the Debtor is authorized to issue new postpetition checks to replace any checks, drafts and other forms of payment, or effect new postpetition fund transfers, which may be inadvertently dishonored or rejected and to reimburse any expenses that may be incurred as a result of any bank's failure to honor a prepetition check.

4. The Debtor is authorized, but not directed, to continue, renew, replace, modify and/or terminate such of its Customer Programs as it deems appropriate, in its discretion, and in the ordinary course of business, without further application to the Court.

5. Commencing on the 10<sup>th</sup> day of the month following entry of this Order and on the 10<sup>th</sup> day of each month thereafter until Court approval of the sale of the Debtor's

assets, the Debtor shall deliver to counsel for the Official Committee of Unsecured Creditors monthly reconciliation reports.

56. The provisions contained herein shall not be construed to limit, or in any way affect, the Debtor's ability to contest any claims, on any ground permitted by applicable law, and neither the provisions contained herein, nor any actions or payment made by the Debtor pursuant to the Final Order, shall be deemed an admission as to the validity of the underlying obligation or a waiver of any rights the Debtor may have to subsequently dispute such obligation on any ground that applicable law permits.

67. Nothing in the Final Order or the Motion shall be deemed to constitute postpetition assumption, reaffirmation or adoption of any agreement under Bankruptcy Code section 365. Notwithstanding the relief granted herein and any actions taken hereunder, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any person.

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.

9. The requirements set forth in Local Bankruptcy Rule 9013-1(b) are satisfied by the contents of the Motion.

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

Dated: Wilmington, Delaware  
\_\_\_\_\_, 2018

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THE HONORABLE KEVIN GROSS  
UNITED STATES BANKRUPTCY JUDGE

<b>Summary report:</b>	
<b>Litéra® Change-Pro 7.5.0.135 Document comparison done on 4/9/2018 10:05:36 AM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://HLEAST/NEWYORK/8676814/1	
<b>Modified DMS:</b> iw://HLEAST/NEWYORK/8676814/2	
<b>Changes:</b>	
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Delete	2
<del>Move From</del>	0
Move To	0
Table Insert	0
<del>Table Delete</del>	0
Table moves to	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>9</b>