

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

Chapter 11

Achaogen, Inc.

Case No. 19-10844 (BLS)

Debtor.¹

RE: D.I. Nos. 709, 717, 718, 720, 726, 727, 729

**CERTIFICATION OF COUNSEL REGARDING OMNIBUS
ORDER GRANTING FINAL ALLOWANCE OF FEES AND EXPENSES
FOR CERTAIN PROFESSIONALS**

The undersigned counsel to the above-captioned debtor and debtor in possession (the “Debtor”) hereby certifies as follows regarding the attached proposed *Omnibus Order Granting Final Allowance of Fees and Expenses for Certain Professionals* (the “Proposed Order”):

1. On May 16, 2019, the Court entered the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals* [D.I. 187] (the “Interim Compensation Order”)²

2. Pursuant to the procedures set forth in the Interim Compensation Order, the following Final Fee Applications were filed:

- a. Final Fee Application of Cassel Salpeter & Co., LLC, Debtor’s Investment Banker, for Compensation for Services Rendered and Reimbursement of

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 548 Market Street, #70987, San Francisco, CA 94104-5410.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Interim Compensation Procedures Order, unless context requires otherwise.



Expenses Incurred for the Period from April 15, 2019 Through Completion of the Royalty Payments (D.I. 709);

- b. (I) Fourth Consolidated Monthly Fee Application for the Period of February 1, 2020 Through and Including May 29, 2020 and (II) Second Interim and Final Fee Application for the Period of April 23, 2019 Through and Including May 29, 2020 of Akin Gump Strauss Hauer & Feld LLP, as Counsel to the Official Committee of Unsecured Creditors (D.I. 717);
- c. Combined Fourth Monthly and Final Application for Compensation and Reimbursement of Expenses of Province, Inc., as Financial Advisor to the Official Committee of Unsecured Creditors, for the (I) Monthly Period From February 1, 2020 Through May 29, 2020, and (II) Final Period From April 23, 2019 Through May 29, 2020 (D.I. 718);
- d. Final Fee Application of Kurtzman Carson Consultants LLC, as Administrative Advisor to the Debtor, for the Period from April 15, 2019 Through and Including May 29, 2020 (D.I. 720);
- e. Fourteenth Monthly (for the Period May 1, 2020 Through May 29, 2020) and Final Application of Morris, Nichols, Arsht & Tunnell LLP, as Delaware Bankruptcy Co-Counsel for the Debtor, for Allowance of Monthly Compensation and for Monthly Reimbursement of All Actual and Necessary Expenses Incurred for the Period April 15, 2019 Through May 29, 2020 (D.I. 726);
- f. Final Application of Hogan Lovells US LLP, as Bankruptcy Co-Counsel for the Debtor, for Allowance of Final Compensation and for Final Reimbursement of All Actual and Necessary Expenses Incurred for the Period April 15, 2019 Through May 31, 2020 (D.I. 727); and
- g. Twelfth Monthly and Final Fee Application of Klehr Harrison Harvey Branzburg LLP for Allowance and Payment of Compensation and Reimbursement of Expenses as Delaware Co-counsel to the Official Committee of Unsecured Creditors for the Periods (I) May 1, 2020 Through May 29, 2020 (Monthly) and (II) April 23, 2019 Through May 29, 2020 (Final) (D.I. 729).

3. Each of the following Professionals filed a certificate of no objection regarding its respective Final Fee Application: Cassel Salpeter & Co., LLC (D.I. 732); Akin Gump Strauss Hauer & Feld LLP (D.I. 734); Province, Inc. (D.I. 735); Kurtzman Carson

Consultants LLC (D.I. 733); Morris, Nichols, Arsht & Tunnell LLP (D.I. 736); Hogan Lovells US LLP (D.I. 740); and Klehr Harrison Harvey Branzburg LLP (D.I. 741).

4. Attached hereto as **Exhibit A** is the Proposed *Second Omnibus Order Granting Final Allowance of Fees and Expenses for Certain Professionals* (the “**Proposed Order**”).

5. Each of the Professionals and the U.S. Trustee have reviewed the Proposed Order and do not object to its entry.

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WHEREFORE, the Debtor respectfully requests that the Court enter the Proposed Order attached hereto as **Exhibit A** at its earliest convenience.

