UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re: 23ANDME HOLDING CO., *et al.*,[1] Debtors.	Case No. 25-40976-357 Chapter 11 (Jointly Administered) Hearing Date: June 3, 2025 Hearing Time: 1:30 p.m. (Central Time) Related Doc. 574

ORDER (I) ESTABLISHING PROCEDURES FOR THE SUBMISSION OF FINAL PROPOSALS FROM THE BACKUP BIDDER AND SUCCESSFUL BIDDER AND (II) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the Debtors for entry of an order (this "Order"), (a) establishing the Final Proposal Procedures for the submission of Final Proposals from the Successful Bidder and Backup Bidder for a sale of all or substantially all of the Debtors' Assets or some combination thereof and (b) granting related relief, all as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and rule 9.01(B) of the Local Rules of the United States District Court for the Eastern District of Missouri; and this Court having found that this is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and this Court having found that it may

[1] The Debtors in each of these cases, along with the last four digits of each Debtor's federal tax identification number, are: 23andMe Holding Co. (0344), 23andMe, Inc. (7371), 23andMe Pharmacy Holdings, Inc. (4690), Lemonaid Community Pharmacy, Inc. (7330), Lemonaid Health, Inc. (6739), Lemonaid Pharmacy Holdings Inc. (6500), LPharm CS LLC (1125), LPharm INS LLC (9800), LPharm RX LLC (7746), LPRXOne LLC (3447), LPRXThree LLC (3852), and LPRXTwo LLC (1595). The Debtors' service address for purposes of these chapter 11 cases is: 870 Market Street, Room 415, San Francisco, CA 94102.

[2] The Motion refers to the relief requested by the Debtors in Dkt. 574, as modified on the record of the hearing held before the Court on June 4, 2025 to reflect a consensual resolution with Regeneron and TTAM, which resolves TTAM's related objections (Dkt. 573 and Dkt. 601). Capitalized terms used but not defined herein have the meanings ascribed to them in the Motion.

enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion and at the hearing, if any, establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is GRANTED on a final basis as set forth herein.

2. The Debtors are authorized, pursuant to their business judgment, the Bidding Procedures Order, and sections 105, 363, 503(b), 507(a)(2), and 507(b) of the Bankruptcy Code, to establish the following Final Proposal Procedures:

A. The Bidders' respective current bids shall be (i) Regeneron's existing bid of $256 million as disclosed in the Notice (the "Current Regeneron Bid") and (ii) TTAM's subsequent bid of $305 million as delivered in the May 21 Proposal (the "Current TTAM Bid" and, together with the Current Regeneron Bid, the "Current Bids"). For the avoidance of doubt, the Current Bids are binding on each respective Bidder and irrevocable, subject to the Bidding Procedures and these Final Proposal Procedures;

B. On the date that is two business days after the later of (i) the Sale Objection Deadline (as defined below) (which deadline may be extended only with the consent of the Debtors, Regeneron and TTAM) and (ii) the public filing of the CPO report (such date, the "Final Bidding Date"), the Debtors, Regeneron and TTAM will convene no later than 10:00 a.m. (prevailing Eastern Time) on such date for the final round of bidding (the "Final Bidding Round");

C. At the Final Bidding Round, each Bidder shall, as applicable, proceed to bid as follows:

(i) the starting bid shall be the Current TTAM Bid;

(ii) Regeneron shall have an opportunity to (1) increase its bid to at least $315 million (the "Increased Regeneron Bid"),[3] in which case such Increased Regeneron Bid shall be shared with the Consultation Parties and TTAM in accordance with subsection F of these Final Proposal Procedures or (2) refuse to bid further (in which case the Current Regeneron Bid shall be deemed to be Regeneron's bid and the Final Bidding Round shall be deemed to have ended);

(iii) if Regeneron increases its bid to at least $315 million, TTAM shall have up to two hours from receiving notice of such bid to submit a "best and final" proposal (a "Final Proposal") to the Debtors, which shall be shared with the Consultation Parties and Regeneron in accordance with subsection F of these Final Proposal Procedures; *provided*, that if TTAM does not submit a further proposal, then the Current TTAM Bid shall be deemed TTAM's Final Proposal; and

