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Eiger InnoTherapeutics, Inc.*

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

In re:	)	
	)	Chapter 11
EIGER BIOPHARMACEUTICALS, INC., <i>et al.</i> ¹	)	
	)	Case No. 24-80040 (SGJ)
Debtors.	)	
	)	(Jointly Administered)

**EIT PHARMA, INC., FORMERLY KNOWN
AS EIGER INNOTHERAPEUTICS, INC.'S EMERGENCY MOTION
TO CONFIRM TERMS OF LONAFARNIB/LAMBDA SALE ORDER**

**EMERGENCY RELIEF HAS BEEN REQUESTED. RELIEF IS
REQUESTED NOT LATER THAN 9:30 AM ON MARCH 31, 2025.**

**IF YOU OBJECT TO THE RELIEF REQUESTED OR YOU BELIEVE THAT
EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU MUST
APPEAR AT THE HEARING IF ONE IS SET, OR FILE A WRITTEN
RESPONSE PRIOR TO THE DATE THAT RELIEF IS REQUESTED IN
THE PRECEDING PARAGRAPH. OTHERWISE, THE COURT MAY
TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF
REQUESTED.**

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.

EIT Pharma, Inc., formerly known as Eiger InnoTherapeutics, Inc., (“EIT”), for its motion (the “Motion”)² to clarify the terms of the *Revised Order (I) Authorizing the Sale of the Lonafarnib and Lambda Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests, (II) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases, (III) Granting the Purchaser the Protections Afforded to A Good Faith Purchaser, (IV) Approving Purchaser Protections in Connection with the Sale of the Lonafarnib and Lambda Assets, and (V) and Granting Related Relief* [Docket No. 558] (the “Lonafarnib/Lambda Sale Order”), respectfully represents as follows:

Preliminary Statement

1. This Court’s Lonafarnib/Lambda Sale Order approved the sale of the Lonafarnib and Lambda assets free and clear of liens, claims, encumbrances, and other interests to EIT pursuant to the terms of that certain *Asset Purchase Agreement by and Between Eiger InnoTherapeutics, Inc., as Purchaser, and Eiger BioPharmaceuticals, Inc., as Seller, Dated as of August 1, 2024* [Docket No. 490-1] (the “Lonafarnib APA”). The Lonafarnib/Lambda Sale Order also approved the terms of the Lonafarnib APA. As part of the sale, the Debtors assumed and assigned their contracts with third-party vendor Corden Pharma International (“Corden”) and other Corden-affiliated entities for, among other things, the provision of certain raw materials, supplies, reference standards, and other components³ used in the manufacture of Lonafarnib antiviral

² Capitalized terms not defined herein have the meaning as defined later in this Motion or in the Lonafarnib APA, as applicable.

³ While the term “materials” is a pharmaceutical industry-specific term, that term is used herein generally in its ordinary usage to refer to the raw materials, information, data, services, standards, components, supplies, and other matter that EIT purchased under the Lonafarnib APA and which are subject to the terms of the Corden Contracts assigned to EIT. When the industry term of art is used, it will be placed in quotes.

products (the “Corden Contracts”)⁴ used specifically for the treatment of hepatitis delta virus (“HDV”).

2. HDV is a virus that progresses rapidly to cause liver failure and potentially death if the condition is left untreated. Worldwide, 15–20 million people suffer from HDV. EIT is the leading manufacturer of Lonafarnib which, as stated above, is a treatment for HDV. EIT’s development of Lonafarnib is currently on track for accelerated approval: EIT plans to submit a new drug application to the FDA and is targeting Lonafarnib’s commercial launch in 2026. Lonafarnib would be the first oral and accessible drug for the treatment of millions of HDV patients globally. Because Lonafarnib is the first oral drug with meaningful outcomes for patients with HDV, it is critical that it’s approval and launch in 2026 remain on track.

