

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

	X	
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<i>In re:</i>	:	Chapter 11
	:	
VION PHARMACEUTICALS, INC.,	:	Case No. 09-14429 (CSS)
	:	
Debtor. ¹	:	
	:	
	X	

**ORDER PURSUANT TO §§ 327(A) AND 328(A) OF THE BANKRUPTCY CODE AND
RULE 2014 OF THE BANKRUPTCY RULES AUTHORIZING THE EMPLOYMENT
AND RETENTION OF ERNST & YOUNG LLP *NUNC PRO TUNC* TO THE PETITION
DATE AS FINANCIAL ADVISOR TO THE DEBTOR AND DEBTOR-IN-POSSESSION**

Upon consideration of the Application² (the “Application”) of Vion Pharmaceuticals, Inc. (the “Debtor”) for entry of an Order pursuant to §§ 327(a) and 328(a) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) authorizing the retention and employment of Ernst & Young LLP (“E&Y LLP”), effective as of the Petition Date, as financial advisor to the Debtor; and upon consideration of the Affidavit of John Llewellyn in support of the Application; and the Court being satisfied that E&Y LLP represents no interest adverse to the Debtor in the matters with respect to which E&Y LLP is to be employed and that E&Y LLP is a “disinterested person” as set forth in § 327(a) of the Bankruptcy Code; and notice of the Application being sufficient; and sufficient cause appearing therefor; it is hereby:

ORDERED that the Application is approved as provided herein; and it is further

¹ The Debtor in this case, along with the last four digits of the federal tax identification number for the Debtor, is Vion Pharmaceuticals, Inc. (1221). The Debtor’s corporate offices are located at 4 Science Park, New Haven, Connecticut 06511.

ORDERED that, pursuant to §§ 327(a) and 328(a) of the Bankruptcy Code, the Debtor is authorized to employ and retain E&Y LLP *nunc pro tunc* to the Petition Date to serve as the Debtor's financial advisor in the above-captioned case; and it is further

ORDERED that E&Y LLP shall be compensated in accordance with §§ 330 and 331 of the Bankruptcy Code, the applicable Bankruptcy Rules, the rules of this Court, and such other procedures as may be fixed by order of this Court; and it is further

ORDERED that E&Y LLP shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Debtor's chapter 11 case in compliance with the Bankruptcy Code, the Bankruptcy Rules, the rules of this Court, and such other procedures as may be fixed by order of this Court; and it is further

ORDERED that paragraphs 16, 17 and 18 of the General Terms and Conditions section of the Engagement Letter are hereby deemed stricken from the Engagement Letter; and it is further

ORDERED that the indemnification provisions of the Engagement Letter are approved, subject during the pendency of this chapter 11 case to the following:

- a. E&Y LLP shall not be entitled to indemnification or reimbursement of expenses pursuant to the Engagement Letter unless such indemnification or reimbursement of expenses are approved by the Court;

² Capitalized terms shall have the meanings ascribed to them in the Application unless otherwise defined herein.

- b. Notwithstanding any provision of the Engagement Letter to the contrary, the Debtors shall have no obligation to indemnify or provide reimbursement of expenses to E&Y LLP for any claim or expense that is either (i) judicially determined (the determination having become final) to have arisen from E&Y LLP's gross negligence or willful misconduct, (ii) for a contractual dispute in which the Debtor alleges the breach of E&Y LLP's contractual obligations, unless the Court determines that indemnification or reimbursement of expenses would be permissible pursuant to In re United Artists Theatre Company, et al., 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to E&Y LLP's gross negligence or willful misconduct, but determined by this Court, after notice and a hearing, to be a claim or expense for which E&Y LLP should not receive indemnity or reimbursement of expenses under the terms of the Engagement Letter, as modified by this Order;
- c. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in this case (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing the chapter 11 case, E&Y LLP believes that it is entitled to the payment of any amounts by the Debtor on account of the Debtor's indemnification or expense reimbursement obligations under the Engagement Letter (as modified by this Order), including without limitation any advancement of defense costs, E&Y LLP must file an application therefor in this Court, and the Debtor may not pay any such amounts to E&Y LLP before the entry of an order by this Court approving any such payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request by E&Y LLP for indemnification or reimbursement of expenses, and is not intended to limit the duration of the Debtor's obligations to indemnify or reimburse expenses of E&Y LLP; and it is further

ORDERED that notwithstanding any provision in the Bankruptcy Rules to the contrary, (i) the terms of this Order shall be immediately effective and enforceable upon its entry; (ii) the Debtor is not subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order; and (iii) the Debtor may, in its discretion and without further delay, take any action and perform any act authorized under this Order; and it is further

ORDERED that the Court shall retain jurisdiction to hear and determine all matters rising from the implementation of this Order.

Dated: 2/17, 2010
Wilmington, Delaware



HONORABLE CHRISTOPHER S. SONTCHI
UNITED STATES BANKRUPTCY JUDGE