

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

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In re:	)	
	)	Chapter 11
	)	
AKORN, INC., <sup>1</sup>	)	Case No. 20-11177 (KBO)
	)	
	)	(Jointly Administered)
Debtors.	)	
	)	Re: Docket No. 135

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**ORDER ESTABLISHING  
PROCEDURES FOR INTERIM COMPENSATION AND  
REIMBURSEMENT OF EXPENSES FOR PROFESSIONALS**

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Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) authorizing the Debtors to establish procedures for interim compensation and reimbursement of expenses for Professionals, all as more fully set forth in the Motion; and this Court having jurisdiction over this matter 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 that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and this Court having found that the Debtors’ notice of the Motion and

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, if any, are: Akorn, Inc. (7400); 10 Edison Street LLC (7890); 13 Edison Street LLC; Advanced Vision Research, Inc. (9046); Akorn (New Jersey), Inc. (1474); Akorn Animal Health, Inc. (6645); Akorn Ophthalmics, Inc. (6266); Akorn Sales, Inc. (7866); Clover Pharmaceuticals Corp. (3735); Covenant Pharma, Inc. (0115); Hi-Tech Pharmacal Co., Inc. (8720); Inspire Pharmaceuticals, Inc. (9022); Oak Pharmaceuticals, Inc. (6647); Olta Pharmaceuticals Corp. (3621); VersaPharm Incorporated (6739); VPI Holdings Corp. (6716); and VPI Holdings Sub, LLC. The location of the Debtors’ service address is: 1925 W. Field Court, Suite 300, Lake Forest, Illinois 60045.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings given to them in the Motion.



opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing, if any, before this Court (the “Hearing”), and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing, if any, establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. All Professionals in these cases may seek compensation in accordance with the following procedures (collectively, the “Compensation Procedures”):

- a. On or after the 21st day of each month following the month for which compensation is sought, each Professional seeking compensation may file an application (each, a “Monthly Fee Statement”) for interim allowance of compensation for services rendered and reimbursement of expenses incurred during the preceding month, and serve such Monthly Fee Statement by email on: (i) the Debtors, Akorn, Inc., 1925 W. Field Court, Suite 300, Lake Forest, Illinois 60045, Attn: Joseph Bonaccorsi; (ii) proposed counsel to the Debtors, Kirkland & Ellis LLP, 300 North LaSalle, Chicago, Illinois 60654, Attn: Patrick J. Nash, Jr., P.C., Gregory F. Pesce, Christopher M. Hayes, and Dan Latona, and Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Nicole L. Greenblatt, P.C.; (iii) proposed co-counsel to the Debtors, Richards, Layton & Finger P.A., 920 N. King Street, Wilmington, Delaware 19801, Attn: Paul N. Heath, Amanda R. Steele, Zachary I. Shapiro, and Brett M. Haywood; (iv) counsel to the Prepetition Agent, Wilmer Cutler Pickering Hale and Dorr LLP, 7 World Trade Center, 250 Greenwich Street, New York, New York 10007, Attn: Andrew Goldman; (v) counsel to the Ad Hoc Group, Gibson Dunn & Crutcher, 200 Park Avenue, New York, New York 10166, Attn: Scott J. Greenberg and Michael J. Cohen, and Young Conaway Stargatt & Taylor, LLP, 1000 North King Street, Wilmington, Delaware 19801, Attn: Robert S. Brady; (vi) the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Jane M. Leamy; and (vii) counsel to any statutory committee appointed in these chapter 11 cases (each an “Application Recipient,” and, collectively, the “Application Recipients”). Any Professional that fails to file a Monthly Fee Statement for a particular

month or months may subsequently submit a Monthly Fee Statement that includes a request for compensation earned or expenses incurred during the previous months.

- b. Any party in interest will have until 4:00 p.m. (prevailing Eastern Time) 20 days after service of a Monthly Fee Statement to review the request. Upon the expiration of such 20-day period, a Professional may file a certificate of no objection with the Court with respect to the unopposed portion of the fees and expenses requested in its Monthly Fee Statement (each, a “CNO”). After a CNO is filed with the Court, the Debtors are authorized and directed to pay the Professional an amount equal to 80 percent of the fees and 100 percent of the expenses requested in the applicable Monthly Fee Statement (the “Maximum Monthly Payment”) that are not subject to an objection pursuant to subparagraph (c) below (the “Actual Monthly Payment”).
- c. If any party in interest objects to a Monthly Fee Statement, the objecting party shall, within 20 days of service of the Monthly Fee Statement, serve a written notice upon the respective Professional (email shall suffice) and each of the Application Recipients (the “Notice of Objection to Monthly Fee Statement”) setting forth the precise nature of the objection and the amount at issue. Thereafter, the objecting party and the Professional shall attempt to resolve the objection on a consensual basis. If the parties reach an agreement, the Debtors shall promptly pay 80 percent of the agreed-upon fees and 100 percent of the agreed-upon expenses. If, however, the parties are unable to reach a resolution of the objection within 14 days (or such longer period as mutually agreed to by the Professional and the objecting party) after service of the objection, the objecting party shall file its objection (the “Objection”) with the Court within three (3) business days and serve such Objection on the respective Professional and each of the Application Recipients. Thereafter, the Professional may either (i) file with the Court a response to the Objection, together with a request for payment of the difference, if any, between the Maximum Monthly Payment and the Actual Monthly Payment made to the affected Professional (the “Disputed Amount”) or (ii) forego payment of the Disputed Amount until the next hearing on an Interim Fee Application or Final Fee Application (each as defined herein), at which time the Court will consider the Objection, if requested by the parties.
- d. Each Professional may submit its first Monthly Fee Statement no earlier than July 21, 2020. This initial Monthly Fee Statement will cover the period from the Petition Date through June 30, 2020. Thereafter, the Professionals may file Monthly Fee Statements in the manner described above.
- e. Beginning with the period ending on July 31, 2020 and at three-month intervals thereafter (each, an “Interim Fee Period”), each of the