(iv) if Regeneron submits the Increased Regeneron Bid, and TTAM submits a Final Proposal in response thereto, Regeneron shall have up to two hours from receiving notice of such Final Proposal to submit a Final Proposal, which shall be shared with the Consultation Parties and TTAM in accordance with subsection F of these Final Proposal Procedures; *provided*, that Regeneron's Final Proposal must include (x) a purchase price Overbid that is at least $5 million greater than the purchase price proposed by TTAM in its Final Proposal (the "Incremental Bid Amount") plus (y) an additional $5 million as set forth in footnote 3;

D. Only the Bidders shall be permitted to submit a Final Proposal and participate in the Final Bidding Round. Other than the Increased Regeneron Bid contemplated by paragraph 2.C(ii) above and the Final Proposals contemplated by paragraphs 2.C(iii) and (iv) above, any other proposal submitted by a Bidder, or by any third-party (including any joint bid submitted by a third-party together with a Bidder), shall be deemed invalid and incapable of acceptance by the Debtors;

E. Each Final Proposal may include an increased purchase price, any requested or proposed amendments to the latest version of each Bidder's Asset Purchase Agreement, and related transaction documents pertaining to such Final Proposal; *provided*, that the Bidders shall not be permitted to revise the

[3] For the avoidance of doubt, the Increased Regeneron Bid and Regeneron's Final Proposal must conform to the terms agreed to by the Debtors and Regeneron at the Auction with respect to Regeneron's Overbids, which require Regeneron to submit an Overbid of at least the Incremental Bid Amount plus an additional $5 million. Under the terms of the Regeneron APA and TTAM's Asset Purchase Agreement, TTAM agreed to assume certain unpaid postpetition accounts payable at the time of closing that the Debtors estimate to be $5 million. The Regeneron APA does not contemplate the assumption of such liabilities, but Regeneron agreed to increase its cash purchase price by $5 million to offset the net value differential.

definition of "Acquired Assets" in the latest versions of each Bidder's Asset Purchase Agreement except to the extent one Bidder chooses to conform the terms of its Asset Purchase Agreement to the terms of the other Bidder's Asset Purchase Agreement.[4] The Increased Regeneron Bid and each Final Proposal shall be binding and irrevocable. No later than two business days prior to the Final Bidding Date, each Bidder that requests or proposes amendments to its Asset Purchase Agreement in connection with its Final Proposal (other than amendments to the purchase price) must provide the Debtors with (i) an executed Asset Purchase Agreement, (ii) a redline of such Asset Purchase Agreement marked to reflect any amendments and modifications from the prior draft shared or executed, as applicable, with the Debtors, and (iii) a copy of the execution version of the Asset Purchase Agreement in Microsoft Word or similar software;

F. Until such time as the Debtors file the Winning Bidder Notice (as defined below) pursuant to paragraph H of these Final Proposal Procedures, each Bidder's Final Proposal (if any) will be kept confidential by the Debtors; *provided*, that the Debtors will share any Final Proposal with the Consultation Parties and the other Bidder; *provided, further*, that such parties agree to treat such Final Proposals and any related information as confidential and shall not publicly disclose such information without the written consent of the Debtors and the Bidder who submitted the applicable Final Proposal;

G. Any Final Proposal must include (the following, collectively, the "Financial Documentation") (i) sufficient detail supporting Regeneron's and the TTAM Parties' (as defined in the TTAM Pleadings), as applicable, financial wherewithal to fund that portion of the purchase price (if any) that is greater than the purchase price contemplated by the applicable Bidder's Current Bid, (such greater amount, the "Incremental Purchase Price") in cash and/or cash equivalents[5] currently owned by Regeneron or the TTAM Parties, as applicable, and (ii) confirmation that the portion of the purchase price corresponding to the purchase price under such Bidder's Current Bid remains fully backed by cash and/or cash equivalents currently owned by Regeneron or the TTAM Parties, as applicable. The Final Documentation must include a reasonably detailed description of (a) any permissions required for Regeneron or the TTAM Parties, as applicable, to access any accounts submitted as Financial Documentation and (b) all liabilities that may reduce the availability of any funding submitted as Financial Documentation, as applicable. The Debtors shall determine the sufficiency of any Financial Documentation in their sole discretion. The Debtors reserve the right to request additional Financial

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[4] For the avoidance of doubt, neither Bidder is acquiring (a) avoidance actions against affiliates or insiders of the Debtors or (b) claims, causes of action, and counterclaims of the Debtors against any affiliate or insider of the Debtors.

