

**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. 30 & 123

**NOTICE OF PROPOSED SALE OF ALL OR
SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS, FREE
AND CLEAR OF ALL ENCUMBRANCES, OTHER THAN ASSUMED
LIABILITIES, AND SCHEDULING FINAL SALE HEARING RELATED THERETO**

PLEASE TAKE NOTICE OF THE FOLLOWING:

On April 15, 2019, Achaogen, Inc. (the “Debtor”) filed a motion (D.I. 30) (the “Sale Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Court”) seeking entry of two orders, in stages: (i) first, an order (the “Bidding Procedures Order”) (a) approving Bidding Procedures for the sale of all or substantially all of the Debtor’s assets (the “Purchased Assets”), (b) approving procedures for the assumption and assignment or rejection of designated executory contracts and unexpired leases (collectively, the “Transferred Contracts”), and the sale and transfer of other designated contracts, (c) scheduling the Auction and Sale Hearing,² and (d) approving forms and manner of notice of respective dates, times, and places in connection therewith, and (e) granting related relief (collectively, the “Bidding Procedures Relief”), and (ii) second, an order (the “Sale Order”) (a) authorizing the Sale of the Purchased Assets free and clear of all liens, claims, interests and other encumbrances (collectively, “Encumbrances”), other than Assumed Liabilities, to the Successful Bidder submitting the highest or otherwise best bid, (b) authorizing the assumption and assignment and rejection of the Transferred Contracts, and authorizing the sale and transfer of other designated contracts, and (c) granting certain related relief.

I. Bidding Procedures; Stalking Horse Bidder

On May 1, 2019, the Bankruptcy Court entered the Bidding Procedures Order (D.I. 123), thereby approving the Bidding Procedures Relief and the Debtor’s ability to designate a Stalking Horse Bidder in the Debtor’s business judgment (in consultation with the DIP Lender and the Committee) up to and including seven (7) days prior to the Bid Deadline (defined below). Upon designating a Stalking Horse Bidder, the Debtor may, in the Debtor’s business judgment (in consultation with the DIP Lender and Committee), seek emergency relief from the Bankruptcy

¹ The last four digits of 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 used but not defined herein shall have such meanings ascribed to them in the Bidding Procedures and Bidding Procedures Order, as applicable.



Court to obtain approval of any Bid Protections (as defined in the Bidding Procedures) for the Stalking Horse Bidder. In order for a Potential Bidder's bid to be considered to participate in the Auction, **it must comply with the Bidding Procedures, including that its bid must be delivered, so as to be received on or before 4:00 p.m. (prevailing Eastern Time), on May 29, 2019 (the "Bid Deadline")**, to the Debtor's investment banker: Cassel Salpeter & Co., LLC, 801 Brickell Avenue, Suite 1900, Miami, FL 33131, Attn: James S. Cassel and Philip Cassel (Telephone: (305) 438-7700; email: jcassel@cs-ib.com and pcassel@cs-ib.com) with copies provided contemporaneously to (i) counsel to the Debtor: Hogan Lovells US LLP, 1999 Avenue of the Stars, Suite 1400, Los Angeles, California 90067, Attn: Richard L. Wynne and Erin N. Brady (Telephone: (310) 785-4600, email: richard.wynne@hoganlovells.com and/or erin.brady@hoganlovells.com) and Morris, Nichols, Arsht & Tunnell LLP, 1201 North Market Street, P.O. Box 1347, Wilmington, Delaware 19899, Attn: Derek C. Abbott and Andrew R. Remming (Telephone: (302) 658-9200; email: dabbott@mnat.com and aremning@mnat.com); (ii) counsel to Silicon Valley Bank, N.A., in its capacity as a prepetition lender and DIP lender, under the Debtor's debtor-in-possession financing facility, Morrison & Foerster LLP, 200 Clarendon St., Boston, MA 02116, Attn: Alexander Rheume (Telephone (617) 648-4770, email: arheume@mofocom) and Morrison & Foerster LLP, 250 West 55th St., New York, NY 10019, Attn: Todd M. Goren and/or Benjamin W. Butterfield (Telephone: (212) 468 8000, email: bbutterfield@mofocom and/or tgoren@mofocom); and (iii) counsel to the Committee: Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, New York 10024, Attn: Arik Preis and Allison Miller (Telephone: (212) 872-1000; email: apreis@akingump.com and amiller@akingump.com (collectively, the "Notice Parties").

To receive copies of the (i) Sale Motion, all other exhibits to the Sale Motion, and/or a confidentiality agreement to become a Potential Bidder (as defined below), or (ii) a copy of the Form Purchase Agreement or Stalking Horse Bidder Purchase Agreement, as applicable, kindly submit a request in writing (email and facsimile requests are acceptable) to (a) the Debtor's counsel: Hogan Lovells US LLP, 1999 Avenue of the Stars, Suite 1400, Los Angeles, California 90067, Attn: Richard L. Wynne and Erin N. Brady (Telephone: (310) 785-4600, email: richard.wynne@hoganlovells.com and/or erin.brady@hoganlovells.com) or Hogan Lovells US LLP, 390 Madison Ave., New York, New York 10017, Attn: Christopher R. Bryant and John D. Beck (Telephone: (212) 918-3000; email: chris.bryant@hoganlovells.com and john.beck@hoganlovells.com) or Morris, Nichols, Arsht & Tunnell LLP, 1201 North Market Street, P.O. Box 1347, Wilmington, Delaware 19899, Attn: Derek C. Abbott and Andrew R. Remming (Telephone: (302) 658-9200; email: dabbott@mnat.com and aremning@mnat.com) and/or (b) the Debtor's investment banker: Cassel Salpeter & Co., LLC, 801 Brickell Avenue, Suite 1900, Miami, FL 33131, Attn: James S. Cassel and Philip Cassel, (Telephone: (305) 438-7700; email: jcassel@cs-ib.com and pcassel@cs-ib.com). Additionally, the Sale Motion and the exhibits thereto are available at www.kccllc.net/achaogen or those with PACER accounts may download copies from the Bankruptcy Court's website at <https://ecf.deb.uscourts.gov/>. In order for Potential Bidders to obtain access to the Debtor's dataroom, each Potential Bidder must first sign and deliver a confidentiality agreement to the Debtor and provide certain financial data, which must be acceptable to the Debtor. Please refer to the Bidding Procedures for further information concerning submitting a Qualified Bid to participate at the Auction.

