

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

In re:

Vyera Pharmaceuticals, LLC, *et al.*,¹

Debtors.

Chapter 11, Subchapter V

Case No. 23-10605 (JKS)

(Jointly Administered)

Related D.I. 53

**ORDER APPROVING DEBTORS' APPLICATION FOR ENTRY OF AN ORDER
PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE (I) AUTHORIZING
THE DEBTORS TO EMPLOY AND RETAIN SIERRACONSTELLATION PARTNERS,
LLC TO PROVIDE THE DEBTORS WITH A CHIEF RESTRUCTURING OFFICER
AND ADDITIONAL PERSONNEL AND (II) DESIGNATE LAWRENCE R. PERKINS
AS THE DEBTORS' CHIEF RESTRUCTURING OFFICER
NUNC PRO TUNC TO THE PETITION DATE**

Upon the Application (the "Application"),² filed by the above-captioned debtors (collectively, the "Debtors") for entry of an order (this "Order"), (i) authorizing the Debtors to employ and retain Sierraconstellation Partners, LLC ("Sierra") to provide the Debtors with a Chief Restructuring Officer and additional personnel and (ii) designate Lawrence R. Perkins as the Debtors' Chief Restructuring Officer nunc pro tunc to the petition date as further described in the Application, and upon consideration of the Perkins Declaration, the First Day Declaration and the record of these subchapter V cases; the Court having found that (i) this Court has jurisdiction over the Debtors, their estates, property and to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the

¹ The Debtors in these subchapter V cases, along with the last four digits of each Debtor's federal tax identification number, if applicable, are as follows: Vyera Pharmaceuticals, LLC (1758); Oakrum Pharma, LLC (3999); SevenScore Pharmaceuticals, LLC (2598); Phoenixus AG (1091); Dermelix Biotherapeutics, LLC (4711); and Orpha Labs AG. The Debtors' headquarters and the mailing address for the Debtors is 600 3rd Avenue, 19th Floor, New York, NY 10016.

² Capitalized terms used but not otherwise defined herein shall have the respective meaning ascribed to such terms in the Application.

United States District Court for the District of Delaware, dated February 29, 2012, (ii) this Court may enter a final order consistent with Article III of the United States Constitution, (iii) this is a core proceeding under 28 U.S.C. § 157(b), (iv) venue of this proceeding and the Application in this district is proper under 28 U.S.C. §§ 1408 and 1409, (v) notice of this Application and any hearing on the Application was appropriate under the circumstances; (vi) no further or other notice of the Application is required under the circumstances; and this Court having reviewed the Application and having heard the statements in support of the relief requested in the Application at any hearing before this Court; and this Court finding that (A) Sierra represents no interest adverse to the Debtors' estates that would disqualify Sierra from representation of the Debtors in the cases, (B) that Sierra and each of its professionals and employees is a "disinterested person" as such term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code and as required by section 327(a) of the Bankruptcy Code, and (C) that the terms and conditions of Sierra's engagement with the Debtors, including the compensation structure set forth in the Engagement Letters, as modified herein, are reasonable;

IT IS HEREBY ORDERED THAT:

1. The Application is GRANTED, as set forth in this Order.
2. The Debtors are authorized, *nunc pro tunc* to the Petition Date, to employ and retain Sierra and to designate Mr. Perkins as the Debtors' Chief Restructuring Officer, subject to the following terms, which apply notwithstanding anything in the Application, the Engagement Letters, or any other documents related thereto to the contrary:

- (a) Sierra and its affiliates shall not act in any other capacity (for example, and without limitation, as a financial advisor, claims agent/claims administrator or investor/acquirer) in connection with the above-captioned cases.
- (b) In the event the Debtors seek to have Sierra personnel assume additional or different executive officer positions than the positions disclosed in the Application, or to materially change the terms of the engagement by either (i) modifying the functions

of personnel, (ii) adding new personnel, or (iii) altering or expanding the scope of the engagement, a motion to modify the retention shall be filed.

