



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

BRIAN TROMBLEY, DAN J.)
THOMAS, JR., JOHN HAWN AND)
LEONARD GERSTLE C/F JEREMY)
GERSTLE, UGMA,)

Plaintiffs,)

v.)

BIOENVISION INC., CHRISTOPHER)
B. WOOD, MICHAEL KAUFFMAN,)
THOMAS SCOTT NELSON, STEVEN)
A. ELMS, ANDREW SCHIFF, JOSEPH)
P. COOPER, GENZYME)
CORPORATION and WICHITA BIO)
CORPORATION,)

Defendants.)

C.A. No. 3008-VCP

MOTION FOR COMMISSION

Pursuant to 10 Del. C. § 368 and Court of Chancery Rules 26 and 45, defendant Genzyme Corporation ("Genzyme") hereby moves this Court for an Order directing that Genzyme be authorized to do all that is necessary and required to summon Adam Shay, 5813 Wrightsville Avenue, Apartment 139, Wilmington, North Carolina 28403 by subpoena *duces tecum* to produce for inspection and copying documents designated on Schedule A hereto within his respective possession, custody, or control, and *ad testificandum* to cause Mr. Shay to appear and testify under oath regarding the topics set forth in Schedule B attached hereto, at the date, time and place specified below or at such other date, time and place as deponent and Genzyme shall agree upon:

DATE AND TIME

July 20, 2007 at 10:00 a.m.

PLACE

Abrams & Laster LLP
Brandywine Plaza West
1521 Concord Pike, Suite 303
Wilmington, Delaware 19803

and continuing from day to day or upon such adjourned date as may be agreed upon by the parties and the deponent.

The grounds for this motion are that (i) Mr. Shay is not a party to this action, (ii) the testimony and documents sought are necessary and relevant to the claims in this case and are likely to lead to admissible evidence, and (iii) compulsory process is required in order to obtain the required testimony and documents.

Of Counsel:
John D. Donovan, Jr.
Christopher G. Green
Ropes & Gray LLP
One International Place
Boston, Massachusetts 02110-2624
(617) 951-7000

/s/ Kevin G. Abrams

Kevin G. Abrams (#2375)
A. Thompson Bayliss
Abrams & Laster LLP
Brandywine Plaza West
1521 Concord Pike, Suite 303
Wilmington, Delaware 19803
(302) 778-1000

Attorneys for Defendant Genzyme Corporation

Dated: July 12, 2007

SCHEDULE A

DEFINITIONS

1. "You" or "Your" shall mean Adam Shay.
2. "Plaintiffs" shall mean Brian Trombley, Dan J. Thomas, Jr., John Hawn and Leonard Gerstle C/F Jeremy Gerstle, UGMA, and their subsidiaries, officers, directors, employees, agents, advisors, consultants, divisions, departments, attorneys, agents, and any other person acting on Plaintiffs' behalf.
3. "Defendants" shall mean Bioenvision, Inc., Christopher B. Wood, Michael Kauffman, Thomas Scott Nelson, Steven A. Elms, Andrew Schiff, Joseph P. Cooper, Genzyme Corporation and Wichita Bio Corporation, and their subsidiaries, officers, directors, employees, agents, advisors, consultants, divisions, departments, attorneys, agents, and any other person acting on Defendants' behalf.
4. "Genzyme" means Defendant Genzyme Corporation and its wholly-owned subsidiary, Defendant Wichita Bio Corporation, and each of its present or former subsidiaries, divisions, units, departments, officers, directors, employees, agents, attorneys, advisors, accountants, consultants, and any other person acting under its direction or control or on its behalf.
5. "Bioenvision" means Bioenvision, Inc., and each of its present or former subsidiaries, divisions, units, departments, officers, directors, employees, agents, attorneys, advisors, accountants, consultants, and any other person acting under its direction or control or on its behalf.
6. "SCO Capital" shall mean SCO Capital Partners LLC, and each of its present or former subsidiaries, divisions, units, departments, officers, directors, employees, agents, attorneys,

advisors, accountants, consultants, and any other person acting under its direction or control or on its behalf.

