

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

In re

OREXIGEN THERAPEUTICS, INC.,

Debtor.

Chapter 11

Case No. 18-10518(KG)

RE: Docket Nos. 860, 1092, 1124

STIPULATION RESOLVING (I) THE FIRST OMNIBUS OBJECTION OF YOUNG & RUBICAM LLC AND VML, LLC TO CLAIM NUMBERS 4, 22, 129, 130, 132, 137, 149 AND 154 [ECF NO. 1124], (II) DEBTOR'S THIRD OMNIBUS OBJECTION TO CLAIMS FILED BY VML, LLC AND YOUNG & RUBICAM LLC [ECF NO. 860] AND (III) THE LIMITED OBJECTION OF DISCOVERY, INC. TO CONFIRMATION OF DEBTOR'S AMENDED PLAN OF LIQUIDATION [ECF NO. 1092]

This stipulation (the "Stipulation"), dated December 12, 2019, is entered into by and among (i) Young & Rubicam LLC ("Y&R") and VML, LLC ("VML," and together with Y&R, the "Agencies"), (ii) the media vendors identified on Schedule 1 hereto (each a "Media Vendor," and collectively, the "Media Vendors") and (iii) the Wind Down Entity established pursuant to the *Findings of Fact, Conclusions of Law, and Order Confirming Debtor's Modified Amended Plan of Liquidation* entered in *In re Orexigen Therapeutics, Inc.*, Case No. 18-10518 (Bankr. D. Del.) [ECF No. 1113]. The Agencies, the Media Vendors, and the Wind Down Entity may each be referred to herein as a "Party," and, collectively, as the "Parties."

WHEREAS, on March 12, 2018 (the "Petition Date"), the above-captioned debtor ("Debtor") filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Court");

WHEREAS, on April 11, 2018, the Court entered its *Order (A) Establishing Bar Date for Filing Proofs of Claim, (B) Approving the Form and Manner for Filing Proofs of Claim, (C)*



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Approving Notice Thereof, (D) Implementing Uniform Procedures Regarding 503(B)(9) Claims, and (E) Granting Related Relief [ECF No. 170];

WHEREAS, on June 13, 2018, Y&R and VML timely filed proofs of claim totaling \$12,325,775.44 (Claim No. 119) (the “Y&R Claim”) and \$8,581,079.42 (Claim No. 117) (the “VML Claim,” together with the Y&R Claim, the “Agency Claims”), respectively;

WHEREAS, the Agency Claims assert claims for, *inter alia*, unpaid receivables on account of media space purchased prior to the Petition Date by the Agencies from certain media providers, including each Media Vendor, which Agencies contend was purchased solely in their capacity as agents for Debtor;

WHEREAS, on various dates, the Media Vendors filed proofs of claim, each identified on Schedule 1 (the “Media Vendor Claims”);

WHEREAS, on December 17, 2018, Debtor filed its *Third Omnibus Objection (Non-Substantive) to Claims filed by VML, LLC and Young and Rubicam, LLC Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1* [ECF No. 860] (the “Agency Claims Objection”), in which Debtor objected to and sought disallowance of the Agency Claims upon such grounds and for such reasons as set forth therein, and the Agency Claims Objection has been adjourned to a date to be determined;

WHEREAS, on May 6, 2019, Discovery, Inc., on behalf of itself and Television Food Network, Home & Garden Television and DIY Network filed its *Limited Objection of Discovery, Inc. to Confirmation of Debtor’s Amended Plan of Liquidation* (the “Discovery Objection”) [ECF No. 1092];

WHEREAS, on May 15, 2019, the Debtor filed its *Modified Plan Supplement* [ECF No. 1105], providing for a Priority Claim Reserve, which includes \$50,000 “earmarked for payment

of the administrative claims asserted by Discovery, Inc., [Television] Food Network, Home & Garden Television and DIY Network in their motion filed May 6, 2019 [Dkt. No. 1092], to the extent such claims are allowed in whole or part” (the “Earmarked Funds”);

WHEREAS, on May 17, 2019, the Court entered the *Findings of Fact, Conclusions of Law, and Order Confirming Debtor’s Modified Amended Plan of Liquidation* [ECF No. 1113] (the “Confirmation Order” and the “Plan”), providing for the creation of the Wind Down Entity to administer the Wind Down Assets (as defined in the Plan);