- (c) No principal, employee or independent contractor of Sierra or its affiliates shall serve as a director of any of the above-captioned Debtors during the pendency of these cases.
- (d) The Debtors are permitted to indemnify those persons serving as executive officers on the same terms as provided to the Debtors' other officers and directors under the corporate bylaws and applicable state law, along with insurance coverage under the Debtors' D&O policy for any claims, liabilities, or expenses relating to this engagement. For the avoidance of doubt, there shall be no indemnification of Sierra or its affiliates.
- (e) Except as otherwise set forth herein, there shall be no other indemnification of Sierra or its affiliates.
- (f) Completion fees, success fees, transaction fees or other back-end fees shall be subject to approval by the Court at the conclusion of these cases on a reasonableness standard and are not being pre-approved by entry of this Order, and such fees shall not be sought upon the conversion of these cases, dismissal of these cases for cause, or appointment of a trustee.
- (g) Any limitation on liability or any amounts to be contributed by Sierra set forth in the Engagement Letters shall be eliminated.
- (h) For a period of one year after the conclusion of the engagement, neither Sierra nor any of its affiliates shall make any investments in the Debtors.
- (i) Sierra shall disclose any and all facts that may have a bearing on whether the firm, its affiliates, and/or any individuals working on the engagement hold or represent any interest adverse to the Debtors, their creditors, or other parties in interest. The obligation to disclose identified in this subparagraph is a continuing obligation.
- (j) Notwithstanding anything to the contrary contained in the Application, the Engagement Letters or any exhibits thereto, Sierra shall not assign any tasks for which Sierra is responsible to any person or entity other than employees of Sierra or its affiliates other than for ministerial tasks for which Sierra is not entitled to compensation hereunder.
- (k) Notwithstanding anything to the contrary contained in the Application, the Engagement Letters or any exhibits thereto, during the course of these cases, the Sierra personnel who serve as officers of the Debtors under the terms of this Order shall have whatever duties and responsibilities that are imposed by applicable law on officers of the Debtors.

3. The Debtors shall file with the Court, and provide notice to the U.S. Trustee and the Subchapter V Trustee in these cases contemporaneously with such filing, reports of compensation earned and expenses incurred on a monthly basis. Such reports shall contain summary charts which describe services provided, identify the compensation earned by each executive officer and staff employee, and itemize the expenses incurred. Time records shall (i) be appended to the reports, (ii) contain detailed time entries describing the tasks performed, and (iii) be organized by project category. When Sierra personnel are providing services at an hourly rate, the time entries shall identify the time spent completing each task in one-tenth hour increments, and the corresponding charge (time multiplied by hourly rate) for each task. Where personnel are providing services at a “flat” rate, the time entries shall be kept in hour increments. All compensation shall be subject to review by the Court in the event an objection is filed, and, for the avoidance of doubt, the Debtors shall only be authorized to pay Sierra after any applicable objection period expires and/or the Court overrules any objection filed.

4. The Debtors are authorized to pay Sierra all fees incurred by Sierra at Sierra’s standard hourly rates then in effect for services related to those outlined in the Engagement Letters. Such amounts shall be treated and allowed (subject to the compensation review procedures identified in this Order) as administrative expenses in accordance with section 503 of the Bankruptcy Code.

5. Any provision in the Engagement Letter whereby the Debtors waive any conflicts of interest that Sierra has or may have shall have no force or effect during the course of these subchapter V cases.

6. Sierra shall not unilaterally terminate its engagement under the Engagement Letters absent prior approval of the Court.

7. Notwithstanding the possible applicability of Bankruptcy Rules 6004, 7062, 9014 or otherwise, the terms of this Order shall be immediately effective and enforceable upon its entry.

8. The Debtors are authorized to take all actions necessary to implement the relief granted in this Order.

9. This Court shall retain jurisdiction over any matter arising out of or related to the interpretation or enforcement of this Order.

Dated: June 13th, 2023
Wilmington, Delaware


J. KATE STICKLES
UNITED STATES BANKRUPTCY JUDGE