7. "Communications" means the transmittal of information (in the form of facts, ideas, thoughts, opinions, data, inquiries or otherwise) and includes, without limitation, correspondence, memoranda, reports, presentations, face-to-face conversations, telephone conversations, instant messages, voice messages, negotiations, agreements, inquiries, understandings, meetings, letters, notes, telegrams, e-mail, and postings of any type.

8. The "Tender Offer" shall mean the outstanding all-cash offer made by Genzyme to Bioenvision shareholders to purchase Bioenvision stock, as commenced by Genzyme's filing of a Schedule 14D-1 on June 4, 2007 with the Securities and Exchange Commission (the "SEC"), and any amendments thereafter, and as recommended by Bioenvision in a Schedule 14D-9 filed with the SEC on June 7, 2007, and any amendments thereafter.

9. "Concerning" shall be given the broadest meaning possible, including, but not limited to, referring to, relating to, reflecting, regarding, describing, evidencing, constituting, having any relationship to, pertaining to, or being in any way legally, logically, or factually connected, in whole or in part, with the matter discussed or the subject matter of the particular request.

10. "Document" and "Documents" are used in the broadest sense possible under Court of Chancery Rule 34 and includes all written, printed, typed, reported, recorded, pictorial or graphic matter, however produced or reproduced, now or at the time of possession, custody or control, including but not limited to, all letters, telegrams, telexes, e-mail transmissions, voice messages, instant messages, cables, telephone records and notations, invoices, ledgers, journals, formal and informal books of record and accounts, logs, studies, summaries, minutes, agendas,

bulletins, notices, announcements, charts, manuals, models, graphs, instructions, financial statements, photographs, videotapes, microfilm, other films or tapes, reports, brochures, publications, books, memoranda, notes, notebooks, drafts, worksheets, contracts, agreements, proposed contracts or agreements (whether or not actually consummated), computer data, computer print outs, graphics, statistics, interoffice memos, computer programs, computer software, tape recordings, transcripts, intra-company drafts of the foregoing items, articles of newspapers, magazines and other publications, purchase orders, proposals, plans, specifications, addenda, statements, receipts, confirmation slips, evidence of payments, bills, diaries, calendars, Day Timers, time records, bills of lading, cancelled checks, audiotapes, videotapes, DVDs, and compact discs. Any draft of a document or nonidentical copy of a document is a separate "document." Digital media should be produced in its native format.

11. "Including" means "including but not limited to" and "including without limitation."

12. "Meeting" shall mean any assembly, convocation, encounter, or contemporaneous presence of two or more persons for any purpose, whether or not planned, arranged or scheduled in advance, during which a communication of any kind occurred, and includes but is not limited to formal and informal gatherings, conversations, video conferences, telephone calls, and virtual meetings.

13. "Person" shall mean any natural person, corporation, association, partnership, limited partnership, limited liability company, government agency, or other business, charitable or non-profit, legal or governmental association, organization or entity together with its officers, directors, partners, employees, agents, and representatives.

14. "Relating to" shall mean concerning, consisting of, referring to, reflecting, describing, evidencing, constituting, with respect to, having any relationship to, pertaining to or being in any way legally, logically, or factually connected, in whole or in part, with the matter discussed or the subject matter of the particular request.

15. "Member of the Media" shall mean any employee, agent, or representative of any newspaper, magazine or periodical, website, radio, television or any other communication broadcast outlet.

16. "Shareholder" means any natural person, corporation, association, partnership, limited partnership, limited liability company, organization or entity together with its officers, directors, partners, employees, agents, and representatives, which currently owns one or more public shares of stock in Bioenvision, Inc., or has owned one or more such shares since June 4, 2007.

INSTRUCTIONS

1. The language of this document request shall be read liberally, so as to be inclusive rather than exclusive and in particular:

- a. The use of the singular shall be deemed to include the plural, and the use of one gender shall include the other, as appropriate in context.
- b. The connectives "and" and "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all documents that might otherwise be construed to be outside of its scope.
- c. "Include," "includes" and "including" shall mean "including but not limited to" and "including without limitation."
- d. The terms "all" and "each" shall be construed as all and each.