Professionals may file and serve on the Application Recipients an interim fee application (each an “Interim Fee Application”) for compensation and reimbursement of expenses sought in the Monthly Fee Statements served during such period. Each Professional shall serve notice of its Interim Fee Application (which identifies the Professional seeking compensation, discloses the period for which the payment of compensation and reimbursement of expenses is being sought, sets forth the amount of compensation and expenses sought as well as the amount of compensation and expenses paid to date, sets forth the amount of compensation and expenses that are subject to any objection, and sets forth the deadline for parties to file objections, and, for attorneys, includes the additional information set forth in paragraph 4 below) on all parties that have entered their appearance pursuant to Bankruptcy Rule 2002. Application Recipients and all other parties in interest will have 20 days after service of an Interim Fee Application to object thereto. The first Interim Fee Application should cover the Interim Fee Period from the Petition Date through and including July 31, 2020.

- f. The Debtors will request that the Court schedule a hearing on Interim Fee Applications at least once every three (3) months or at such other intervals as the Court deems appropriate. The Court, in its discretion, may approve an uncontested Interim Fee Application without the need for a hearing upon the filing of an order approving such Interim Fee Applications under a certification of counsel. Upon allowance by the Court of a Professional’s Interim Fee Application, the Debtors shall be authorized to promptly pay such Professional all allowed fees (including the 20 percent holdback) and all allowed expenses not previously paid.
- g. The pendency of an Objection to payment of compensation or reimbursement of expenses will not disqualify a Professional from the future payment of compensation or reimbursement of expenses under the Compensation Procedures.

3. Neither (a) the payment of or the failure to pay, in whole or in part, monthly interim compensation and/or reimbursement of expenses under the Compensation Procedures nor (b) the filing of or failure to file an Objection with the Court as to any monthly or interim compensation and/or reimbursement of expenses will bind any party in interest or the Court with respect to the final allowance of applications for compensation and reimbursement of expenses of Professionals. All fees and expenses paid to Professionals under the Compensation Procedures are subject to challenge and disgorgement until final allowance by the Court.

4. In each Interim Fee Application and Final Fee Application, all attorneys who have been or are hereafter retained pursuant to sections 327, 328, or 1103 of the Bankruptcy Code, unless such attorney is retained by the Debtors pursuant to any order entered in connection with the retention and compensation of “ordinary course” professionals (such professionals, the “Required Professionals”) (a) shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Debtors’ chapter 11 cases in compliance with sections 330 and 331 of the Bankruptcy Code and applicable provisions of the Bankruptcy Rules, Local Rules, and any other applicable procedures and orders of the Court, and (b) intend to make a reasonable effort to comply with the U.S. Trustee’s requests for information and additional disclosures as set forth in the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases Effective as of November 1, 2013*, in connection with any Interim Fee Application and Final Fee Application to be filed by the Required Professionals in these chapter 11 cases.

5. Each member of any official committee formed by the U.S. Trustee is permitted to submit statements of expenses incurred in the performance of the duties of the committee (excluding third-party counsel expenses of individual committee members) and supporting vouchers to the applicable official committee’s counsel, which counsel will collect and file the committee members’ requests for reimbursement with this Court in accordance with the Compensation Procedures.

6. The Professionals shall be required to serve (i) the Monthly Fee Statements, the Interim Fee Applications, Final Fee Applications on the Application Recipients, and (ii) the notice of hearings on the Interim Fee Applications and the Final Fee Applications on all other

parties that have filed a notice of appearance with the Clerk of this Court and requested notice of pleadings in these chapter 11 cases.

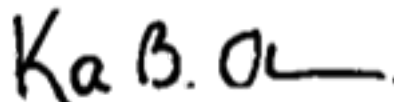
7. All notices given in accordance with the Compensation Procedures shall be deemed sufficient and adequate notice and in full compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

8. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

9. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

10. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

**Dated: June 23rd, 2020**  
**Wilmington, Delaware**

A handwritten signature in black ink, appearing to read "Ka B. Owens", with a stylized flourish at the end.

**KAREN B. OWENS**  
**UNITED STATES BANKRUPTCY JUDGE**