

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**

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: **Re: D.I. 24**

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ORDER GRANTING MOTION OF DEBTORS PURSUANT TO 11 U.S.C. §§ 105(a), 362(d), 363(b), AND 503(b) (I) FOR AUTHORITY TO (A) CONTINUE TO MAINTAIN THEIR INSURANCE POLICIES AND SURETY BONDS AND (B) HONOR ALL OBLIGATIONS WITH RESPECT THERETO, AND (II) TO MODIFY THE AUTOMATIC STAY WITH RESPECT TO THE WORKERS’ COMPENSATION POLICIES

Upon the motion (the “**Motion**”),² dated June 10, 2019 (D.I. 24), of Insys Therapeutics, Inc. and its affiliated debtors in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), as debtors and debtors in possession (collectively, the “**Debtors**”), pursuant to sections 105(a), 362(d), 363(b), and 503(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) for entry of an order granting (a) authority, but not direction, to (i) continue to maintain and renew, in their sole discretion, their General Liability and Property Policies, the Professional Liability Policies, the Workers’ Compensation Policies, and the Global Clinical Trial Policies (each as defined in the Motion and inclusive of any policy issued to or providing coverage to the Debtors or their predecessors, whether current or expired, and all agreements related thereto, collectively, the “**Insurance Policies**”) and Surety Bonds and (ii)

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 410 S. Benson Lane, Chandler, Arizona 85224.

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

honor their Insurance Obligations in the ordinary course of business during the administration of these Chapter 11 Cases and satisfy any prepetition Insurance Obligations and Surety Premiums, and (b) modification of the automatic stay solely and for the limited purpose of permitting employees with claims under the Workers' Compensation Policies to proceed with their claims in accordance with such program in the appropriate judicial or administrative forum against the proceeds of such policies only, 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, 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 scheduled a hearing on the Motion for July 8, 2019 (the "**Hearing**"); and the Hearing having been held, if necessary, to consider the relief requested in the Motion; and upon the Long Declaration, filed contemporaneously with the Motion, and the record of the Hearing, if applicable; 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 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, as provided herein.
2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 362(d), 363(b), and 503(b) of the Bankruptcy Code, to pay all Insurance Obligations, including, without limitation, any Insurance Obligations under new Insurance Policies, and whether or not such Insurance Policies are listed on **Schedule 1** attached to this Order, regardless of whether accruing or relating to the period before or after the Petition Date; provided that to the extent the Debtors intend to pay any prepetition Insurance Obligation that exceeds \$100,000 other than on account of prepetition Brokers' Fees, the Debtors shall notify counsel to the official committee of unsecured creditors (the "**Committee**"), in writing, at least three (3) business days in advance of making such payment.
3. The Debtors are authorized, but not directed, to maintain their Insurance Policies in accordance with practices and procedures that were in effect before the commencement of these Chapter 11 Cases.
4. The Debtors are authorized, but not directed, to revise, extend, supplement, or otherwise modify their insurance coverage as needed, including, without limitation, through the purchase or renewal of new or existing Insurance Policies; provided that the Debtors shall consult with the Committee before making any such revision, extension, supplementation, or modification that has a material adverse impact on the availability of the Debtors' insurance coverage. Further, the Debtors shall consult with the Committee before canceling any Insurance Policy or permitting any Insurance Policy to lapse or be defaulted upon.
5. The Debtors are authorized, but not directed, to satisfy any prepetition Surety Premiums and to provide additional or new surety bonds to third parties to secure the

Debtors' payment or performance of certain obligations in connection with licenses, deposits, workers compensation liabilities, equipment, or other miscellaneous items, and to take all appropriate actions in connection therewith, including providing any cash collateral, as required in the ordinary course of business; provided that the Debtors shall consult with the Committee at least three (3) business day in advance of providing additional or new surety bonds to third parties.

6. The automatic stay of section 362 of the Bankruptcy Code, if and to the extent applicable, is hereby lifted to the extent any of the Debtors' current or former employees hold claims under the Workers' Compensation Policies, such that: (a) such employees are authorized to proceed with their Workers' Compensation Claims through and including the collection of any judgment in the appropriate judicial or administrative forum under the Workers' Compensation Policies; and (b) the Debtors, and if applicable, the Insurers are authorized to handle, administer, defend, settle, and/or pay obligations arising under any applicable Workers' Compensation Policies, regardless of whether accruing or relating to the period before the Petition Date; provided that the prosecution of such claims shall be in accordance with the Workers' Compensation Policies and the recoveries are limited to the proceeds available under the Workers' Compensation Policies.

7. Nothing in the Motion or this Order alters or amends the terms or conditions of any Insurance Policies, including, the right, if any, of any Insurer to draw on and apply any collateral securing the Insurance Obligations.