II. Sale Hearing and Closing

The Sale Hearing is scheduled for **June 6, 2019 at 10:00 a.m. (prevailing Eastern Time)** at the United States Bankruptcy Court for the District of Delaware, United States Courthouse, 824 Market Street North, 3rd Floor, Wilmington, DE 19801. The Sale Hearing is being held to approve the highest or otherwise best offer received for the Purchased Assets at the Auction, which, if any, will take place at the offices of Hogan Lovells US LLP, 4085 Campbell Ave #100, Menlo Park, CA 94025 on **June 3, 2019, commencing at 10:00 a.m. (prevailing Pacific Time)**. The Sale Hearing may be adjourned or rescheduled with prior notice filed on the docket of the Debtor's Chapter 11 Case or without prior notice by an announcement of the adjourned date at the Sale Hearing. The closing on the Sale with the Successful Bidder shall occur not later than June 21, 2019.

THE DEADLINE TO OBJECT TO THE DEBTOR'S REQUEST TO APPROVE THE SALE OF THE PURCHASED ASSETS FREE AND CLEAR OF ALL ENCUMBRANCES (OTHER THAN THE ASSUMED LIABILITIES) TO THE SUCCESSFUL BIDDER FOR ALL OBJECTIONS OTHER THAN TO THE OUTCOME OF THE AUCTION (EACH, A "SALE OBJECTION") IS MAY 30, 2019, at 5:00 P.M. (PREVAILING EASTERN TIME) (THE "SALE OBJECTION DEADLINE"). ANY OBJECTIONS TO THE OUTCOME OF THE AUCTION (EACH, AN "AUCTION OBJECTION") IS JUNE 5, 2019, AT 12:00 P.M. (PREVAILING EASTERN TIME) (THE "AUCTION OBJECTION DEADLINE").

Any person or entity wishing to submit a Sale Objection or Auction Objection must do so in writing and state with particularity the grounds for such objections or other statements of position. All Sale Objections and Auction Objections shall be served so as to be actually received by no later than the Sale Objection Deadline or Auction Objection Deadline, respectively, by (i) counsel to the Debtor: Hogan Lovells US LLP, 1999 Avenue of the Stars, Suite 1400, Los Angeles, California 90067, Attn: Richard L. Wynne and/or Erin N. Brady or Hogan Lovells US LLP, 390 Madison Avenue, New York, New York 10017, Attn: Christopher R. Bryant and John D. Beck (Telephone: (212) 918-3000; email: chris.bryant@hoganlovells.com and john.beck@hoganlovells.com) and Morris, Nichols, Arsht & Tunnell LLP, 1201 North Market Street, P.O. Box 1347, Wilmington, Delaware 19899, Attn: Derek C. Abbott and Andrew R. Remming (Telephone: (302) 658-9200; email: dabbott@mnat.com and aremming@mnat.com); (ii) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, DE 19801, Attn: Timothy J. Fox, Esq. (Telephone: (302) 573-6491, email: timothy.fox@usdoj.gov); and (iii) those parties who have filed notices of appearance and/or requested service of all motions and pleadings in this Chapter 11 Case prior to the date of service thereof.

The failure of any person or entity to file and serve a Sale Objection or Auction Objection on or before the Sale Objection Deadline or Auction Objection Deadline, as applicable, (i) shall be deemed a consent to the Sale to the Successful Bidder and the other relief requested in the Sale Motion, and (ii) shall be a bar to the assertion, at the Sale Hearing or thereafter, to the Sale Motion, the Auction, the sale of the Purchased Assets (including in any such case, without

limitation, the transfer of the Purchased Assets free and clear of all Encumbrances, other than the Assumed Liabilities).

III. Debtor's Contracts and Leases

The Sale Order, if approved, shall authorize the assumption and assignment of the Transferred Contracts of the Debtor and the rejection by the Debtor of certain other designated executory contracts and unexpired leases. In accordance with the Bidding Procedures Order, individual notices setting forth the specific Transferred Contracts to be assumed by the Debtor and assigned to the Successful Bidder, or sold and transferred to the Successful Bidder, and the proposed Cure Amounts for such contracts will be given to all counterparties to the Transferred Contracts. Such counterparties will be given the opportunity to object to the assumption and assignment, or sale and transfer, of a Transferred Contract and the proposed Cure Amount.

This Notice is subject to the full terms and conditions of the Bidding Procedures and the Bidding Procedures Order, which shall control in the event of any conflict. The Debtor encourages all persons to review such documents and all other Sale-related documents in their entirety and to consult an attorney if they have questions or want advice.

Dated: May 2, 2019
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Paige N. Topper

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