3. As explained further below, EIT clearly purchased the Corden “Inventory” (as such term is defined in section 2.1(h) the Lonafarnib APA and reproduced below). Although the Corden Contracts were assumed and assigned to EIT, Corden has refused to provide EIT the relevant materials critical to its manufacture of Lonafarnib for the treatment of HDV, citing an alleged concern as to whether EIT or Sentynl Therapeutics, Inc. (“Sentynl”) are entitled to such materials. Corden’s refusal to provide these relevant materials has caused delay in the accelerated timeline for EIT’s commercial launch of Lonafarnib.

4. Corden’s concern apparently arose due to a recent question as to ownership of 50 grams of certain Corden materials (referred to as “reference materials”), which appear to have been sold twice: first to Sentynl under the Zokinvy APA, and later to EIT. EIT is not requesting any relief related to these 50 grams of “reference materials” as part of this Motion. Rather, EIT does not dispute that the same were in fact sold to Sentynl.

⁴ Such Corden affiliated entities include Corden Pharma Colorado and Corden Pharma International GmbH.

5. Instead, this Motion pertains to the remainder of the Inventory sold to EIT as set forth in section 2.1(h) of the Lonafarnib APA. EIT became aware of the double sale on March 7, 2024. As a result, Corden has now stated it will not provide any further materials to EIT, despite the express terms of the Lonafarnib APA, until it obtains an order from this Court that EIT is indeed the party that purchased such Corden materials.

6. Corden's refusal to provide the relevant materials to EIT has delayed EIT's ability to manufacture its life-saving drug for the treatment of HDV which will have a negative impact on patients who currently have no treatment options. The delay is also creating significant commercial damage to EIT.

7. Accordingly, EIT seeks emergency relief from this Court, in the form of an order confirming that the Lonafarnib APA and Lonafarnib/Lambda Sale Order sold and transferred to EIT all of the relevant Inventory held by Corden and assigned the Corden Contracts to EIT.

Jurisdiction

8. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This Motion presents a core proceeding pursuant to 28 U.S.C. § 157(b).

9. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

10. The basis for the relief requested herein is section 105(a) of the title 11 of the United States Code (the "Bankruptcy Code"). Further, this Court has jurisdiction to interpret, clarify, and enforce the Lonafarnib/Lambda Sale Order pursuant to its own inherent authority, as well as paragraphs 39 and 40 of the Lonafarnib/Lambda Sale Order.

Background

11. On April 1, 2024, the Debtors filed voluntary chapter 11 cases. The chapter 11 cases are being jointly administered.

12. Through the two separate asset sales, Eiger BioPharmaceuticals, Inc. sold its two indications for a single molecule: (i) the Zokinvy assets—for treatment of Progeria—were sold to

Sentynl, which closed on May 4, 2024; and (ii) certain of the remaining Lonafernib assets related to the treatment of HDV and the remaining indications were sold to EIT (the “Inno Sale”).

13. On April 24, 2024 the Court entered its *Order (I) Approving the Sale of the Debtors’ Zokinvy Assets, (II) Authorizing Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief* [Docket No. 162] (the “Zokinvy Sale Order”), which, among other things, also approved that certain *Asset Purchase Agreement by and between Sentynl Therapeutics, Inc., as Purchaser, and Eiger BioPharmaceuticals, Inc., as Seller, Dated March 31, 2024* (annexed as Exhibit 1 to the Zokinvy Sale Order, as may be amended from time to time in accordance with the Zokinvy Sale Order or further order of the Court, including by the First Amendment to the Zokinvy APA attached to the Zokinvy Sale Order, the “Zokinvy APA”).

14. On August 2, 2024, the Debtors filed a *Notice of Cancellation of Auction(s), Designation of Winning Bid for the Lonafernib Sale Transaction, and Transition to Private Sale Process for Lonafernib/Lambda Sale Transactions* [Docket No. 489] (the “Lonafernib/Lambda Sale Notice”), selecting EIT as the highest and best bidder for the Lonafernib/Lambda Assets. The Lonafernib Assigned Contracts and Cure Amounts, attached to the Lonafernib/Lambda Sale Notice as Exhibit A, specifically listed the contracts to be assumed and assigned as part of the Inno Sale (collectively, the “Assigned Contracts”), including the following:

- a. The Master Services Agreement dated March 22, 2016 with CordenPharma; and
- b. The Commercial Quality Agreement, dated February 19, 2020 with CordenPharma.