2. In responding to this subpoena, you shall produce all responsive documents that are in your possession, custody, or control, or in the possession, custody, or control of your employer or entity in which you are a partner. A document shall be deemed to be within your

control if you have the right to secure the document or a copy of the document from another person having possession or custody of the document.

3. In responding to this subpoena, you shall produce all responsive documents available at the time of production and you shall supplement your responses as required by Delaware Court of Chancery Rules.

4. You are to produce for inspection and copying the requested documents as they are kept in the usual course of business, or you shall organize and label them to correspond with the categories in these requests.

5. If any responsive document was, but is no longer, in your possession or subject to your control, state whether it is: (a) missing or lost; (b) destroyed; (c) transferred voluntarily or involuntarily to others; or (d) otherwise disposed of; and in each instance, identify the name and address of its current or last known custodian, and the circumstances surrounding such disposition.

6. If any document responsive to these requests is withheld under a claim of privilege or upon any other ground, as to each such document, identify the privilege being asserted and provide the following information in sufficient detail to permit the court to rule on your claim;

(a) the date, author, primary addressee and secondary addressees or persons copied, including the relationship of those persons to the author of the document; a brief description sufficient to identify the type, subject matter, and purpose of the document;

(b) all persons to whom its contents have been disclosed; and

(c) the party who is asserting the privilege.

7. If a portion of any document responsive to these requests is withheld under claim of privilege pursuant to Instruction 4, any non-privileged portion of such document must be produced with the portion claimed to be privileged redacted.

8. You are to produce each document requested herein in its entirety, without deletion or excision (except as qualified by Instructions 4 and 5 above) regardless of whether you consider the entire document to be relevant or responsive to the requests.

SPECIFIC REQUESTS

1. All Documents or Communications concerning the Tender Offer, including written or electronic postings, reports, studies, analyses, deposition transcripts, formal or informal documents, interview memoranda, notes of interviews, any formal or informal document requests, and all Documents received or produced in connection therewith.

2. All Documents or Communications exchanged between You and any other Shareholder, any other Shareholder's counsel, or any agent or representative of any other Shareholder, concerning the Tender Offer, including written or electronic postings or any other Communications.

3. All Documents or Communications relating to any Meetings between or among You and any other Shareholder, any other Shareholder's counsel, or any agent or representative of any other Shareholder, concerning the Tender Offer.

4. All Documents or Communications exchanged between You and SCO Capital, SCO Capital's counsel, or any agent or representative of SCO Capital concerning the Tender Offer.

5. All Documents or Communications relating to any Meetings between or among You and SCO Capital, SCO Capital's counsel, or any agent or representative of SCO Capital concerning the Tender Offer.

6. All Documents or Communications exchanged between You and any Member of the Media concerning the Tender Offer.

7. All Documents or Communications relating to any Meetings between or among You and any Member of the Media concerning the Tender Offer.

8. All Documents or Communications exchanged between You and any other third parties concerning the Tender Offer.

9. All Documents or Communications relating to any Meetings between or among You and any third parties concerning the Tender Offer.

10. All Documents or Communications with any Shareholder or third party prior to June 4, 2007, concerning any potential sale, merger, or tender offer relating to Bioenvision.

11. All Documents or Communication relating to each of Your positions in Bioenvision, including but not limited to long positions, short positions, any swap, hybrid, derivative, or other position or interest in which You have any economic interest, voting interest, or any other interest of any nature in Bioenvision.

12. All Documents or Communication concerning any trading or transaction serving as a hedge against any investment, position or interest of any nature in Bioenvision.

SCHEDULE B

This subpoena requires the deposition of Adam Shay as to his knowledge of the following subject matters:¹

1. The Tender Offer.
2. Your ownership of, or interest in, Bioenvision stock.
3. Communications between You and any Member of the Media concerning the Tender Offer.
4. Communications between You and any Shareholder or any representative of any Shareholder concerning Bioenvision.

¹ Capitalized terms are used herein as defined in Schedule A.