

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Achaogen, Inc.,

Debtor.¹

Chapter 11

Case No. 19-10844 (BLS)

RE: D.I. 7

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, MEDICARE AND OTHER OBLIGATIONS

Upon the motion (the "Motion")² 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, Medicare 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.

¹ The last four digits of the Debtor's federal tax identification number are 3693. The Debtor's mailing address for purposes of this Chapter 11 Case is 1 Tower Place, Suite 400, South San Francisco, CA 94080.

² 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 \$150,000 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. 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.

6. 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.

May 3, 2019
Wilmington, Delaware


THE HONORABLE BRENDAN L. SHANNON
UNITED STATES BANKRUPTCY JUDGE