Each of the above contracts is referred to as a “Corden Contract” and collectively, referred to as the “Corden Contracts.”

15. On August 5, 2024, the Debtors filed their *Emergency Motion for the Entry of an Order (I) Authorizing the Sale of the Lonafernib and Lambda Assets Free and Clear of Liens,*

Claims, Encumbrances, and Other Interests, (II) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases, (III) Granting the Purchaser the Protections Afforded to a Good Faith Purchaser, (IV) Approving Purchaser Protections in Connection with the Sale of the Lonafarnib and Lambda Assets, and (V) Granting Related Relief [Docket No. 490] (the “Sale Motion”) seeking, among other things, approval of (i) the Inno Sale, (ii) the Lonafarnib APA, and (iii) assumption and assignment of the Assigned Contracts, including the Corden Contracts.

16. On August 21, 2024, the Court entered the Lonafarnib/Lambda Sale Order. Therein, among other things, the Court approved the Inno Sale and the Lonafarnib APA, and enjoined all persons from taking any action that adversely interferes with the sale and transfer of the various assets under the Lonafarnib APA. *See* Lonafarnib/Lambda Sale Order ¶¶ Z, 4, 6, 12, respectively.

17. On September 3, 2024, the Inno Sale closed. *See Notice of Closing of Lonafarnib/Lambda Sale Transactions* [Docket No. 616] (the “Notice of Closing”). The Corden Contracts are specifically listed in the Final Lonafarnib Assigned Contracts List, attached as Exhibit A to the Notice of Closing. The Corden Contracts are marked by an asterisk, designating them as “Existing Manufacturing Contracts.”

18. As Existing Manufacturing Contracts, the Lonafarnib APA expressly provides that the Corden Contracts were automatically assigned and transferred to EIT on the “Existing Manufacturing Contract Transfer Date” as follows:

- Section 2.1(a) of the Lonafarnib APA transfers to EIT “all of the rights, title and interests in, to and under” ... “the Existing Manufacturing Contracts” which shall occur “... on the applicable Existing Manufacturing Contract Transfer Date automatically...”
- Section 1.1 of the Lonafarnib APA provides that the “Existing Manufacturing Contract Transfer Date” means, with respect to an Existing Manufacturing Contract, “the date that is the *earlier to occur* of (a) **November 3, 2024**, (b) the date that [Sentyln] obtains a new

agreement for substantially the same services as those provided to Seller by the counterparty under such Existing Manufacturing Contract prior to May 3, 2024, and (c) the date Purchaser and [Sentynl] agree to arrangements for the supply of Licensed Progeria Product under the Existing Manufacturing Contracts following the assignment thereof to Purchaser.” (emphasis added).

19. The Existing Manufacturing Contract Transfer Date occurred on November 3, 2024 and, thus, the Corden Contracts automatically transferred to EIT on that date.

20. Additionally, Section 2.1(h) of the Lonafarnib APA, which lists the assets to be transferred to EIT (defined as the “Transferred Assets” in section 2.1 of the Lonafarnib APA) specifically and expressly lists the following as “Transferred Assets”:

all right, title and interest in and to (i) any raw materials (including work in process, buffer stock held by vendors, dies and active pharmaceutical ingredients inventory, reference standards and materials, and all components and materials used in the Manufacture of any Lonafarnib Antiviral Product), finished goods and other inventory of all Lonafarnib Antiviral Products in the possession or control of, otherwise held by or on behalf of (including by or on behalf of any contractors or other service providers acting on behalf of the Seller Group, directly or indirectly, at any level), or owned by the Seller Group; and (ii) all good and marketable unbroken lots of packaged finished goods inventory of all Lonafarnib Antiviral Product in the possession or control of, or otherwise held by or on behalf of (including by or on behalf of any contractors or other service providers acting on behalf of the Seller Group, directly or indirectly, at any level), the Seller Group as of Closing, regardless of where located, and all rights to receive refunds, rebates or credits in connection therewith (for the avoidance of doubt, the Transferred Assets also include all manufactured product, packaging material, compounds and any other similar assets relating to any Lonafarnib Antiviral Product, and any assets that are under manufacture); in each case including the raw materials, reference standards and materials, and inventory listed in Schedule 2.1(h), as may be amended or supplemented at the request of Purchaser at any time prior to the Closing (collectively, “**Inventory**”)[.]

Argument

21. The four corners of the Lonafarnib/Lambda Sale Order, the Lonafarnib APA, and the Notice of Closing are clear that the Assigned Contracts—including the Corden Contracts—were assigned to EIT, and that the Corden Inventory was sold to EIT. However, given the double-

sale of the “reference materials” referred to above, Corden has expressed concern about “what was sold to whom” in this case. As result, the Court should make clear to all parties and for all time, that the language in the Lonafarnib/Lambda Sale Order and the Lonafanib APA is clear, and that the assets and contracts listed therein and subject thereto were sold, transferred and assigned to EIT.

22. “It is axiomatic that a court possesses the inherent authority to enforce its own orders.” *In re Protarga, Inc.*, 329 B.R. 451, 479 (Bankr. D. Del. 2005) (citing *In re Cont’l Airlines, Inc.*, 236 B.R. 318, 325-26 (Bankr. D. Del. 1999)). Indeed, the bankruptcy court “plainly ha[s] jurisdiction to interpret and enforce its own prior orders.” *Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 151 (2009); *see also, e.g., Rodriguez v. EMC Mortg. Corp. (In re Rodriguez)*, No. 00-50657, 2001 WL 360713, at *2 (5th Cir. Mar. 15, 2001) (“When an estate is in administration, a bankruptcy court retains jurisdiction to interpret and enforce its own orders to ensure their proper execution”); *Galaz v. Katona*, No. 5:14-CV-967, 2015 WL 5565266, at *4 (W.D. Tex. Sept. 21, 2015) (“[I]t is well established that a bankruptcy court has jurisdiction to interpret and enforce its own prior orders”); *In re Motors Liquidation Co.*, 513 B.R. 467, 477 (Bankr. S.D.N.Y. 2014) (“And it need hardly be said that I have jurisdiction to interpret and enforce my own orders, just as I’ve previously done, repeatedly, with respect to the very [s]ale [o]rder here.”) (internal citations omitted). Additionally, section 105(a) also provides that a bankruptcy court is authorized to issue any order, process or judgment necessary to carry out the provisions of the Bankruptcy Code, and “gives the bankruptcy court the power and the jurisdiction to enforce its valid orders.” *In re Protarga, Inc.*, 329 B.R. at 479 (citations omitted); *see also* 11 U.S.C. § 105(a).

23. Further, even if there were a question about this Court’s jurisdiction to entertain the Motion (and there is not), it is a long-standing jurisprudential principle that a federal court does not need an independent basis of jurisdiction to construe or enforce its own prior orders. *See Local*

Loan Co. v. Hunt, 292 U.S. 234, 239 (1934) (“That a federal court of equity has jurisdiction of a bill ancillary to an original case or proceeding in the same court, whether at law or in equity, to secure or preserve the fruits and advantages of a judgment or decree rendered therein, is well settled And this, irrespective of whether the court would have jurisdiction if the proceeding were an original one.”) (citations omitted); *see also Baker v. Baker (In re Baker)*, 593 F. App’x 416, 417 (5th Cir. 2015) (citations omitted).