[5] For the avoidance of doubt, the Debtors will not consider financial wherewithal to support the Incremental Purchase Price in the form of non-cash assets, including equity investments.

Documentation from Regeneron or the TTAM Parties, as applicable, at any time;

H. No later than 11:59 p.m. Central Time on the Final Bidding Date (the "Final Determination Time"), the Debtors will file a notice (the "Winning Bidder Notice") disclosing which Bidder submitted the highest and best proposal (such proposal, the "Winning Bid" and, such Bidder, upon being selected as having the Winning Bid, the "Winning Bidder"). The Winning Bidder Notice will (i) include a summary of the material terms of the Winning Bid and the proposal of the other Bidder (as applicable) and (ii) attach a copy of the Asset Purchase Agreement applicable to such Winning Bid. The Bidders shall work in good faith to submit and agree to revised documentation memorializing the terms of the Winning Bid and the backup bid, as applicable, after the Final Bidding Round and before the Final Determination Time. Within two business days of the Final Bidding Date, each Bidder shall adjust its deposit so that it equals the greater of (i) ten percent of the aggregate cash portion of the purchase price and (ii) the amount required to be deposited under its Asset Purchase Agreement or related documents;

I. Neither Bidder is required to submit a Final Proposal or, in the case of Regeneron, the Increased Regeneron Bid; *provided,* that:

(i) if Regeneron does not submit the Increased Regeneron Bid or a Final Proposal during the Final Bidding Round and if the Debtors select TTAM as the Winning Bidder, TTAM shall be deemed the Successful Bidder and the Debtors shall seek entry of an order of the Court approving the Current TTAM Bid at the Sale Hearing;

(ii) if TTAM is not the Winning Bidder, TTAM's backup bid of $146 million as disclosed in the Notice will remain in full force and effect (it being understood, for the avoidance of doubt, that if TTAM successfully objects to the Debtors' determination that Regeneron submitted the highest and best bid during the Final Bidding Round, TTAM's bid will be the Current TTAM Bid or its Final Proposal, as applicable, and not $146 million);

(iii) if TTAM is the Winning Bidder, (a) its Winning Bid shall be the greater of the amount set forth in (1) the Current TTAM Bid and (2) its Final Proposal;

(iv)if TTAM is the Winning Bidder, (a) Regeneron shall become the Backup Bidder under the Bidding Procedures at a purchase price of $151 million, and (b) the Debtors shall pay Regeneron a $10 million Breakup Fee (the "Regeneron Breakup Fee"), which shall be allowed as an administrative expense, due upon, and paid concurrently with, closing of the Sale Transaction with TTAM; and

(v) if Regeneron is the Winning Bidder, (a) TTAM shall become the Backup Bidder under the Bidding Procedures at a purchase price of $146 million, and (b) the Debtors shall pay TTAM a $10 million Breakup Fee (the "TTAM Breakup Fee"), which shall be allowed as an administrative expense, due upon, and paid concurrently with, closing of the Sale Transaction with Regeneron.

J. Each Bidder is expressly permitted to submit a Final Proposal, and Regeneron is also expressly permitted to submit the Increased Regeneron Bid, in accordance with the terms of this Order notwithstanding anything to the contrary in the Bidding Procedures or any Bidder's Asset Purchase Agreement related to such Bidder's Current Bid;

K. Regardless of whether a Bidder submits a Final Proposal (or whether Regeneron submits the Increased Regeneron Bid) during the Final Bidding Round, each Bidder is prohibited from making any alternative or revised proposal for the Debtors' Assets other than during the Final Bidding Round pursuant to paragraph 2.C above (any such proposal, an "Untimely Proposal"), and the Debtors are prohibited from seeking approval of any Untimely Proposal, or any proposal from any party that is not a Bidder, regardless of whether the Debtors may determine in their business judgment that such Untimely Proposal or other proposal may otherwise constitute a highest and best bid. The Court will not consider for approval at the Sale Hearing or otherwise any Untimely Proposal or alternative proposal from any party that is not a Bidder; and

