

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re:

Zosano Pharma Corporation,<sup>1</sup>

Debtor.

Chapter 11

Case No. 22-10506 (JKS)

**Ref. Docket No. 8**

**INTERIM ORDER (A) AUTHORIZING THE MAINTENANCE OF BANK ACCOUNTS  
AND CONTINUED USE OF EXISTING BUSINESS FORMS AND CHECKS,  
(B) AUTHORIZING THE CONTINUED USE OF CASH MANAGEMENT SYSTEM  
AND (C) WAIVING CERTAIN INVESTMENT AND DEPOSIT GUIDELINES**

Upon consideration of the motion (the “**Motion**”)<sup>2</sup> filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**”) seeking entry of interim and final orders, (a) authorizing the maintenance of the Debtor’s existing Bank Accounts and continued use of existing Business Forms, (b) authorizing, but not directing, the use of the existing Cash Management System and (c) waiving certain investment and deposit requirements under the Guidelines; and upon the First Day Declaration; and upon the statements of counsel in support of the relief requested in the Motion at the hearing before the Court; and it appearing that this Court has jurisdiction to consider the Motion 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 it appearing that venue of the chapter 11 case and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that proper and adequate notice of the Motion has been given under the circumstances and in accordance with the

<sup>1</sup> The business address and the last four (4) digits of the Debtor’s federal tax identification number is Zosano Pharma Corporation, 34790 Ardentech Court, Fremont, California 94555 (8360).

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



Bankruptcy Rules and Local Rules and that no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on an interim basis as set forth herein.
2. The Debtor is authorized, but not directed, to maintain and use its Cash Management System, as more fully set forth in the Motion.
3. Notwithstanding any requirements to the contrary in the Guidelines or otherwise, the Debtor is authorized, but not directed, to maintain and use the existing Bank Accounts listed on Exhibit A to the Motion in the name and with the account numbers existing immediately prior to the Petition Date.
4. The requirement in the Guidelines that the Debtor establish a specific new bank account for tax payments is waived. The Debtor is granted an extension of the time to comply with the requirements of 11 U.S.C. § 345(b) for a period of thirty (30) days, without prejudice to the Debtor's right to seek further waivers from the U.S. Trustee without further Order of this Court.
5. The Debtor is authorized, but not directed, to deposit funds in and withdraw funds from its Bank Accounts by all usual means, subject to the same access rights and limitations existing prior to the Petition Date, including, but not limited to, checks, wire transfers, automated clearinghouse transfers, electronic funds transfers and other debits and to treat the Bank Accounts for all purposes as debtor-in-possession accounts.
6. The Debtor is authorized to continue to use its checks, correspondence and other Business Forms including, but not limited to, purchase orders, letterhead, envelopes, promotional materials, substantially in the forms existing immediately prior to the Petition Date, without reference to the Debtor's debtor-in-possession status.

7. The Banks listed on **Exhibit A** to the Motion and any and all other financial institutions receiving or transferring funds from the Debtor is hereby authorized, but not directed, to continue to service and administer the Bank Accounts of the Debtor as a debtor-in-possession account without interruption and in the usual and ordinary course, and to receive, process, honor and pay any and all checks, drafts, wires or automated clearinghouse transfers drawn on the Bank Accounts by the holders or makers thereof, provided that nothing contained herein shall authorize any such Bank to honor any check issued or dated prior to the date of the commencement of this chapter 11 case, except as otherwise provided by further order of this Court. In no event shall any of the Banks be required to honor overdrafts or to pay any check, wire or other debit against any of the Bank Accounts that is drawn against uncollected funds.

8. For Banks at which the Debtor holds Bank Accounts that are party to a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, within fifteen (15) days of the date of entry of this Order, the Debtor shall (a) contact each Bank; (b) provide the Bank with each of the Debtor's employer identification numbers; and (c) identify each of its Bank Accounts held at such Banks as being held by a debtor-in-possession in a bankruptcy case.

9. For Banks at which the Debtor holds Bank Accounts that are not party to a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, if any, the Debtor is authorized, but not directed, to use its good-faith efforts to attempt to cause the Banks to execute a Uniform Depository Agreement in a form prescribed by the Office of the United States Trustee within thirty (30) days of the date of this Order. The U.S. Trustee's rights to seek further relief from this Court on notice in the event that the

aforementioned Banks are unwilling to execute a Uniform Depository Agreement in a form prescribed by the U.S. Trustee are fully reserved.

10. The Debtor shall retain the authority to close or otherwise modify certain of its Bank Accounts and open new debtor-in-possession accounts, or otherwise make changes to its Cash Management System as it deems necessary to facilitate the chapter 11 case and continued operations, or as may be necessary to comply with the requirements of any debtor-in-possession financing facility or cash collateral usage approved by this Court; *provided, however*, that the Debtor shall open any such new Bank Account at Banks that have executed a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, or at such Banks that are willing to immediately execute such an agreement. In the event that the Debtor opens any additional Bank Accounts or close any current or additional Bank Accounts, such opening or closing shall be timely indicated on the Debtor's monthly operating reports and notice of such opening or closing shall be provided seven (7) days prior to such opening or closing to the Office of the United States Trustee for the District of Delaware, counsel to any statutory committee appointed in the chapter 11 case (subsequent to its appointment).