Dated: July 30, 2020
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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Counsel for Debtor and Debtor in Possession

Exhibit A

Proposed Order

**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.: 709, 717, 718, 720, 726, 727 and 729

**OMNIBUS ORDER GRANTING FINAL ALLOWANCE OF FEES
AND EXPENSES FOR CERTAIN PROFESSIONALS**

These matters come to be heard, in accordance with the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals* (D.I. 187) (the “Interim Compensation Procedures Order”),² on the Final Fee Applications filed by the Professionals identified on **Exhibits A and B** hereto for the periods set forth on such exhibit; and this Court having determined that proper and adequate notice of this matter has been given and that no other or further notice is necessary; and the requested compensation for the services detailed in the applicable Final Fee Applications being for reasonable and necessary services rendered by the applicable Professionals; the reimbursements for expenses detailed in the Final Fee Applications representing actual and necessary expenses incurred by the applicable Professionals in connection with this case; the legal and factual bases set forth in the Final Fee Applications having established just cause for the relief granted herein; and after due deliberation thereon; and good and sufficient cause appearing therefor;

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² Capitalized terms not defined herein shall have the meanings ascribed to them in the Interim Compensation Procedures Order.

IT IS HEREBY ORDERED:

1. Final compensation and reimbursement of expenses for the Professionals are hereby allowed as set forth in this Order, including **Exhibits A and B** attached hereto.

2. The Debtor or the Plan Trustee, as applicable, is authorized and directed to promptly disburse to each Professional payment in the amount of the difference between (a) 100% of the total fees and expenses allowed herein for such Professional as set forth on **Exhibits A and B** plus any additional fees and expenses incurred by such Professionals after the Effective Date in connection with preparing the applicable final fee applications and (b) the actual payments received by such Professional for the period covered herein, on a final basis; provided that the disbursement of such payments shall be in accordance with the *Order Authorizing the Debtor's Entry into the Stipulation Modifying the Final DIP Order Regarding Distribution of Certain Proceeds* (D.I. 634) and the *First Amended Chapter 11 Plan of Liquidation Jointly Proposed by Achaogen, Inc. and the Official Committee of Unsecured Creditors of Achaogen, Inc.* (D.I. 656).

3. The Debtor is authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Order.

4. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

5. This Order shall be effective immediately upon entry.

Dated: _____, 2020
Wilmington, Delaware

THE HONORABLE BRENDAN L. SHANNON
UNITED STATES BANKRUPTCY JUDGE

Exhibit A
Debtor's Professionals

FINAL FEE APPLICATION REQUESTS				
(1)	(2)	(3)	(4)	(5)
Applicant	Final Period	Total Fees Requested for the Final Period (100%)	Total Expenses Requested for the Final Period (100%)	Total Amount Authorized (Fees and Expenses)
Hogan Lovells US	4/15/19-5/31/20	\$3,839,011.75	\$56,445.57	\$3,895,457.32
Morris, Nichols, Arsht & Tunnell LLP	4/15/19-5/29/20	\$633,681.50	\$17,575.90	\$651,257.40
Kurtzman Carson Consultants, LLC	4/15/19-5/29/20	\$7,061.75	\$0.00	\$7,061.75
Cassel Salpeter & Co.	4/15/19-5/29/20	\$695,658.68 ¹	\$21,454.05	\$717,112.73
<u>TOTALS</u>		\$5,175,413.68	\$95,475.52	\$5,270,889.20

¹ This amount is based upon the Sale Transaction Fee per the Engagement Letter and does not include any consideration related to future royalty payments received related to the Sale Transactions. Cassel Salpeter reserves the right to receive future Sale Consideration based on future royalty payments.

Exhibit B**Committee's Professionals**

FINAL FEE APPLICATION REQUESTS				
(1)	(2)	(3)	(4)	(5)
Applicant	Final Period	Total Fees Requested for the Final Period (100%)	Total Expenses Requested for the Final Period (100%)	Total Amount Authorized (Fees and Expenses)
Akin Gump Strauss Hauer & Feld LLP	4/23/19-5/29/20	\$622,392.50	\$10,116.01	\$632,508.51
Klehr Harrison Harvey Branzburg LLP	4/23/19-5/29/20	\$207,473.00	\$871.29	\$208,344.29
Province, Inc.	4/23/19-5/29/20	\$295,462.75	\$5,599.35	\$301,062.10
<u>TOTALS</u>		\$1,125,328.25	\$16,586.65	\$1,141,914.90