

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

In re:

OREXIGEN THERAPEUTICS, INC.,

Debtor.¹

Chapter 11

Case No. 18-10518 (KG)

RE: D.I. 1007

**NOTICE OF FILING OF REDLINE OF CHANGED PAGE OF
THE DISCLOSURE STATEMENT FOR THE DEBTOR'S
AMENDED PLAN OF LIQUIDATION**

PLEASE TAKE NOTICE that on March 6, 2019, the Debtor filed the *Debtor's Plan of Liquidation* (D.I. 967) (the "Plan") and the Debtor filed the *Disclosure Statement for the Debtor's Plan of Liquidation* (D.I. 968) (the "Disclosure Statement").

PLEASE TAKE FURTHER NOTICE that on March 29, 2019, the Debtor filed the solicitation versions of the *Debtor's Amended Plan of Liquidation* (D.I. 1001) (the "Amended Plan") and the solicitation version of the *Disclosure Statement for the Debtor's Amended Plan of Liquidation* (D.I. 1002) (the "Amended Disclosure Statement").

PLEASE TAKE FURTHER NOTICE that the Amended Disclosure Statement inadvertently omitted informational edits received from one party that had previously been agreed to with such party. On March 30, 2019, the Debtor filed the corrected solicitation version of the *Disclosure Statement for the Debtor's Amended Plan of Liquidation* (D.I. 1007) (the "Corrected Amended Disclosure Statement").

¹ The last four digits of the Debtor's federal tax identification number are 8822. The Debtor's mailing address for purposes of this Chapter 11 Case are Orexigen Therapeutics, Inc. c/o Hogan Lovells US LLP, 875 Third Avenue, New York, NY 10022, Attn: Chris Bryant and John Beck.



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PLEASE TAKE FURTHER NOTICE that attached hereto as **Exhibit A** is a redline comparing the one changed page of the Corrected Amended Disclosure Statement to the Amended Disclosure Statement.

Dated: March 30, 2019
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Tamara K. Mann

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EXHIBIT A

Redline – Amended Disclosure Statement Changed Page

supporting its retention of certain of the Holdback Amounts aggregating approximately \$2.6 million, or otherwise release such Holdback Amounts to the Debtor no later than February 22, 2019. On February 26, 2019, the Debtor received a response from the Purchaser pursuant to which the Purchaser stated it intended to release approximately \$214,000 in Holdback Amounts to the Debtor in early March, and otherwise disputed the Debtor's claim that it is entitled to the release of any additional Holdback Amounts, which currently total approximately \$4.25 million pursuant to the Purchaser's response. As of the date hereof, the Debtor has not received any additional Holdback Amounts from the Purchaser. The Debtor continues to maintain that it is entitled to a release of Holdback Amounts of at least \$2.6 million and is continuing its discussions with the Purchaser.

Under the Plan, the Purchase Agreement, and the Wind Down Entity Documents, any Holdback Amounts released by the Purchaser shall be (i) paid to the Debtor and included in Distributable Cash, to the extent received by the Debtor on or prior to the Effective Date, and (ii) paid to the Wind Down Administrator and distributed Pro Rata to holders of Class 3 Prepetition Secured Noteholder Claims, to the extent released after the Effective Date.

2.6 The McKesson Dispute.

McKesson and the Debtor had entered into the Distribution Agreement in June 2016, pursuant to which McKesson purchased and distributed Contrave®. MPRS and the Debtor had separately entered into the Services Agreement in July 2016, pursuant to which MPRS managed certain retail discount programs for Debtor. As of the Petition Date, McKesson owed the Debtor approximately \$6.9 million under the Distribution Agreement, and the Debtor owed MPRS approximately \$8.5 million under the Services Agreement. Pursuant to a series of stipulations, McKesson paid what it owed under the Distribution Agreement to the Debtor, MPRS reserved any rights to set off its claims against Debtor against the amounts McKesson paid, and the parties stipulated and agreed the Debtor would segregate \$6,932,816.40 (the "**Disputed Funds**") from the Sale proceeds pending the entry of a Final Order resolving the McKesson Dispute.

On July 30, 2018, McKesson and MPRS filed a motion for an order that MPRS is entitled to setoff (the "**Disputed Rights Motion**"). On November 13, 2018, the Bankruptcy Court issued an opinion denying the Disputed Rights Motion and entered the McKesson Order, thereby resolving the McKesson Dispute against McKesson and in favor of the estate and the Prepetition Secured Noteholders. McKesson and MPRS appealed the McKesson Order to the United States District Court for the District of Delaware, ~~but have not sought a stay of the McKesson Order. As of March 15, 2019, the McKesson Appeal was will be~~ fully briefed and the parties are awaiting a ruling by the District Court. The Debtor is highly confident that the District Court will affirm the Bankruptcy Court ~~and. If after all further appeal rights have been exhausted, and an order resolving the McKesson Order will become~~ Dispute then becomes a Final Order, then the Disputed Funds shall be distributed in accordance with stipulations entered and approved by Court Order.

The Debtor will continue to segregate the Disputed Funds until such a Final Order resolving the McKesson Dispute has been entered, whether before or after the confirmation and effectiveness of the Plan. To the extent a Final Order grants the Disputed Rights Motion,