

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

In re	)	Chapter 15
VBI Vaccines (Delaware) Inc., <i>et al.</i> ¹	)	Case No. 24-11623 (BLS)
Debtors in a Foreign Proceeding.	)	Jointly Administered
	)	Re D.I. 45

**ORDER ENFORCING AND GIVING FULL EFFECT TO THE
CCAA AMENDED DIP ORDER**

Upon the motion (the “Motion”) of VBI Vaccines (Delaware) Inc., solely in its capacity as foreign representative (the “Foreign Representative”) to the above-captioned debtors (the “Chapter 15 Debtors”), for entry of an order enforcing and giving effect to the CCAA Amended DIP Order attached hereto as **Exhibit 1**, as more fully set forth in the Motion; and upon (a) the *Commercial Endorsement Form* (the “CCAA Amended DIP Endorsement”) entered by the Canadian Court on September 20, 2024, (b) the *Affidavit of Jeffrey Baxter sworn September 18, 2024* (the “Third Baxter Affidavit”), and (c) the *Second Report of Ernst & Young Inc., in its capacity as Monitor of the Applicant* (the “Second Monitor Report”); and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and 11 U.S.C. §§ 109 and 1501; and venue being proper before this Court pursuant to § 1410; and the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and adequate and sufficient notice of the filing of the Motion having been given by the Foreign Representative; and it appearing that the relief requested in the Motion is necessary and beneficial to the Chapter 15 Debtors; and this Court having held a hearing if necessary to consider the relief requested in the Motion; and

¹ The Debtors and the last four digits of its U.S. Federal Employer Identification Numbers or other unique identifier are as follows: VBI Vaccines Inc. (4170) (British Columbia Corporation No.), VBI Vaccines (Delaware) Inc. (9534), Variation Biotechnologies (US) Inc. (6196), and VBI Vaccines B.V. (1726) (Netherlands Corporation No.). The Debtors’ Mailing address is 160 Second Street, Floor 3, Cambridge, MA 02142.

there being no objections or other responses filed that have not been overruled, withdrawn, or otherwise resolved; and after due deliberation and sufficient cause appearing therefor, it is hereby

FOUND AND DETERMINED THAT:

A. On August 27, 2024, this Court entered the *Final Order Granting Recognition of Foreign Main Proceeding and Certain Related Relief Under Sections 105(a), 362, 365, 1517, 1519, 1520 and 1521 of the Bankruptcy Code*, recognizing the Canadian Proceeding as a foreign main proceeding.

B. On September 20, 2024, the Canadian Court entered the CCAA Amended DIP Order, increasing (i) the amount of financing available under the DIP Facility Agreement to US\$3,600,000 and (ii) the DIP Lender's Charge to US\$3,850,000.

C. The relief granted hereby is necessary and appropriate to effectuate the objectives of chapter 15 of the Bankruptcy Code to protect the Chapter 15 Debtors and the interests of their creditors and other parties in interest, is consistent with the laws of the United States, international comity, public policy, and the policies of the Bankruptcy Code, and will not cause any hardship to any party in interest that is not outweighed by the benefits of the relief granted because the parties in interest in these cases are sufficiently protected by the provisions in the CCAA Amended DIP Order, and this Order.

D. Absent the requested relief, the efforts of the CCAA Debtors, the Canadian Court, and the Foreign Representative in conducting the Canadian Proceeding and effectuating the restructuring under Canadian law may be frustrated, a result contrary to the purposes of chapter 15 of the Bankruptcy Code.

E. Based on the affidavits of service filed with, and representations made to, this Court: (i) notice of the Motion was proper, timely, adequate, and sufficient under the

circumstances of these chapter 15 cases and these proceedings and complied with the various applicable requirements of the Bankruptcy Code and the Bankruptcy Rules; and (ii) no other or further notice of the Motion, or the entry of this Order is necessary or shall be required.

F. All creditors and other parties in interest, including the Chapter 15 Debtors, are sufficiently protected by the grant of relief ordered hereby.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED.
2. The CCAA Amended DIP Order is given full force and effect in the United States.
3. The failure specifically to include any particular provision of the CCAA Amended DIP Order in this Order shall not diminish or impair the effectiveness of such provision.
4. The CCAA Amended DIP Order is recognized and enforced in the territorial jurisdiction of the United States, any property of the Foreign Debtors within the territorial jurisdiction of the United States is protected from actions inconsistent with or interfering with the enforcement and implementation of the CCAA Amended DIP Order.
5. The Foreign Representative is authorized to take all actions it deems necessary to effectuate the relief granted pursuant to this Order.
6. All objections to the entry of this Order that have not been withdrawn, waived, or settled, or otherwise resolved pursuant to the terms hereof, are denied and overruled on the merits, with prejudice.
7. Notwithstanding any provision in the Bankruptcy Rules to the contrary, the terms of this Order shall be immediately effective and enforceable upon its entry.

8. Other than as explicitly set forth herein, this Court shall retain jurisdiction with respect to any and all matters, claims, rights, or disputes arising from or related to the implementation or interpretation of this Order.

Dated: October 15th, 2024
Wilmington, Delaware



BRENDAN L. SHANNON
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

CCAA Amended DIP Order

Court File No. CV-24-00724693-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM	)	FRIDAY, THE 20 TH DAY
	)	
JUSTICE KIMMEL	)	OF SEPTEMBER, 2024

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF VBI VACCINES INC., VARIATION BIOTECHNOLOGIES INC., VBI
VACCINES (DELAWARE) INC., VARIATION BIOTECHNOLOGIES (US), INC., SCIVAC LTD.,
SCIVAC HONG KONG LIMITED AND VBI VACCINES B.V.

Applicants

**ORDER
(STAY EXTENSION AND DIP AMENDMENT)**

THIS MOTION, made by made by VBI Vaccines Inc., Variation Biotechnologies Inc., VBI Vaccines (Delaware) Inc., Variation Biotechnologies (US), Inc., SciVac Ltd., SciVac Hong Kong Limited and VBI Vaccines B.V. (the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order: (a) extending the stay of proceedings; and (b) authorizing the Applicants to draw an increased maximum amount under the DIP Facility Agreement and granting a corresponding increase to the DIP Lender's Charge (each as defined below), was heard this day by judicial videoconference via Zoom.

ON READING the Motion Record of the Applicants dated September 18, 2024 (the "**Motion Record**"), the Affidavit of Jeffrey Baxter sworn September 18, 2024 (the "**Third Baxter Affidavit**"), and the Exhibits thereto, and the Second Report of Ernst & Young Inc., in its capacity as monitor of the Applicant (in such capacity, the "**Monitor**") dated September 19, 2024, and,

ON HEARING the submissions of counsel for the Applicants, counsel for the Monitor, counsel for K2 HealthVentures LLC ("**K2HV**") as secured creditor and DIP Lender (as defined below), and such other counsel parties as listed on the Participant Information Form, with no one else appearing although duly served as appears from the affidavit of service of Philip Yang, filed

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service and filing of the Motion Record, is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Amended and Restated Initial Order of the Honourable Madam Justice Kimmel dated August 9, 2024 (the “**ARIO**”).

EXTENSION OF STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period is extended to and including October 18, 2024 or such later date as this Court may order.

DIP FINANCING

4. **THIS COURT ORDERS** that paragraphs 35 and 36 of the ARIO shall be deleted and replaced with the following:

"35. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the First Amended and Restated Debtor In Possession Facility Term Sheet between the Applicants and the DIP Lender dated as of August 2, 2024, appended as Exhibit “F” to the Second Baxter Affidavit, as amended by the First Amending Agreement dated as of September 19, 2024 (as may be amended from time to time, the “**DIP Facility Agreement**”)

36. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to borrow, in accordance with the terms and conditions of the DIP Facility Agreement, interim financing of up to US\$3,600,000 during the Stay Period.”

5. **THIS COURT ORDERS** that paragraph 38 of the ARIO shall be deleted and replaced with the following:

“38. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, provided that the DIP Lender’s Charge shall not attach to (i) any property owned by VBI Vaccines (Delaware) Inc. or Variation Biotechnologies (US), Inc., whether real, personal, tangible or

intangible, or (ii) any equity interests of subsidiaries of the Borrowers or Guarantors incorporated under the laws of the United States or any state or territory therein, as security for the DIP Obligations, which DIP Lender's Charge shall be in the aggregate amount of US\$3,850,000. The DIP Lender's Charge shall not secure an obligation that exists before the Initial Filing Date. The DIP Lender's Charge shall have the priority as set out in paragraphs 45 and 47 herein."

6. **THIS COURT ORDERS** that paragraph 45 of the ARIO shall be deleted and replaced with the following:

"45. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors' Charge, the KERP Charge, and the DIP Lender's Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of US\$600,000);

Second – Directors' Charge (to the maximum amount of US\$300,000);

Third – KERP Charge (to the maximum amount of US\$679,005); and

Fourth – DIP Lender's Charge (to the maximum amount of US\$3,850,000).

GENERAL

7. **THIS COURT ORDERS** that the Applicants or the Monitor or any interested party may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties hereunder.

8. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States of America, Israel or in any other foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor, the Foreign Representatives and their respective agents in carrying out the terms of this Order. All courts, tribunals, and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants, the Foreign Representatives and to the Monitor, as an officer of this Court, as may be necessary or desirable

- 4 -

to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants, the Foreign Representatives and the Monitor, and their respective agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that each of the Applicants, the Foreign Representatives and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Foreign Representatives are hereby authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

11. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this Order.

12. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.



Digitally signed
by Jessica Kimmel
Date: 2024.09.20
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IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF PLAN OF COMPROMISE OR ARRANGEMENT OF ARRANGEMENT OF VBI VACCINES INC., VBI VACCINES (DELAWARE) INC., VARIATION BIOTECHNOLOGIES (US) INC., SCIVAC LTD., SCIVAC HONG KONG LIMITED, VBI VACCINES B.V. AND VARIATION BIOTECHNOLOGIES INC.

Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**ORDER
(STAY EXTENSION AND DIP AMENDMENT)**

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Lawyers for the Applicants