

ORIGINAL

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

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In re : **Chapter 11**

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INSYS THERAPEUTICS, INC., et al., : **Case No. 19-11292 (KG)**

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Debtors.¹ : **Jointly Administered**

:

: **Re: D.I. 5**

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INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105(a), 363 AND 507(a) (I) AUTHORIZING DEBTORS TO (A) PAY CERTAIN PREPETITION WAGES AND REIMBURSABLE EXPENSES, (B) PAY AND HONOR EMPLOYEE MEDICAL AND OTHER BENEFITS, AND (C) CONTINUE EMPLOYEE BENEFITS PROGRAMS, AND (II) GRANTING RELATED RELIEF

Upon the motion (the “**Motion**”),² dated June 10, 2019, of Insys Therapeutics, Inc. and its affiliated debtors in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “**Debtors**”), pursuant to sections 105(a), 363 and 507 of title 11 of the United States Code (the “**Bankruptcy Code**”) for entry of an order authorizing, but not directing, the Debtors to pay and honor certain prepetition claims and obligations, continue programs, and maintain funding, in the exercise of their discretion, relating to, among other things, their Employee Compensation Obligations, Employee Benefit Programs, and Other Employee Programs, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334,

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Insys Therapeutics, Inc. (7886); IC Operations, LLC (9659); Insys Development Company, Inc. (3020); Insys Manufacturing, LLC (0789); Insys Pharma, Inc. (9410); IPSC, LLC (6577); and IPT 355, LLC (0155). The Debtors’ mailing address is 1333 South Spectrum Blvd #100, Chandler, Arizona 85286.

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

and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis (the “**Hearing**”); and upon the Long Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and it appearing that no payments under section 503(c) are being sought in the Motion or granted herein; 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 it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; 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 an interim basis, as provided herein.
2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363, and 507(a) of the Bankruptcy Code, to pay and honor all prepetition obligations associated with the Employee Obligations and to continue programs and maintain funding in the ordinary course of business, to the extent requested in the Motion, including, but not limited to:
(a) Unpaid Compensation, Deductions, and Payroll Taxes; (b) compensation for the

Supplemental Workforce; (c) Reimbursable Expenses; (d) the Amex Card Program; (e) Employee Benefit Programs; (f) the Severance Program; (g) the 401(k) Savings Plan; and (h) the Other Employee Programs; provided that, the Debtors are authorized, but not directed, to pay only amounts due and payable as of the Petition Date and amounts that are or become due and payable during the Interim Period in an aggregate amount not to exceed \$733,120, unless otherwise ordered by this Court; and provided, further, that payments for wages, salaries, or commissions, and sick leave earned by an individual Employee shall not exceed \$13,650, other than by permission of this Court pursuant to the relief requested herein.

Subject to entry of a Final Order, the Debtors shall not make any payments to employees pursuant to the commission Bonus Program.

3. Nothing contained in the Motion or this Interim Order shall be deemed as authorizing or approving (a) any payments or transfers that violate section 503(c) of the Bankruptcy Code or (b) the Debtors to cash out unpaid vacation upon termination of an Employee, unless applicable non-bankruptcy law requires such payment.

4. The Debtors are further authorized, but not directed, to modify or discontinue any benefit program to reduce or eliminate program expenses or the benefits provided thereunder, at any time, in their sole discretion without prior Court approval to the extent permitted by the applicable agreement or law.

5. The Debtors and any applicable third parties are further authorized to continue to allocate and distribute Deductions and Payroll Taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' stated policies and prepetition practices.

6. The Debtors are further authorized, but not directed, to pay all processing and administrative fees associated with and all costs and expenses incidental to payment of the Employee Obligations.

7. Nothing in the Motion or this Interim Order shall be deemed to authorize the Debtors to accelerate any payments not otherwise due prior to the date of the hearing to consider entry of an order granting the relief requested in the Motion on a final basis (the “**Final Hearing**”).

8. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors’ or any appropriate party in interest’s rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder; or (d) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

9. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

10. Under the circumstances of these Chapter 11 Cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

11. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.


12. The Debtors are authorized to take all action necessary to implement the relief granted in this Interim Order.

13. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

14. The Final Hearing on the Motion shall be held on **July 8, 2019 at 9:00**
^a**.m. (Prevailing Eastern Time)** and any objections or responses to the Motion shall be in

writing, filed with the Court, and served upon (a) the proposed attorneys for the Debtors, (i) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq., Ronit J. Berkovich, Esq., and Candace M. Arthur, Esq.), and (ii) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq., Paul N. Heath, Esq., and Amanda R. Steele, Esq.); and (b) the Notice Parties; in each case, on or prior to **July 1, 2019 at 4:00 p.m. (Prevailing Eastern Time)**.

Dated: June 11, 2019
Wilmington, Delaware



THE HONORABLE KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE

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