11. Subject to section 553 of the Bankruptcy Code, all Banks that maintain the Bank Accounts are prohibited from offsetting, affecting, freezing or otherwise impeding the Debtor's use of any funds in the Bank Accounts on account of, or by reason of, any claim (as defined in section 101(5) of the Bankruptcy Code) of any such Bank against the Debtor that arose before the Petition Date, absent further order of this Court.

12. In connection with the ongoing utilization of the Cash Management System, the Debtor shall continue to maintain records with respect to all transfers of cash so that all

transactions may be readily ascertained, traced, recorded properly and distinguished between prepetition and postpetition transactions.

13. The Debtor is authorized, but not directed, to pay or reimburse any Bank Fees, claims, costs, expenses or charges associated with the Bank Accounts and arising prior to and after the Petition Date, including, without limitation, (i) service charges or fees; (ii) checks deposited with the Banks which have been dishonored or returned for insufficient funds; and (iii) any reimbursement or other payment obligations, such as overdrafts, arising under the terms of any prepetition agreement existing between the Debtor and each Bank (collectively, the “**Bank Account Claims**”). In the course of maintaining any of the Bank Accounts for the Debtor, the Banks are authorized, without further Order of this Court, to continue to deduct from the appropriate Bank Accounts, the Bank Account Claims incurred in connection with the Bank Accounts.

14. This Order shall apply to any and all Bank Accounts actually in, or linked to, the Cash Management System, even if such Bank Accounts do not appear on the list attached as **Exhibit A** to the Motion. Any and all accounts opened by the Debtor on or after the Petition Date at any Bank shall be deemed a Bank Account (as if it had been opened prior to the Petition Date and listed on **Exhibit A** to the Motion) and any and all Banks at which such accounts are opened shall similarly be subject to the rights and obligations of this Order once served with a copy of this Order.

15. The Debtor is authorized to request the Banks, and the Banks are authorized to accept and honor all representations from the Debtor, as to which checks, drafts, wires or automated clearinghouse transfers should be honored or dishonored whether the Banks believe the payment is or is not consistent with the order(s) of this Court and governing law, and whether

such checks, drafts, wires or automated clearinghouse transfers are dated or made prior to, on or subsequent to the Petition Date.

16. Each of the Banks is authorized to debit the Debtor's accounts in the ordinary course of business without the need for further order of this Court for (i) all checks drawn on the Debtor's accounts which are cashed at such Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Petition Date; (ii) all checks or other items deposited in one of the Debtor's accounts with such Bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to the Petition Date; and (iii) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Bank as service charges for the maintenance of the Cash Management System.

17. Any of the Banks may rely on the representations of the Debtor with respect to whether any check or other payment order drawn or issued by the Debtor prior to the Petition Date should be honored pursuant to this or any other order of this Court, and such Bank shall not have any liability to any party for relying on such representations by the Debtor as provided for herein.

18. Nothing in this Order (i) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtor and its estate; (ii) shall impair, prejudice, waive, or otherwise affect the rights of the Debtor and its estate with respect to the validity, priority, or amount of any claim against the Debtor and its estate or (iii) shall be construed as a promise to pay a claim.

19. A final hearing to consider the relief requested in the Motion shall be held on June 29, 2022 at 1:00 p.m. (prevailing Eastern Time) and any objections to entry of such order shall be in writing and filed with this Court no later than June 22, 2022 at 4:00 p.m. (prevailing Eastern Time) and served on: the Debtor, Zosano Pharma Corporation, 34790 Ardentech Court, Fremont, CA 94555, Attn: Steven Lo; (ii) proposed counsel for the Debtor, Greenberg Traurig, LLP (Attn: Dennis A. Meloro (melorod@gtlaw.com), John D. Elrod (elrodj@gtlaw.com) and Ari Newman (newmanar@gtlaw.com)); (iii) counsel to any statutory committee appointed in the chapter 11 case; and (vi) the United States Trustee for the District of Delaware, 844 N. King Street, Room 2207, Wilmington, Delaware, Attn: Joseph F. Cudia (joseph.cudia@usdoj.gov). If no objections to the entry of the Final Order are timely filed, this Court may enter the Final Order without further notice or a hearing.

20. Bankruptcy Rule 6003(b) has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtor.

21. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

22. The Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Order.

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

**Dated: June 8th, 2022**  
**Wilmington, Delaware**



**J. KATE STICKLES**  
**UNITED STATES BANKRUPTCY JUDGE**