

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

**In re:**

**AAIPHARMA INC., *et al.*,**

**Debtors.**

)  
) **Chapter 11**  
)  
) **Case Nos. 05-11341 through 05-11345 and**  
) **05-11347 through 05-11350 (PJW)**  
)  
) **Jointly Administered**  
)  
) **Re: Docket No. 59**  
) **Hearing Date: June 3, 2005 at 3:00 p.m.**

**ORDER PURSUANT TO SECTIONS 331  
AND 105(a) OF THE BANKRUPTCY CODE  
ESTABLISHING ADMINISTRATIVE PROCEDURES  
FOR INTERIM COMPENSATION AND REIMBURSEMENT  
OF EXPENSES OF PROFESSIONALS AND COMMITTEE MEMBERS**

Upon the motion (the "Motion") of aaiPharma Inc. ("aaiPharma") and the other above-captioned debtors and debtors in possession (collectively, the "Debtors"),<sup>1</sup> for an order pursuant to sections 331 and 105 of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code"), establishing procedures for interim compensation and reimbursement of professionals and committee members on a monthly basis;<sup>2</sup> and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and notice of the Motion having been given as set forth in the Motion; and it appearing that no further notice of the Motion need be given; and a hearing on the Motion having been held before the Court, and any objections to the Motion having been overruled or withdrawn; and this Court having determined that the relief requested

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<sup>1</sup> The Debtors are the following entities: aaiPharma, Applied Analytical Industries Learning Center, Inc., AAI Properties, Inc., AAI Technologies, Inc., AAI Japan, Inc., aaiPharma LLC, AAI Development Services, Inc. (Delaware), AAI Development Services, Inc. (Massachusetts) and Kansas City Analytical Services, Inc.

<sup>2</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

in the Motion is in the best interests of the Debtors, their estates, and creditors; and after due deliberation and good and sufficient cause appearing therefor, **it is hereby**

**ORDERED** that the Motion is granted; and it is further

**ORDERED** that notice of the Motion as set forth in the Motion and herein is sufficient under the circumstances; and it is further

**ORDERED** that all professionals retained and employed by the Debtors or any official committees (the "Committees") formed or appointed in these Cases **may seek interim compensation and reimbursement of expenses in accordance with the following terms and procedures:**

a) No earlier than the 20<sup>th</sup> day of each calendar month, each Professional seeking interim compensation shall file an application (the "Fee Application"), pursuant to section 331 of the Bankruptcy Code, for interim approval and allowance of compensation for services rendered and reimbursement of expenses incurred during the immediately preceding month (the "Compensation Period") and serve a copy of such Fee Application on the following parties (collectively, the "Notice Parties"): (i) the Debtors, c/o aaiPharma Inc., 2320 Scientific Park Drive, Wilmington, NC 28405 (Attn: Gregory S. Bentley, Esq.); (ii) counsel to the Debtors, Fried, Frank, Harris, Shriver & Jacobson LLP, One New York Plaza, New York, NY 10004 (Attn: Gary Kaplan, Esq.) and Richards, Layton & Finger, P.A., One Rodney Square, Wilmington, DE 19801 (Attn: Mark D. Collins, Esq.); (iii) counsel to the Committees; (iv) the Office of the United States Trustee, District of Delaware, J. Caleb Boggs Federal Building, 844 King Street, Suite 2207, Wilmington, DE 19801 (Attn: William Harrington, Esq.); (v) counsel to the unofficial committee of holders of the Debtors' publicly issued notes (the "Unofficial Committee"), Milbank, Tweed, Hadley & McCloy LLP, One Chase Manhattan Plaza, New York, NY 10005 (Attn: Dennis F. Dunne and Matthew S. Barr, Esq.) and Morris; Nichols, Arsht & Tunnell, 1201 North Market Street, P.O. Box 1347, Wilmington, DE 19899-1347 (Attn: Robert Dehney, Esq.); (vi) Moore & Van Allen, PLLC, counsel to Bank of America, N.A., the administrative agent for the proposed debtor in possession financing and the administrative agent for the Debtors' prepetition senior secured credit facility and; and (vii) counsel to Silver Point Capital, the collateral agent for the proposed debtor in

possession financing facility and the collateral agent for the Debtors' prepetition senior secured credit facility, Schulte Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022 (Attn: Frederick L. Ragucci, Esq.) and Young Conaway Stargatt & Taylor, LLP, 1000 West Street, 17th Floor, P.O. Box 391, Wilmington, Delaware 19899-0391 (Attn: Brendan L. Shannon, Esq.). All Fee Applications shall comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), applicable Third Circuit law and the Local Rules. Each Notice Party will have until 4:00 p.m. (Eastern Time) on the 20<sup>th</sup> day after service of a Fee Application to object thereto (the "Objection Deadline"). Upon the expiration of the Objection Deadline, the Professional may file a certificate of no objection with the Court after which the Debtors are authorized to pay each Professional an amount (the "Actual Interim Payment") equal to the lesser of (i) eighty (80%) percent of the fees and one hundred (100%) percent of the expenses requested in the Fee Application (the "Maximum Interim Payment") and (ii) eighty (80%) percent of the fees and one hundred (100%) percent of the expenses not subject to an objection pursuant to subparagraph (b) below.