24. Here, the Court is well within its power and jurisdiction to enter an order clarifying and enforcing the Lonafarnib/Lambda Sale Order and the Lonafarnib APA. As set forth above, there is no dispute that pursuant to the terms of the Lonafarnib APA, as approved by the Lonafarnib/Lambda Sale Order, EIT purchased the Inventory, including the Corden Inventory subject to the Corden Contracts. Specifically, EIT purchased and is entitled to all Inventory under the Corden Contracts, including “all right, title and interest in and to (i) any raw materials (including work in process, buffer stock held by vendors, dies and active pharmaceutical ingredients inventory, reference standards and materials, and all components and materials used in the Manufacture of any Lonafarnib Antiviral Product), finished goods and other inventory of all Lonafarnib Antiviral Products in the possession or control of, otherwise held by or on behalf of” the Debtors, as set forth fully in section 2.1(h) of the Lonafarnib APA, but not including those “reference materials” that were previously sold to Sentylnl.⁵ Other than this 50 grams of “reference materials,” the documents are clear that all other pharmaceutical material and inventory, reference standards, and other components used in the manufacture of Lonafarnib Antiviral Product (as fully set forth in Section 2.1(h) of the Lonafarnib APA) were sold, transferred and assigned to EIT.

25. Moreover, there is no dispute that the Corden Contracts were Assigned Contracts which were assumed and assigned to EIT pursuant to the Lonafarnib/Lambda Sale Order.

⁵ As set forth previously, EIT disclaims any right to the 50 grams of “reference materials” in light of the prior sale to Sentylnl.

Similarly, there can be no dispute that the Corden Contracts, as Existing Manufacturing Contracts, automatically transferred to EIT on November 3, 2024.

WHEREFORE, Inno respectfully requests that the Court enter an order, substantially in the form attached hereto, (i) clarifying the terms of the Lonafarnib/Lambda Sale Order approving the Lonafarnib APA; and (ii) granting such other and further relief as may be just and proper.

Respectfully submitted this 24th day of March, 2025.

GRAY REED

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***Counsel to EIT Pharma, Inc., formerly known as Eiger
InnoTherapeutics, Inc.***

Certificate of Service

The undersigned hereby certifies that on the 24th day of March, 2025, he caused a true and correct copy of the foregoing document to be served via the Court's CM/ECF system and on the following party via email.

Corden Pharma

Attn.: Naoki Takei & Richard Janovjak

naoki.takei@cordenpharma.com

richard.janovjak@cordenpharma.com

/s/ Jason S. Brookner

Jason S. Brookner

Exhibit A

Proposed Order

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

In re:	)	
	)	Chapter 11
EIGER BIOPHARMACEUTICALS, INC., <i>et al.</i> ¹	)	Case No. 24-80040 (SGJ)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	

**ORDER GRANTING
EIT PHARMA, INC., FORMERLY KNOWN AS
EIGER INNOTHERAPEUTICS, INC.'S EMERGENCY MOTION
TO CONFIRM TERMS OF LONAFARNIB/LAMBDA SALE ORDER**

Upon the motion (the “Motion”)² of EIT Pharma, Inc., formerly known as Eiger InnoTherapeutics, Inc. (“EIT”), for entry of an order, (a) confirming the terms of the

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 have the meanings ascribed to them in the Motion.

Lonafarnib/Lambda Sale Order, and (b) granting related relief, all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157; and this Court having found that it 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 and 1409; and this Court having found that notice of the Motion was appropriate under the circumstances and no other notice need be provided; and after due deliberation and sufficient cause appearing therefor, IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. Pursuant to the terms of the Lonafarnib/Lambda Sale Order and the Lonafarnib APA, EIT purchased all Inventory, as defined in section 2.1(h) of the Lonafarnib APA, which, for clarity and the avoidance of doubt, includes any such inventory in the possession of CordenPharma International that was not previously purchased by Sentylnl.
3. The Corden Contracts were assumed, assigned and transferred to EIT pursuant to the Lonafarnib APA and this Court's Lonafarnib/Lambda Sale Order.
4. EIT is authorized to take all reasonable actions necessary to effectuate the relief granted in this Order in accordance with the Motion.
5. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order, the Lonafarnib/Lambda Order and the Lonafarnib APA.

END OF ORDER

Submitted by:

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