

Liquidation Trust

October 22, 2024

Re: *Sorrento Therapeutics, Inc., et al.*, Case No.: 23-90085 (CML) (Bankr. S.D. Tex.)

To Whom It May Concern:

On February 13, 2023 (the "Petition Date"), Sorrento Therapeutics, Inc. ("Sorrento") and Scintilla Pharmaceuticals, Inc. (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court Southern District of Texas (the "Court"). I write on behalf of the liquidation trust (the "Liquidation Trust").

It has come to the Liquidation Trust's attention that, on or about January 19, 2023, Sorrento distributed (the "Distribution") to you shares of common stock (the "Distributed Stock") in Scilex Holding Company ("Scilex"). An investigation performed by the Creditors' Committee appointed in the Debtors' chapter 11 cases and the Liquidating Trust revealed that Sorrento appears to have been insolvent at the time of the Distribution. The investigation also determined that you did not provide any consideration for the Distributed Stock.

Accordingly, the Liquidating Trust believes it may bring the following causes of action against you (the "Distributed Stock Avoidance Actions"):

1. **Actual Fraudulent Transfer Under 11 U.S.C. § 548(a)(1)(A).** A claim to avoid the Distribution of the Distributed Stock as an actual fraudulent transfer under section 548(a)(1)(A) of the Bankruptcy Code. Under this Bankruptcy Code section, the bankruptcy estate may avoid a transfer made within two years before the petition date if the transfer was made with actual intent to hinder, delay, or defraud a past or future creditor. *In re Cipolla*, 476 Fed. Appx. 301, 306 (5th Cir. 2012).
2. **Constructive Fraudulent Transfer Under 11 U.S.C. § 548(a)(1)(B).** A claim to avoid the Distribution of the Distributed Stock as a constructive fraudulent transfer under section 548(a)(1)(B) of the Bankruptcy Code. Under this Bankruptcy Code section, the bankruptcy estate may avoid a transfer made or obligation incurred within two years of a bankruptcy filing if (a) the debtor received less than "reasonably equivalent value in exchange for such transfer or obligation" and (b) one of three financial condition tests are met: the debtor (i) "was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation"; (ii) was engaged, or about to engage, "in business or a transaction, for which any property remaining with the debtor was an unreasonably small capital"; or (iii) "intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured." See 11 U.S.C. § 548(a)(1)(B).
3. **Avoidable Fraudulent Transfers Under 11 U.S.C. § 544.** Section 544(b) of the Bankruptcy Code gives the estate the rights under state law to avoid fraudulent transfers. Like sections 548(a)(1)(A) and (a)(1)(B) of the Bankruptcy Code, most state laws authorize the avoidance of both actual and fraudulent transfers.

Liquidation Trust

The Liquidating Trust, on behalf of the Estates, hereby makes a formal demand for repayment or return of the stock received by you.

To encourage you to resolve this matter and provide assets to the Estates promptly, the Court has entered the Order Granting Liquidation Trust's Motion (1) to Establish Procedures to Resolve Litigation Regarding Avoidable Transfers of Scilex Stock Distributed to the Debtors' Shareholders and (2) to Extend Trading Restriction to Implement Settlement [Docket No. 2458] (the "Settlement Procedures Order"). Under the Settlement Procedures Order, the Liquidation Trust is authorized to settle the Distributed Stock Avoidance Action for:

- i. Return of 1 share of Distributed Stock for every 2 shares you received.

In exchange for the consideration set forth above, all claims held by the Estates against you relating to your receipt of the Distributed Stock will be forever released as set forth in the Settlement Agreement attached hereto as Annex A.

As a further incentive to you to settle, you would receive a subordinated unsecured claim against the Liquidating Trust equal to the sum paid in settlement or the sum of \$2.00 per share for each returned share of Distributed Stock if that option is chosen (regardless of whether the Liquidating Trust changes the settlement price in the future). In this manner, you may recover the amount or value paid in settlement ahead of non-settling parties if unsecured creditors are paid in full in the future.

Please note that your acceptance of this settlement offer would not violate the stay issued by the Court pursuant to the Order (I) Approving Sale of Scilex Stock to Scilex Holding Company Free and Clear of All Liens, Claims, Interests, and Encumbrances, (II) Conditionally Vacating the Oramed Sale Order, and (III) Granting Related Relief [Docket No. 1316] (the "Order"). The Order restricts trading of the Distributed Stock through March 31, 2024. All holders of the Distributed Stock may trade their Distributed Stock beginning on April 1, 2024.

To accept this offer, complete the Settlement Agreement attached hereto as Annex A and return the executed Settlement Agreement along with return of the Distributed Stock on or before November 21, 2024 to:

Liquidating Trustee of the Sorrento Therapeutics, Inc. et al.,

Liquidating Trust
David Weinhoffer
708 Main Street, 10th Floor
Houston, Texas 77002
Email: SorrentoTrust@macco.group

with a copy to

Norton Rose Fulbright US LLP

Attn. Ryan E. Manns



Liquidation Trust

2200 Ross Avenue, Suite 3600,
Dallas, Texas 75201

IF THIS SETTLEMENT PROPOSAL IS NOT TIMELY AND PROPERLY ACCEPTED BY YOU, THE LIQUIDATING TRUST MAY HAVE NO OTHER CHOICE BUT TO PURSUE THE FULL VALUE OF THE DISTRIBUTED STOCK AVOIDANCE ACTION AGAINST YOU WITH INTEREST.

Please recognize this settlement proposal as your opportunity to resolve this matter at a discount without the costs and risks inherent in litigation. If no payment or response is received from you on or before November 21, 2024 litigation may be commenced against you for the full amount of the Distribution, plus costs and interest.

Thank you in advance for your prompt attention. We look forward to hearing from you and resolving this matter.

Sincerely,

Sorrento Therapeutics, Inc., et al., Liquidation Trust

Liquidation Trust

Annex A
Settlement Agreement