b) If any Notice Party objects to a Professional's Fee Application, it must file a written objection (the "Objection") with the Court and serve it on the affected Professional and each of the Notice Parties. Additionally, the Objection must be filed with the Court and received by the affected Professional and the Notice Parties on or before the Objection Deadline. Thereafter, the objecting party and the affected Professional may attempt to resolve the Objection on a consensual basis. If the parties are unable to reach a resolution of the Objection within twenty (20) days after service of the Objection, the affected Professional may either: (i) file a response to the Objection with the Court, together with a request for payment of the difference, if any, between the Maximum Interim Payment and the Actual Interim Payment made to the Professional (the "Incremental Amount"); or (ii) forego payment of the Incremental Amount until the next interim or final fee application hearing, at which time the Court will consider and dispose of the Objection if requested by the parties.

c) Each Professional may submit its first Fee Application no earlier than June 20, 2005. This initial Fee Application will cover the period from the Petition Date through May 31, 2005. Thereafter, the Professionals may file Monthly Fee Applications in the manner described above.

d) Beginning with the approximately three-month period ending on August 31, 2005, at three month intervals or at such other intervals convenient to the Court, each of the Professionals must file with the Court and serve on the Notice Parties a request (an "Interim Fee Application Request") for interim Court approval and allowance, pursuant to section 331 of the Bankruptcy Code, of the compensation and reimbursement of expenses sought in the Fee Applications filed during such period (the "Interim Fee Period"). The Interim Fee Application Request, which will be substantially in the form of Exhibit A attached hereto and incorporated herein by reference, must include a brief description identifying (i) the Fee Applications that are the subject of the request, (ii) the amount of fees and expenses requested, (iii) the amount of fees and expenses paid to date or subject to an Objection, (iv) the deadline for parties other than the Notice Parties to file objections (the "Additional Objections") to the Interim Fee Application Request, and (v) any other information requested by the Court or required by the Local Rules. Each Professional must file its Interim Fee Application Request within forty-five (45) days after the end of the Interim Fee Period for which the request seeks allowance of fees and reimbursement of expenses. Each Professional must file its first Interim Fee Application Request on or before October 15, 2005 and the First Interim Fee Application Request should cover the Interim Fee Period from the commencement of these cases through and including August 31, 2005. Any Professional that fails to file an Interim Fee Application Request when due will be ineligible to receive further interim payments of fees or expenses for such Interim Fee Period under the Compensation Procedures until such time as the Interim Fee Application Request is submitted by the Professional.

e) The Debtors shall request that the Court schedule a hearing on Interim Fee Application Requests at least once every six (6) months, or at such other intervals as the Court deems appropriate. If no Objections are pending and no additional Objections are timely filed, the Court may grant an Interim Fee Application Request without a hearing.

f) The pendency of an Objection to payment of compensation or reimbursement of expenses will not disqualify a Professional from the future payment of compensation or reimbursement of expenses.

(g) Neither (i) the payment of or the failure to pay, in whole or in part, monthly interim compensation and reimbursement of expenses nor (ii) the filing or failure to file an Objection will bind

any party in interest or the Court with respect to the allowance of interim applications for compensation and reimbursement of expenses of Professionals. All fees and expenses paid to Professionals are subject to disgorgement until final allowance by the Court.

ORDERED that each member of a Committee, if one or more is appointed, may request payment of expenses by submitting statements thereof and supporting vouchers to his or her respective Committee counsel (if and when appointed), and that such counsel is authorized to collect and submit such requests for payment in accordance with the foregoing procedures; provided, however, that approval of these procedures does not authorize payment of such expenses to the extent that such authorization does not exist under the Bankruptcy Code, the Bankruptcy Rules, applicable Third Circuit law, the Local Rules, or the practices of this Court; and it is further

ORDERED that notice of hearings to consider interim and final fee applications shall be served on (a) the Notice Parties and (b) all parties that have filed a notice of appearance with the Clerk of this Court and requested such notice. The Notice Parties shall be entitled to receive both the Fee Applications and the notice of hearing thereon (the "Hearing Notice"), and all other parties entitled to notice shall be entitled to receive only the Hearing Notice. Notice given in accordance with this paragraph is deemed sufficient and adequate and in full compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.

ORDERED that all time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

ORDERED, that this Court shall retain jurisdiction to interpret and enforce the terms of this Order.

Dated: June 3, 2005  
Wilmington, Delaware

  
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THE HONORABLE PETTER J. WALSH  
UNITED STATES BANKRUPTCY JUDGE