WHEREAS, on May 30, 2019, the Agencies filed the *First Omnibus (Substantive) Objection of Young & Rubicam LLC and VML, LLC to Claim Numbers 4, 22, 129, 130, 132, 137, 149 and 154* [ECF No. 1124] (the “Media Claims Objection”), which, *inter alia*, objects to and seeks disallowance of certain of the Media Vendor Claims upon such grounds and for such reasons as set forth therein;

WHEREAS, on May 31, 2019, the Plan became effective [ECF No. 1125] and the Wind Down Entity was created;

WHEREAS, one or more of the Media Vendors disputes the allegations raised in the Media Claims Objection and contends, among other things, that the Agency Claims Objection should be sustained;

WHEREAS, the Agencies dispute the allegations raised in the Agency Claims Objection and contend, among other things, that the Media Claims Objection should be sustained; and

WHEREAS, in order to avoid the expense and risks of litigation and delay in the resolution of the various issues and disputes between the Parties hereto, the Parties wish to resolve the disputes raised by the Agency Claims Objection, the Media Claims Objection and the Discovery Objection, all without admission or determination of the merits, but with prejudice as

to the allowed amount and priority of the Agency Claims, and the amounts of the Unsecured Media Vendor Amounts and Administrative Priority Media Vendors Amount (each as defined herein) set forth on Schedule 1, pursuant to the terms and conditions set forth below.

NOW THEREFORE, each of the Parties stipulates and agrees as follows:

1. The Media Vendor Claims shall be deemed withdrawn in full and expunged, with prejudice, and each of the Agency Claims Objection, the Media Claims Objection and the Discovery Objection shall be deemed withdrawn.

2. (A) The Y&R Claim shall be deemed allowed as (i) a general unsecured in the amount of \$12,140,200.36 and (ii) an administrative priority claim under section 503(a)(1)(A) of the Bankruptcy Code in the amount of \$46,991.40; and (B) the VML Claim shall be deemed allowed as a general unsecured claim in the amount of \$8,581,079.42.

3. The claims agent in Debtor's bankruptcy case is authorized and directed to adjust the claims register in accordance with this Stipulation.

4. The Parties agree that, of the total allowed amount of the Agency Claims, the unsecured amount and administrative priority amount set forth opposite each Media Vendor's name on Schedule 1 (as to each Media Vendor, the "Unsecured Media Vendor Amount" or the "Administrative Priority Media Vendor Amount," as applicable) is attributable to media space purchased from each Media Vendor.

5. Upon the Agencies' receipt of a distribution from the Wind Down Entity on account of the unsecured portions of the Agency Claims, the Agencies shall promptly, and in no event later than fourteen (14) business days following receipt, make a *pro rata* distribution to each Media Vendor equal to the ratio of (i) the applicable Unsecured Media Vendor Amount and (ii) the combined amount of the VML Claim and the unsecured portion of the Y&R Claim.

6. Upon Agencies' receipt of a distributions from the Wind Down Entity on account of the administrative portions of the Y&R Claim solely from the Earmarked Funds, the Agencies shall promptly, and in no event later than fourteen (14) business days following receipt, make a distribution to each of DIY Network, Home and Garden Television, and Television Food Network of the Administrative Priority Media Vendor Amount applicable to them.

7. The Agency agrees to keep each Media Vendor reasonably informed as to any and all anticipated and received recoveries. Upon reasonable written request of a Media Vendor, the Agencies shall provide an accounting in the form of a spreadsheet detailing in summary fashion the *pro rata* distributions made to Y&R, VML and each Media Vendor pursuant to this Stipulation.

8. By entering into this Stipulation, the Parties acknowledge and agree that this Stipulation constitutes a negotiated compromise of factual and legal issues in dispute; is entered into without admission or determination of the merits, but with prejudice as to the allowed amount and priority of the Agency Claims, and the amounts of the Unsecured Media Vendor Amounts and Administrative Priority Media Vendor Amounts; and is entered into for the sole purpose of resolving this matter and avoiding the risk, time and expense incident to litigation. Neither this Stipulation nor any negotiations or communications in connection with this Stipulation shall be admissible in any court or proceeding for any purpose other than enforcing or interpreting this Stipulation.

9. Each Party represents that is authorized to enter into this Stipulation and the person signing below is such party's authorized representative. This Stipulation constitutes the entire agreement between the Parties with respect to the subject matter hereof, and all prior understandings or agreements with respect thereto, if any, are merged into this Stipulation. No

term or provision of this Stipulation may be altered or changed in any respect except by a written agreement executed by the Parties.