L. The deadline for parties in interest to object to the Sale Transaction and the Sale Order shall continue to be June 10, 2025 (the "Sale Objection Deadline"), unless extended with the consent of the Debtors, Regeneron and TTAM. The Sale Objection Deadline applies to objections to approval of either or both of the Current Bids, as modified by any Final Proposal and, in the case of Regeneron, also the Increased Regeneron Bid; *provided* that the rights of parties in interest, including the Bidders,[6] to object to the Debtors' determination of the highest and best bid or any material modifications to the Asset Purchase Agreements disclosed following the Final Proposal Deadline are preserved and such objections may be made, including in writing as appropriate, at any time up to and including the Sale Hearing.

3. Only the Bidders shall be permitted to submit Final Proposals in accordance with the Final Proposal Procedures. Any proposal submitted by parties other than the Bidders shall be deemed invalid without further order of the Court.

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[6] If either Bidder objects to the Debtors' determination of the highest and best bid, such Bidder shall be permitted to assert that its last bid is highest and best for purposes of such challenge.

4. If TTAM is selected by the Debtors as the Winning Bidder, the Debtors are authorized pursuant to sections 503(b), 507(a)(2), and 507(b) of the Bankruptcy Code and directed to incur and pay the Regeneron Breakup Fee to Regeneron concurrently with the closing of the Sale Transaction with TTAM, in accordance with the Final Proposal Procedures. If Regeneron is selected by the Debtors as the Winning Bidder, the Debtors are authorized pursuant to sections 503(b), 507(a)(2), and 507(b) of the Bankruptcy Code and directed to incur and pay the TTAM Breakup Fee to TTAM concurrently with the closing of the Sale Transaction with Regeneron, in accordance with the Final Proposal Procedures. No person or entity, other than Regeneron or TTAM, as applicable, shall be entitled to receive a breakup fee or any fee of any nature in connection with any Final Proposal, whether by virtue of section 503(b) of the Bankruptcy Code or otherwise.

5. In the interest of finalizing the Debtors' Sale Transaction, (a) the Debtors are authorized to, and shall, waive (i) the Fiduciary Out under the Regeneron APA and any fiduciary out under the Bidding Procedures or the Bidding Procedures Order and (ii) any right to modify the Bidding Procedures following the date of entry of this Order and (b) any fiduciary out or similar provision in the Winning Bidder's Asset Purchase Agreement shall be deemed invalid (collectively, the "Fiduciary Out Waiver"). In light of implementing the Final Proposal Procedures, the Fiduciary Out Waiver is authorized as a valid exercise of the Debtors' business judgment and is in the best interests of the Debtors' estates.

6. Subject to their right to assert objections that are preserved under Section 2.L hereof, the Debtors, Regeneron and TTAM agree to cease and not commence or initiate any discovery and litigation with respect to the Auction. TTAM's preliminary objection (Dkt. 573) is deemed hereby resolved.

7. Notwithstanding the relief granted herein and any actions taken pursuant to such relief nothing in this Order shall be deemed (other than with respect to the Regeneron Breakup Fee or TTAM Breakup Fee, as applicable, and except as otherwise expressly set forth herein): (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, assign, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; (h) a waiver of the obligation of any party in interest to file a proof of claim; or (i) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection of, or seek avoidance of, all such liens.

8. Notice of the Motion as provided therein is hereby deemed good and sufficient notice of such Motion, and the requirements of the Federal Rule of Bankruptcy Procedure (the "Bankruptcy Rules") and the Local Rules are satisfied by such notice.

9. Notwithstanding any Bankruptcy Rule to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

11. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

12. No later than two business days after the date of this Order, the Debtors shall serve on the Notice Parties a copy of the Order and shall file a certificate of service no later than 24 hours after service.

Dated: June 6, 2025
St. Louis, Missouri
cjs

Brian C. Walsh
United States Bankruptcy Judge

Order Prepared By:

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