8. Nothing contained in the Motion or this Order, nor any payment made pursuant to the authority granted by this 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 (including the Committee'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. Under the circumstances of these Chapter 11 Cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

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

11. The Debtors are authorized to take all actions necessary to implement the relief granted in this Order.

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

Dated: July 3rd, 2019
Wilmington, Delaware


KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE

Schedule 1

Insurance Policies

#	Policy Type	Insurer	Policy Number	Policy Begins	Policy Ends	Total Premium ¹
1	Cargo Stock Throughput - Marine	Lloyd's of London	MACAR1800609	8/1/2018	7/31/2019	\$ 157,029
2	Equipment Breakdown	Hartford Steam Boiler	FBP2351681	10/31/18	10/31/19	42,212
3	Products Liability	Ironshore Specialty Insurance Company	003571801	4/25/19	4/25/20	118,700
4	Products Liability	TDC Specialty Insurance Company	LSX-00045-19-01	4/25/19	4/25/20	84,134
5	Products Liability	Lloyd's of London / LS Risk	LSR-XS-00415-19	4/25/19	4/25/20	132,870
6	Products Liability	Illinois Union Insurance Company (Chubb)	G2757449A 003	4/25/18	4/25/2023	560,000
7	Products Liability	Lloyd's of London / Beazley	W18178170301	4/25/18	4/25/2023	240,000
8	Products Liability	Ironshore Specialty Insurance Company	002705501	4/25/18	4/25/2023	137,142
9	D&O	U.S. Specialty Insurance Company	14MGU19A46456	5/2/19	5/2/20	505,750
10	D&O	XL Specialty Insurance Company	ELU16095119	5/2/19	5/2/20	354,025
11	D&O	Lloyd's Syndicate	B0509FINMW1900818	5/2/19	5/2/20	248,815
12	D&O	Endurance American Specialty Ins Co	DOX10006891204	5/2/19	5/2/20	170,000
13	D&O	National Union Fire Ins Co	013355362	5/2/19	5/2/20	159,800
14	D&O	XL Specialty Insurance Company	ELU16095419	5/2/19	5/2/20	50,000
15	D&O	U.S. Specialty Insurance Company	14MGU19A46459	5/2/19	5/2/20	50,000
16	Employment & Fiduciary	Endurance American Specialty Insurance Company	SLP30001058800	5/2/19	5/2/20	42,500
17	Commercial Crime	Beazley Insurance Company, Inc.	V26E68190101	5/2/19	5/2/20	7,703
18	Worker's Compensation	Employers Insurance Company of Wausau / Liberty Mutual Group	WCC291469461028	9/1/18	9/1/19	138,531
19	Hired / Non-Auto	Liberty Mutual Group	AS6-791-469461-018	9/1/18	9/1/19	19,133
20	General Liability	Associate Industries Insurance Company	AES1055392 00	9/1/18	9/1/19	7,957
21	Umbrella	Liberty Insurance Corporation	TH7-791-469461-038	9/1/18	9/1/19	22,583
22	Excess Liability / Umbrella	Navigators Insurance Company	CH18EXR946455IV	9/1/18	9/1/19	21,000
23	Property	AmWINS / National Fire & Marine Ins. Co. / Kemah	DF000003568	10/31/18	10/31/19	80,850
24	Property	Munich Re / The Princeton Excess & Surplus Lines Insurance Company	78-A3-XP-0000525-00	10/31/18	10/31/19	231,250
25	Property	RT Specialty / Western World / Validus	BRB0003666	10/31/18	10/31/19	132,000
26	Property	RT Specialty / Rivington / Great Lakes	GLSE180010	10/31/18	10/31/19	23,437
27	Property	RT Specialty / Rivington / Lloyd's	LP180156	10/31/18	10/31/19	39,063
28	Property	RT Specialty / Evanston / Markel	MKL11XP006995	10/31/18	10/31/19	43,200
29	Property	RT Specialty / Landmark American / RSUI	LHD905990	10/31/18	10/31/19	83,338
30	Property	RT Specialty / Ironshore	003856400	10/31/18	10/31/19	25,000

¹ Excludes D&O tail premiums

31	Property	RT Specialty / Pioneer	PRP-0000122-01	10/31/18	10/31/19	25,000
32	Premises Pollution	Illinois Union Insurance Company (Chubb)	PPL G27371851 002	12/1/16	12/1/19	46,334

Schedule 2

Sureties

#	Policy Type	Surety	Obligee	Policy Number	Policy Begins	Policy Ends	Total Premium	Principal Amount
1	Surety Bond	International Fidelity Insurance Company	CA State Board of Pharmacy	584742	2/17/19	2/17/20	451	25,000
2	Surety Bond	International Fidelity Insurance Company	MD Board of Pharmacy	584743	5/31/19	5/31/20	1,000	50,000