10. This Stipulation may be signed in counterparts, each of which shall be an original, with the same effect as if all signature pages were on the same instrument. In the event that any signature page is delivered by facsimile transmission or as a PDF (or other generally available commercial imaging format) to an email, the electronic delivery of such executed signature page shall create a valid binding obligation of the Party executing such signature (or on whose behalf such signature is executed) with the same force and effect as if such electronically delivered signature page were an original thereof.

11. This Stipulation shall be effective immediately upon entry of an order by the Court approving this Stipulation.

12. The Court shall retain sole jurisdiction to hear and determine all matters arising from or related to this Stipulation.

[remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, this Stipulation is entered into as of the date set forth on the first page.

<p>YOUNG & RUBICAM LLC</p> <p>By: <u>/s/ Massimo Giugliano</u> Name: <u>Massimo Giugliano</u> DAVIS & GILBERT LLP 1740 Broadway New York, NY 10019 <i>Counsel for Young & Rubicam LLC</i></p>	<p>VML, LLC</p> <p>By: <u>/s/ Massimo Giugliano</u> Name: <u>Massimo Giugliano</u> DAVIS & GILBERT LLP 1740 Broadway New York, NY 10019 <i>Counsel for VML, LLC</i></p>
<p>DIY NETWORK</p> <p>By: <u>/s/ Mary Fullington</u> Name: <u>Mary Fullington (KY #85335)</u> WYATT TARRANT & COMBS, LLP 250 West Main St. Suite 1600 Lexington, KY 40507 <i>Counsel for DIY Network</i></p>	<p>HOME AND GARDEN TELEVISION</p> <p>By: <u>/s/ Mary Fullington</u> Name: <u>Mary Fullington (KY #85335)</u> WYATT TARRANT & COMBS, LLP 250 West Main St. Suite 1600 Lexington, KY 40507 <i>Counsel for Home and Garden Television</i></p>
<p>TELEVISION FOOD NETWORK</p> <p>By: <u>/s/ Mary Fullington</u> Name: <u>Mary Fullington (KY #85335)</u> WYATT TARRANT & COMBS, LLP 250 West Main St. Suite 1600 Lexington, KY 40507 <i>Counsel for Television Food Network</i></p>	<p>AMERICAN BROADCASTING COMPANY, INC.</p> <p>By: <u>/s/ Alec Lipkind, Esq.</u> Name: <u>Alec Lipkind</u> Title: <u>Counsel</u></p>
<p>FOX NEWS NETWORK, LLC</p> <p>By: <u>/s/ Michael J. Venditto</u> Name: <u>Michael J. Venditto</u> REED SMITH LLP 599 Lexington Avenue New York NY 10022 <i>Counsel for Fox News Network, LLC</i></p>	<p>ION MEDIA NETWORKS</p> <p>By: <u>/s/ David Christmas</u> Name: <u>David Christmas</u> Title: <u>General Counsel</u></p>
<p>TURNER BROADCASTING SALES, INC.</p> <p>By: <u>/s/ Tiffany Strelow Cobb</u> Name: <u>Tiffany Strelow Cobb</u> VORYS, SATER, SEYMOUR AND PEASE LLP 52 East Gay Street Columbus, OH 43215 <i>Counsel for Turner Broadcasting Sales, Inc.</i></p>	<p>HEALTH GRADES OPERATING COMPANY, INC.</p> <p>By: <u>/s/ Chad Picard</u> Name: <u>Chad Picard</u> Title: <u>Accounting Manager</u></p>

PROVINCE, INC., solely in its capacity as
the Wind Down Administrator of Debtor's
chapter 11 bankruptcy estate

By: /s/ Amanda Demby
Name: Amanda Demby
Title: Managing Director

SCHEDULE 1

Name of Claimant	Claim Number	Unsecured Media Vendor Amount	Administrative Priority Media Vendor Amount
DIY Network	130	\$103,887.00	\$1,026.80
Home and Garden Television	132	\$382,306.20	\$33,643.00
Television Food Network	129	\$689,837.90	\$12,321.60
American Broadcasting Company, Inc.	22	\$1,967,155.00	\$0.00
Fox News Network, LLC	149, 154	\$363,966.60	\$0.00
Ion Media Networks, Inc.	4	\$284,350.50	\$0.00
Turner Broadcasting Sales, Inc.	137	\$439,234.10	\$0.00
Healthgrades Operating Company, Inc.	57	\$55,646.28	\$0.00