

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

	X		
	:		
In re	:		Chapter 11
	:		
INSYS THERAPEUTICS, INC., et al.,	:		Case No. 19-11292 (KG)
	:		
Debtors.¹	:		Jointly Administered
	:		
	:		Re: D.I. 8
	X		

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105,
363, AND 503 (I) AUTHORIZING PAYMENT OF CERTAIN
PREPETITION CLAIMS OF CRITICAL VENDORS, (II) CONFIRMING
ADMINISTRATIVE EXPENSE PRIORITY OF UNDISPUTED AND OUTSTANDING
PREPETITION ORDERS, AND (III) 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(b), and 503(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), for entry of an order (i) authorizing the Debtors to pay Critical Vendor Claims in an amount not to exceed the Critical Vendor Cap absent further order of the Court; (ii) confirming the administrative expense priority status of Outstanding Orders, and (iii) granting related relief, 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

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.

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 on June 11, 2019 to consider the relief requested in the Motion on an interim basis (the “**Interim Hearing**”); and the Court having entered an order granting the relief requested in the Motion on an interim basis (D.I. 52) (the “**Interim Order**”) and scheduling a final hearing on the Motion for July 8, 2019 (the “**Final Hearing**”); and the Final Hearing having been held, if necessary, to consider the relief requested in the Motion on a final basis; and upon the Long Declaration, filed contemporaneously with the Motion, and the record of the Interim Hearing and, if applicable, the Final Hearing; 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 on a final basis, as provided herein.
2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), and 503(b) of the Bankruptcy Code, to pay, or cause to be paid, Critical Vendor Claims and 503(b)(9) Claims in an amount not to exceed \$2,430,000 (the “**Critical Vendor Cap**”), of

which approximately \$50,000 shall be for 503(b)(9) Claims, unless otherwise ordered by the Court.

3. The Debtors shall undertake all appropriate efforts to cause Critical Vendors to enter into Trade Agreements with the Debtors.

4. The Debtors are authorized, but not directed, to condition payment of Critical Vendor Claims upon entry into Trade Agreements in the exercise of their reasonable business judgment.

5. Unless otherwise agreed by the Debtors, if any party accepts payment pursuant to the relief granted in this order (the “**Final Order**”) and (i) is a party to an executory contract or (ii) thereafter, as applicable, does not continue to provide either goods or services on Customary Trade Terms (regardless of whether a Trade Agreement has been executed), then the Debtors reserve all of their rights to treat any payment made pursuant to the relief granted in this Final Order as an unauthorized postpetition transfer and to exercise any and all appropriate remedies.

6. All undisputed obligations related to the Outstanding Orders are granted administrative expense priority status in accordance with section 503(b)(1)(A) of the Bankruptcy Code.

7. Commencing the week of July 8, 2019 and continuing throughout the duration of the Chapter 11 Cases on a monthly basis, the Debtors shall provide on a professional eyes’ only basis to advisors to the official committee of unsecured creditors appointed in the Chapter 11 Cases (the “**Committee**”) a schedule reflecting the status of critical vendor payments including (i) a list of Critical Vendor Claims that were paid, (ii) the Debtor(s) against which the Critical Vendor Claim is asserted, (iii) the amount paid, (iv) the name of each paid Critical Vendor, (v) whether any amount paid is entitled to priority under 11 U.S.C. § 503(b)(9), (vi) whether the Critical Vendor has executed

a Trade Agreement and (vii) whether each Critical Vendor has continued to provide goods or services on Customary Trade Terms. Within three (3) business days after entry of this Final Order, the Debtors shall also provide the Committee's professionals with a report of transactions that were effected pursuant to the Interim Order through and including the date of this Final Order.

8. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final 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. Nothing contained in the Motion or this Final Order shall be deemed to constitute an assumption or rejection of any executory contract or prepetition or postpetition agreement between the Debtors and a Critical Vendor or to require the Debtors to make any of the payments authorized herein.

10. The authorization granted hereby to pay Critical Vendor Claims shall not create any obligation on the part of the Debtors to pay the Critical Vendor Claims, and nothing contained in this order shall be deemed to increase, reclassify, elevate to an administrative expense status or otherwise affect the Critical Vendor Claims to the extent they are not paid.

11. Notice of the Motion is adequate under Bankruptcy Rule 6004(a).

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

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

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

Dated: July 3rd, 2019
Wilmington, Delaware

A handwritten signature in black ink, appearing to read "Kevin Gross", written over a horizontal line.

KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE