BIOMET INC
Form DEFM14A
August 08, 2007
Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

SCHEDULE 14A

PROXY STATEMENT PURSUANT TO SECTION 14(a)

OF THE SECURITIES EXCHANGE ACT OF 1934

Filed by the Registrant x

Filed by a Party other than the Registrant ¨

Check the appropriate box:

¨ Preliminary Proxy Statement
x Definitive Proxy Statement
¨ Definitive Additional Materials
¨ Soliciting Material Under Rule 14a-12

¨ **Confidential, for use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

BIOMET, INC.

(Name of Registrant as Specified in its Charter)

Payment of Filing Fee (Check the appropriate box):

¨ No fee required.

x Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11

(1) Title of each class of securities to which transaction applies:

Biomet, Inc. common shares, no par value (*Common Shares*)

(2) Aggregate number of securities to which transaction applies:

43,235,222 Common Shares

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

The proposed maximum aggregate value of the transaction for purposes of calculating the filing fee is $1,988,820,212. The filing fee was based upon 43,235,222 Common Shares owned by persons other than LVB Acquisition, Inc. or LVB Acquisition Merger Sub, Inc. and outstanding on July 20, 2007, multiplied by $46.00 per share (the *Total Consideration*). The filing fee equals the product of 0.0000307 multiplied by the Total Consideration.

(4) Proposed maximum aggregate value of transaction:

$1,988,820,212

(5) Total fee paid:

$61,056.78

¨ Fee paid previously with preliminary materials.

x Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

(1) Amount Previously Paid:

$1,166,700.74

(2) Form, Schedule or Registration Statement No:

Preliminary Schedule 14A

(3) Filing party:

Biomet, Inc.

(4) Date Filed:

January 31, 2007

Table of Contents

August 8, 2007

To the Shareholders of Biomet, Inc.:

You are cordially invited to attend a special meeting of shareholders of Biomet, Inc. to be held on September 5, 2007 at 9:00 a.m., local time, at Biomet s headquarters at 56 East Bell Drive, Warsaw, Indiana 46582.

On December 18, 2006, we entered into a merger agreement (which was amended and restated on June 7, 2007) with LVB Acquisition, Inc. (formerly LVB Acquisition, LLC), an entity currently controlled by private equity funds sponsored by each of The Blackstone Group L.P., Goldman, Sachs & Co., Kohlberg Kravis Roberts & Co. L.P. and TPG Capital, L.P. At the special meeting, we will ask you to, among other things, consider and vote on the approval of the merger agreement. The merger is the second and final step of the acquisition of Biomet by LVB Acquisition. The first step was a tender offer by a wholly owned subsidiary of LVB Acquisition for all of the outstanding common shares of Biomet at a price of $46.00 per share, net to the seller in cash without interest, which was completed on July 12, 2007. The second step of LVB Acquisition s purchase of Biomet consists of the merger of LVB Acquisition s subsidiary with and into Biomet pursuant to the merger agreement.

If the merger is completed, you will receive $46.00 in cash, without interest, for each Biomet share you own.

After careful consideration, the board of directors unanimously adopted and declared advisable the merger agreement and the merger and related transactions and unanimously determined that the merger is in the best interests of Biomet and its shareholders. **Our board of directors unanimously recommends that you vote FOR the proposal to approve the merger agreement**.

The merger cannot be completed unless shareholders holding at least 75% of the outstanding common shares on the record date approve the merger agreement. As a result of the tender offer and a voting agreement with certain of our shareholders, LVB Acquisition beneficially owns or may be deemed to have voting control over a total of approximately 84.74% of the outstanding common shares, which is sufficient to assure approval of the merger agreement at the special meeting. As a result, the affirmative vote of other Biomet shareholders is not required to approve the merger agreement. The completion of the merger is also subject to the satisfaction or waiver of other conditions. More information about the merger is contained in the accompanying proxy statement.

We encourage you to read the accompanying proxy statement in its entirety because it explains the proposed merger, the documents related to the merger and other related matters.

Whether or not you plan to attend the special meeting, please take the time to submit a proxy by following the instructions on your proxy card as soon as possible. If your common shares are held in an account at a brokerage firm, bank or other nominee, you should instruct your broker, bank or other nominee how to vote in accordance with the voting instruction form furnished by your broker, bank or other nominee.

We appreciate your continued support of our company and recommend that you vote for the approval of the merger agreement.

Sincerely,

Jeffrey R. Binder

President and Chief Executive Officer

This transaction has not been approved or disapproved by the Securities and Exchange Commission or any state securities commission. Neither the Securities and Exchange Commission nor any state securities commission has passed upon the merits or fairness of this transaction or upon the adequacy or accuracy of the information contained in this proxy statement. Any representation to the contrary is a criminal offense.

This proxy statement is dated August 8, 2007 and is first being mailed to shareholders on or about August 9, 2007.

Table of Contents

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

To Be Held September 5, 2007

Date, Time, Place	September 5, 2007, at 9:00 a.m., local time, at Biomet s headquarters at 56 East Bell Drive, Warsaw, Indiana 46582.
Purposes	1. To approve the Agreement and Plan of Merger, dated as of December 18, 2006 (amended and restated as of June 7, 2007), by and among Biomet, Inc., an Indiana corporation, LVB Acquisition, Inc. (formerly LVB Acquisition, LLC), a Delaware corporation, and LVB Acquisition Merger Sub, Inc., an Indiana corporation and a wholly-owned subsidiary of LVB Acquisition, Inc.; and
	2. To transact any other business as may properly come before the special meeting.
Who Can Vote	Only shareholders of record at the close of business on July 20, 2007, the record date for the special meeting, may vote at the special meeting and any adjournments or postponements of the special meeting.
	A shareholders list will be available at our executive offices at 56 East Bell Drive, Warsaw, Indiana 46582 for inspection by any shareholder entitled to vote at the special meeting beginning no later than five business days before the date of the special meeting and continuing through the special meeting.
How Can You Vote	Please submit your proxy or voting instructions as soon as possible to make sure that your shares are represented and voted at the special meeting, whether or not you plan to attend the special meeting. Whether you attend the special meeting or not, you may revoke a proxy at any time before it is voted by filing with our corporate secretary a duly executed revocation of proxy, by properly submitting a proxy either by mail, the Internet or telephone with a later date or by appearing at the special meeting and voting in person. You may revoke a proxy by any of these methods, regardless of the method used to deliver your previous proxy. Attendance at the special meeting without voting will not itself revoke a proxy. If your shares are held in an account at a brokerage firm, bank or other nominee, you must contact your broker, bank or other nominee to revoke your proxy.
Dissenters Rights	Biomet shareholders have no dissenters rights under Indiana law in connection with the merger.
Additional Information	For more information about the merger and the other transactions contemplated by the merger agreement, please review the accompanying proxy statement and the merger agreement attached to it as Annex A.

By Order of the Board of Directors,

Bradley J. Tandy

Senior Vice President, General Counsel and Secretary

Warsaw, Indiana

August 8, 2007

Table of Contents

SUMMARY VOTING INSTRUCTIONS

Ensure that your Biomet common shares can be voted at the special meeting by submitting your proxy or contacting your broker, bank or other nominee.

If your Biomet common shares are registered in the name of a broker, bank or other nominee: check the voting instruction card forwarded by your broker, bank or other nominee to see which voting options are available or contact your broker, bank or other nominee in order to obtain directions as to how to ensure that your common shares are voted in favor of the proposals at the special meeting.

If your Biomet common shares are registered in your name: submit your proxy as soon as possible by telephone, via the Internet or by signing, dating and returning the enclosed proxy card in the enclosed postage-paid envelope, so that your common shares can be voted in favor of the proposals at the special meeting.

Instructions regarding telephone and Internet voting are included on the proxy card.

If you need assistance in completing your proxy card or have questions regarding the special meeting, please contact Biomet at (574) 372-1514.

Table of Contents

TABLE OF CONTENTS

Table of Contents

Table of Contents

BIOMET, INC.

56 East Bell Drive

Warsaw, Indiana 46582

PROXY STATEMENT

This proxy statement contains information related to our special meeting of shareholders to be held on September 5, 2007, at 9:00 a.m., local time, at Biomet s headquarters at 56 East Bell Drive, Warsaw, Indiana 46582, and at any adjournments or postponements thereof. We are furnishing this proxy statement to shareholders of Biomet, Inc. as part of the solicitation of proxies by Biomet s board of directors for use at the special meeting.

SUMMARY TERM SHEET

This summary highlights selected information in this proxy statement and may not contain all the information about the merger that is important to you. We have included page references in parentheses to direct you to more complete descriptions of the topics presented in this summary term sheet. You should carefully read this proxy statement in its entirety, including the annexes and the other documents to which we have referred you, for a more complete understanding of the matters being considered at the special meeting. Each item in this term sheet includes a page reference directing you to a more complete description of that item in the proxy statement.

The Companies

(page 15)

Biomet, Inc.

56 East Bell Drive

Warsaw, Indiana 46582

(574) 267-6639

We are an Indiana corporation and we design, manufacture and market products used primarily by musculoskeletal medical specialists in both surgical and non-surgical therapy. Our product portfolio encompasses reconstructive products, fixation devices, spinal products and other products. Our corporate headquarters are located in Warsaw, Indiana and we have manufacturing facilities and/or offices in more than fifty locations worldwide. Our common shares are currently listed on the NASDAQ Global Select Market under the symbol BMET.

LVB Acquisition, Inc.

LVB Acquisition, Inc., which we refer to as Parent, is a Delaware corporation that was originally formed as a limited liability company solely for the purpose of acquiring Biomet. Parent is controlled by a consortium of private equity funds sponsored by each of The Blackstone Group L.P., Goldman, Sachs & Co., Kohlberg Kravis Roberts & Co. L.P. and TPG Capital, L.P. The equity investors of Parent have re-formed Parent as a Delaware corporation prior to the date hereof.

LVB Acquisition Merger Sub, Inc.

LVB Acquisition Merger Sub, Inc., which we refer to as Merger Sub, is an Indiana corporation and a wholly-owned subsidiary of Parent that was formed solely for the purpose of facilitating Parent s acquisition of

1

Table of Contents

Biomet. Merger Sub currently owns 202,601,130 Biomet common shares, representing approximately 82.41% of our outstanding common shares. Upon consummation of the proposed merger, Merger Sub will merge with and into Biomet and will cease to exist with Biomet continuing as the surviving corporation and a wholly-owned subsidiary of Parent.

Overview of the Transaction

(page 15)

Biomet, Parent and Merger Sub entered into a merger agreement on December 18, 2006, which was amended and restated on June 7, 2007. In the merger agreement, Parent agreed to acquire Biomet through a two-step process. The first step was a tender offer by Merger Sub for all of the outstanding common shares of Biomet at a price of $46.00 per share, net to the seller in cash without interest, which was completed on July 12, 2007. The second step is a merger of Merger Sub with and into Biomet, with Biomet surviving as a wholly-owned subsidiary of Parent. The following will occur in connection with the merger:

- each outstanding common share (other than those shares owned by Parent, Merger Sub or any other direct or indirect wholly-owned subsidiary of Parent and shares owned by us or any of our wholly-owned subsidiaries and except for those shares as otherwise agreed by the holder and Biomet) will be converted into the right to receive $46.00 per share in cash, less any required withholding taxes and without interest;

- all common shares so converted will, by virtue of the merger be cancelled and cease to exist, and each certificate formerly representing any of the common shares will thereafter represent only the right to receive the per share merger consideration, without interest;

- each outstanding common share of Merger Sub will be converted into one common share, without par value, of the surviving corporation;

- Biomet shareholders (other than Parent and its affiliates and any other person, including any current or former members of management of Biomet, who becomes a direct or indirect investor in Parent) will no longer have any interest in, and no longer be shareholders of, Biomet, and will not participate in any of our future earnings or growth;

- our common shares will no longer be listed on the NASDAQ Global Select Market and price quotations with respect to our common shares in the public market will no longer be available; and

- the registration of our common shares under the Securities Exchange Act of 1934 (*Exchange Act*) will be terminated.

The Special Meeting

(page 12)

The special meeting of our shareholders will be held at 56 East Bell Drive, Warsaw, Indiana 46582 at 9:00 a.m., local time, on September 5, 2007. At the special meeting, you will be asked to, among other things, consider and vote on the approval of the merger agreement. Please see the section of this proxy statement captioned Questions and Answers About the Special Meeting and the Merger for additional information on the special meeting, including how to vote your Biomet common shares.

Shareholders Entitled to Vote; Vote Required to Approve the Merger Agreement

(page 12)

You may vote at the special meeting if you owned Biomet common shares at the close of business on July 20, 2007, the record date for the special meeting. On that date, there were 245,836,352 Biomet common shares outstanding and entitled to vote. You may cast one vote for each Biomet common share that you owned on that date. Approval of the merger agreement requires the affirmative vote of the holders of at least 75% of Biomet s common shares outstanding entitled to vote at the special meeting. Merger Sub owns 82.41% of Biomet s common shares as a result of the tender offer made pursuant to the merger agreement. In addition, certain shareholders have agreed with Parent to vote approximately 2.3% of the outstanding shares in favor of the merger agreement. Thus, the approval of the merger agreement is assured without the vote of any other shareholder.

Table of Contents

Payment for Shares

(page 62)

American Stock Transfer & Trust Company has been appointed as the paying agent to coordinate the payment of the merger consideration to our shareholders. The paying agent will send written instructions for surrendering your Biomet common share certificates, if your common shares are certificated, and obtaining the merger consideration after we have completed the merger. Do not return your stock certificates with your proxy card and do not forward your stock certificates to the paying agent prior to receipt of the written instructions. If you hold your uncertificated Biomet common shares (i.e., you hold your shares in book entry), you will automatically receive your cash consideration as soon as practicable after the effective time of the merger without any further action required on your part.

Our Share Price

(page 75)

Our common shares are currently traded on the NASDAQ Global Select Market under the symbol BMET. On April 3, 2006, the trading day prior to public speculation about Biomet executing a significant transaction, the closing price per common share was $34.78. On June 6, 2007, the last trading day before the amended and restated merger agreement was announced, the closing price per common share was $44.20. The $46.00 per share to be paid for each Biomet common share in the merger represents a premium of approximately 32% to the closing price on April 3, 2006; and a premium of approximately 4% to the closing price on June 6, 2007, the last trading day prior to the announcement of the amended and restated merger agreement. On August 7, 2007, the last trading day before the printing of this proxy statement, the closing price per share was $45.51.

Recommendation of Our Board of Directors; Reasons for Recommending the Approval of the Merger Agreement

(page 31)

On June 6, 2007, our board of directors (all of whom were unaffiliated with Parent at the time) unanimously adopted and declared advisable the merger agreement and the merger and related transactions, and unanimously determined that the merger is in the best interests of Biomet and its shareholders. Accordingly, our board of directors recommends that our shareholders vote **FOR** approval of the merger agreement.

In adopting the merger agreement and making the determination to recommend that the merger agreement be approved, our board of directors considered, among other factors:

- the current and historical market prices of Biomet s common shares, and the fact that the $46.00 per share to be paid for each Biomet common share in the merger represents a substantial premium to those historical trading prices;

- the possible alternatives to the sale of Biomet, including continuing to operate Biomet on a stand-alone basis, and the risks associated with such alternatives, each of which the board of directors determined not to pursue in light of its belief, and the belief of Biomet s management, that the merger was in the best interests of Biomet and its shareholders;

- the presentation of Morgan Stanley, including its opinion dated June 6, 2007 that, as of such date and based upon and subject to the various considerations, assumptions and limitations set forth in its written opinion, the consideration of $46.00 per share to be received by holders of Biomet common shares in accordance with the merger agreement was fair from a financial point of view to such shareholders (see Approval of the Merger Agreement Opinion of our Financial Advisor and Annex B to this proxy statement); and

- the additional factors described in detail under Approval of the Merger Agreement Recommendation of Our Board of Directors; Reasons for Recommending the Approval of the Merger Agreement beginning on page 31.

Due to the variety of factors considered, our board of directors did not assign relative weight to these factors or determine that any factor was of particular importance. Our board of directors reached its conclusion based upon the totality of the information presented and considered during its evaluation of the merger. In considering the recommendation of our board of directors with respect to the merger, you should be aware that some of our directors and executive officers have interests that may be different from, or in addition to, our shareholders generally.

Background of the Merger

(pages 16 and 31)

For a description of the events leading to the adoption of the merger agreement by our board of directors, you should refer to Approval of the Merger Agreement Background of the Merger and Recommendation of Our Board of Directors; Reasons for Recommending the Approval of the Merger Agreement.

Opinion of Our Financial Advisor

(page 36)

On June 6, 2007, Morgan Stanley & Co. Incorporated, our financial advisor (*Morgan Stanley*), rendered its oral opinion to our board of directors and subsequently confirmed in writing, that, as of that date, and based upon and subject to the various considerations, assumptions and limitations set forth in its written opinion, the consideration of $46.00 per share to be received by holders of Biomet common shares in accordance with the merger agreement was fair from a financial point of view to our shareholders.

The full text of the written opinion of Morgan Stanley is attached to this proxy statement as Annex B. We encourage you to read this opinion carefully in its entirety for a complete description of the assumptions made, procedures followed, matters considered and limitations on the scope of the review undertaken by Morgan Stanley in rendering its opinion. The opinion is directed to our board of directors and does not constitute a recommendation by Morgan Stanley to any shareholder as to any matter relating to the merger.

Financing of the Offer and Merger

(page 44)

Biomet, Parent and Merger Sub estimate that the total amount of funds necessary to consummate the transactions contemplated by the merger agreement will be approximately $11.4 billion, which will be funded by debt financing, equity financing provided by the current equity investors in Parent and other co-investors that it may identify (which may include one or more existing holders of Biomet common shares) and, to the extent available, cash of Biomet. Funding of the debt financing required for the merger is subject to the satisfaction of the conditions set forth in the commitment letters under which the financing will be provided. See Approval of the Merger Agreement Financing of the Offer and Merger beginning on page 44.

Interests of Biomet Directors and Executive Officers in the Merger

(page 49)

Members of our board of directors and our executive officers may have interests in the transactions contemplated by the merger agreement that differ from, or are in addition to, those of our other shareholders. For example:

- immediately prior to the consummation of the tender offer, our executive officers and directors held 12,570,046 common shares;

- our current and former executive officers and members of our board of directors held stock options that pursuant to the merger agreement were cancelled after the tender offer in exchange for a payment equal to the excess, if any, of $46.00 per share over the option exercise price for each share subject to the stock option, less any applicable withholding taxes and without interest;

4

Table of Contents

as a result of the tender offer, certain of our executive officers may be entitled to severance benefits (including tax gross-up payments) if one of these executives dies, we terminate one of these executives employment for any reason other than for cause or disability, or one of these executives terminates his or her employment for good reason;

our current and former directors and officers will continue to be indemnified and will have the benefit of liability insurance until July 2013, which is six years after completion of the tender offer;

subsequent to signing the original merger agreement on December 18, 2006, Biomet entered into employment arrangements with Mr. Jeffrey R. Binder, our President and Chief Executive Officer, Mr. J. Pat Richardson, our Vice President Finance and Interim Chief Financial Officer and Treasurer, Mr. Glen A. Kashuba, our Senior Vice President and President of Biomet Trauma and Biomet Spine, and we understand that Parent intends to continue to employ Messrs. Binder, Richardson and Kashuba pursuant to terms similar to the terms of their current arrangements and to provide Messrs. Binder, Richardson and Kashuba with equity compensation commensurate with their respective positions at Biomet;

although no agreements have been entered into as of the date of this proxy statement, Parent informed us of its intention to cause the surviving corporation to enter into agreements with other members of our existing management team (which agreements will not become effective until the merger is completed), and we believe that these persons are likely to enter into such agreements, although such matters are subject to further negotiation and discussion and no terms or conditions have been finalized;

although no agreements have been entered into as of the date of this proxy statement, Parent has informed us that it intends to offer certain current and former members of management the opportunity to convert all or a portion of their current equity interests in Biomet into, or otherwise invest on terms that are no more favorable than other investors in, equity in Parent (or a subsidiary thereof);

Parent expects to offer Mr. Binder the opportunity to continue to serve on the board of directors the surviving corporation following the merger, which boards are expected to include at least ten other members; and

if the merger is consummated, any shareholder derivative claims that are currently pending or that could be brought against the directors and officers of Biomet by current shareholders would likely be extinguished.

Conditions to the Merger

(page 68)

We are working to complete the merger as soon as possible. Although we expect to complete the merger before the end of September 2007, the merger is subject to the satisfaction of several conditions, including the conditions described immediately below. As such, we cannot predict the exact time of the merger s completion.

The completion of the merger depends on a number of conditions being satisfied, including but not limited to:

the merger agreement must have been approved by the affirmative vote of at least 75% of the votes entitled to be cast by the holders of the outstanding common shares (as a result of the tender offer and a voting agreement with certain of our shareholders, LVB Acquisition beneficially owns or may be deemed to have voting control over a total of approximately 84.74% of the outstanding common shares, which is sufficient to assure approval of the merger agreement at the special meeting);

no temporary restraining order, preliminary or permanent injunction or other judgment or order issued by any court or agency of competent jurisdiction or other law, rule, legal restraint or prohibition shall be in effect preventing, restraining or rendering illegal the consummation of the merger; and the expiration of a 20 consecutive day marketing period that Parent may use to complete its financing for the merger. The marketing period begins to run after we have obtained shareholder approval and satisfied other conditions under the merger agreement, including the delivery of certain financial information required by Parent to complete its contemplated financing of the merger.

Where legally permissible, a party may waive a condition to its obligation to complete the merger even though that condition has not been satisfied. None of Biomet, Parent or Merger Sub, however, has any intention to waive any condition as of the date of this proxy statement.

Certain Material United States Federal Income Tax Consequences

(page 57)

The receipt of $46.00 in cash for each common share pursuant to the merger will be a taxable transaction for United States federal income tax purposes. A U.S. Holder, as defined on page 58, generally will recognize gain or loss as a result of the merger on each share measured by the difference, if any, between $46.00 and such holder s adjusted tax basis in that share. However, subject to certain exceptions, a Non-U.S. Holder, as defined on page 58, will generally not be subject to United States federal income tax on any gain or loss recognized as a result of the merger.

You should read Approval of the Merger Agreement Certain Material United States Federal Income Tax Consequences beginning on page 57 for a more complete discussion of the federal income tax consequences of the merger. Tax matters can be complicated, and the tax consequences of the merger to you will depend on your particular tax situation. We urge you to consult your tax advisor regarding the tax consequences of the merger to you.

Dissenters Rights

(pages 14 and 57)

Under Indiana law, Biomet shareholders do not have dissenters rights in connection with the merger.

Table of Contents

QUESTIONS AND ANSWERS ABOUT THE SPECIAL MEETING AND THE MERGER

Q: What matters will be voted on at the special meeting?

A: You will vote on a proposal to approve the merger agreement. The merger is the second and final step of the acquisition of Biomet by Parent. The first step was a tender offer by Merger Sub for all of the outstanding common shares of Biomet at a price of $46.00 per share, net to the seller in cash without interest, which was completed on July 12, 2007.

Q: As a shareholder, what will I receive in the merger?

A: You will be entitled to receive $46.00 in cash, without interest, for each Biomet common share that you own immediately prior to the effective time of the merger as described in the merger agreement.

Q: When and where is the special meeting of our shareholders?

A: The special meeting of shareholders will take place on September 5, 2007, at 9:00 a.m., local time, at Biomet s headquarters at 56 East Bell Drive, Warsaw, Indiana 46582.

Q: What vote of our shareholders is required to approve the merger agreement?

A: For us to complete the merger, shareholders holding at least 75% of Biomet s common shares outstanding at the close of business on the record date must vote FOR the proposal to approve the merger agreement. As a result of the tender offer and a voting agreement with certain of our shareholders, Parent beneficially owns or may be deemed to have voting control over a total of approximately 84.74% of our outstanding common shares, which is sufficient to assure approval of the merger agreement at the special meeting. Accordingly, the affirmative vote of other Biomet shareholders is not required to approve the merger agreement.

At the close of business on the record date, 245,836,352 common shares were outstanding, 208,324,725 of which were indirectly beneficially owned by Parent, including 202,601,130 shares acquired by Merger Sub pursuant to the offer and 5,723,595 shares owned by certain shareholders who, pursuant to a voting agreement, have agreed with Parent to vote those shares in favor of the merger.

Q: Who can attend and vote at the special meeting?

A: All shareholders of record as of the close of business on July 20, 2007, the record date for the special meeting, are entitled to receive notice of and to attend and vote at the special meeting, or any postponement or adjournment thereof. If you wish to attend the special meeting and your shares are held in an account at a brokerage firm, bank or other nominee (i.e., in street name), you will need to bring a copy of your voting instruction card or brokerage statement reflecting your share ownership as of the record date. Street name holders who wish to vote at the special meeting will need to obtain a proxy from the broker, bank or other nominee that holds their common shares. Seating will be limited at the special meeting. Admission to the special meeting will be on a first-come, first-served basis.

Q: How does our board of directors recommend that I vote?

A: Our board of directors unanimously recommends that our shareholders vote **FOR** the proposal to approve the merger agreement.

Q: Am I entitled to exercise dissenters rights instead of receiving the merger consideration for my shares?

A: No. Biomet shareholders have no dissenters rights under Indiana law in connection with the merger.

Table of Contents

Q: How do I cast my vote if I am a holder of record?

A: If you were a holder of record on July 20, 2007, you may vote in person at the special meeting or by submitting a proxy for the special meeting. You can submit your proxy by completing, signing, dating and returning the enclosed proxy card in the accompanying pre-addressed, postage paid envelope. Holders of record may also vote by telephone or the Internet by following the instructions on the proxy card.

If you properly transmit your proxy, but do not indicate how you want to vote, your proxy will be voted FOR the approval of the merger agreement.

Q: How do I cast my vote if my Biomet shares are held in street name by my broker, bank or other nominee?

A: If you hold your shares in street name, which means your common shares are held of record on July 20, 2007 by a broker, bank or other nominee, you must provide the record holder of your common shares with instructions on how to vote your common shares in accordance with the voting directions provided by your broker, bank or other nominee. **If you do not provide your broker, banker or other nominee with instructions on how to vote your shares, your common shares will not be voted, which will have the same effect as voting AGAINST the approval of the merger agreement.** Broker non-votes will have no effect on the other proposals. Please refer to the voting instruction card used by your broker, bank or nominee to see if you may submit voting instructions using the Internet or telephone.

Q: How do I vote my shares in Biomet s 401(k) Savings and Retirement Plan?

A: If you are one of Biomet s team members (Biomet refers to its employees as team members) who participates in Biomet s 401(k) Savings and Retirement Plan, you will receive a notice requesting that you provide voting instructions with respect to the shares allocated to your account in the 401(k) Plan. You are entitled to direct the 401(k) Plan trustee how to vote your 401(k) Plan shares. If you do not provide voting instructions within the time prescribed in the notice, the shares allocated to your account in the 401(k) Plan will be voted by the 401(k) Plan trustee in the same proportion as the shares held by the 401(k) Plan trustee for which voting instructions have been received from other participants in the 401(k) Plan. You may revoke your previously provided voting instructions by providing written notice of revocation or a properly executed proxy bearing a later date in accordance with the procedures described in the notice.

Q: What will happen if I abstain from voting or fail to vote on the proposal to approve the merger agreement?

A: If you abstain from voting, fail to cast your vote in person or by proxy or fail to give voting instructions to your broker, bank or other nominee (except with respect to the 401(k) Plan trustee), it will have the same effect as a vote against approval of the merger agreement. However, since Parent and its subsidiary own a sufficient number of shares to approve the merger agreement and are required to vote those shares to approve the merger agreement, we expect the proposal to be approved regardless of your vote.

Q: Can I change my vote after I have delivered my proxy?

A: Yes. If you are a record holder, you can change your vote at any time before your proxy is voted at the special meeting by properly delivering a later-dated proxy either by mail, the Internet or telephone or attending the special meeting in person and voting. You also may revoke your proxy by delivering a notice of revocation to Biomet s corporate secretary prior to the vote at the special meeting. If your shares are held in street name, you must contact your broker, bank or other nominee to revoke your proxy.

Q: What should I do if I receive more than one set of voting materials?

A. You may receive more than one set of voting materials, including multiple copies of this proxy statement or multiple proxy or voting instruction cards. For example, if you hold your common shares in more than one

Table of Contents

brokerage account, you will receive a separate voting instruction card for each brokerage account in which you hold common shares. If you are a holder of record and your common shares are registered in more than one name, you will receive more than one proxy card. **Please vote each proxy and voting instruction card that you receive**.

Q: Is the merger expected to be taxable to me?

A: Generally yes, if you are a U.S. Holder, as defined on page 58. The receipt of $46.00 in cash for each common share pursuant to the merger will be a taxable transaction for United States federal income tax purposes. For United States federal income tax purposes, a United States shareholder generally will recognize gain or loss on each share as a result of the merger measured by the difference, if any, between $46.00 and such holder s adjusted tax basis in that common share. However, subject to certain exceptions, a Non-U.S. Holder, as defined on page 58, will generally not be subject to United States federal income tax on any gain or loss recognized as a result of the merger.

You should read Approval of the Merger Agreement Certain Material United States Federal Income Tax Consequences beginning on page 57 for a more complete discussion of the United States federal income tax consequences of the merger. Tax matters can be complicated, and the tax consequences of the merger to you will depend on your particular tax situation. **We urge you to consult your tax advisor regarding the tax consequences of the merger to you**.

Q: If I am a holder of certificated Biomet common shares, should I send in my share certificates now?

A: No. Promptly after the merger is completed, each holder of record as of the time of the merger will be sent written instructions for exchanging their share certificates for the merger consideration. These instructions will tell you how and where to send in your certificates for your cash consideration. You will receive your cash payment after the paying agent receives your share certificates and any other documents requested in the instructions. Please do not send certificates with your proxy.

Holders of uncertificated Biomet common shares (i.e., holders whose shares are held in book entry) will automatically receive their cash consideration as soon as practicable after the effective time of the merger without any further action required on the part of such holders.

Q: When is the merger expected to be completed? What is the marketing period ?

A: We are working to complete the merger as quickly as possible. We cannot, however, predict the exact timing of the merger. In order to complete the merger, we must obtain shareholder approval and the other closing conditions under the merger agreement must be satisfied or waived.

In addition, Parent is not obligated to complete the merger until the expiration of a 20 consecutive day marketing period that Parent may use to complete its financing for the merger. The marketing period begins to run after we have obtained shareholder approval and satisfied other conditions under the merger agreement, including the delivery of certain financial information required by Parent to complete its contemplated financing of the merger. The marketing period may be required to re-commence under certain circumstances. See The Merger Agreement Conditions to the Merger beginning on page 68.

Q: Who can help answer my questions?

A: If you have any questions about the merger or how to submit your proxy, or if you need additional copies of this proxy statement or the enclosed proxy card, you should contact Biomet at (574) 372-1514.

Table of Contents

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This proxy statement contains forward-looking statements with respect to our financial condition, results of operations, plans, objectives, intentions, future performance and business and other statements that are not statements of historical facts, as well as certain information relating to the merger, including, without limitation:

- statements about the benefits of the proposed merger involving Biomet and Parent;
- the financial targets set forth in the section entitled Approval of the Merger Agreement Strategic Plan Financial Targets;
- statements with respect to our plans, objectives, expectations and intentions and other statements that are not historical facts; and
- other statements identified by words such as will, would, likely, thinks, may, believes, expects, anticipates, estimates, targets, projects and similar expressions.

These forward-looking statements involve certain risks and uncertainties. Actual results may differ materially from those contemplated by the forward-looking statements due to, among others, the following factors:

- the results of ongoing investigations by the United States Department of Justice;
- the ability to successfully implement new technologies;
- Biomet s ability to sustain sales and earnings growth;
- Biomet s success in achieving timely approval or clearance of its products with domestic and foreign regulatory entities;
- the stability of certain foreign economic markets;
- the ability of Biomet to successfully implement its desired organizational changes;
- the impact of Biomet s managerial changes;
- developments related to Biomet s internal controls over financial reporting disclosure controls and procedures; and other factors set forth in Biomet s filings with the SEC, including Biomet s most recent annual report on Form 10-K and quarterly reports on Form 10-Q;
- Biomet s inability to satisfy the conditions to closing the merger with Parent and the costs and consequences of not closing the merger;

the effect of the pending merger with Parent on Biomet s business and its relationship with customers, distributors, employees and suppliers;

the results and related outcomes of the review by a special committee of our board of directors of Biomet s historical stock option granting practices, including: the impact of any restatement of financial statements of Biomet or other actions that may be taken or required as a result of the special committee s review, including the restatement of Biomet s financial statements announced on March 30, 2007; the impact of any inability of Biomet to timely file reports with the Securities and Exchange Commission (*SEC*) and distribute such reports or statements to its shareholders; the impact of any tax consequences, including any determination that Biomet s filed tax returns were not true, correct and complete; the impact of any determination that some of the options may not have been validly issued under the stock option plans; the impact of the determination that certain of Biomet s financial statements were not prepared in accordance with GAAP and/or the required reporting standards under applicable securities rules and regulations; the impact of any determination of the existence of any significant deficiencies and/or material weaknesses in Biomet s internal controls and/or of the need to reevaluate certain of the findings and conclusions in Management s Report on Internal

Table of Contents

Controls; the consequences of any determination that Biomet s disclosure controls and procedures required by the Exchange Act were not effective; the impact of any determination that some of Biomet s insurance policies may not be in full force and effect and/or that Biomet may not be in compliance with the terms and conditions of those policies; and litigation and governmental investigations or proceedings which may arise out of Biomet s stock option granting practices or any restatement of its financial statements;

the inability to meet the NASDAQ requirements for continued listing;

the timing and number of planned new product introductions;

the effect of anticipated changes in the size, health and activities of population on demand for our products;

assumptions and estimates regarding the size and growth of certain market segments;

the timing and anticipated outcome of clinical studies;

assumptions concerning anticipated product developments and emerging technologies;

the future availability of raw materials; and

the impact of anticipated changes in the musculoskeletal industry and our ability to react to and capitalize on those changes.

The inclusion of a forward-looking statement herein should not be regarded as a representation by Biomet that Biomet s objectives will be achieved.

Forward-looking statements speak only as of the date of this proxy statement. All subsequent written and oral forward-looking statements concerning the merger or other matters addressed in this proxy statement and attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Moreover, although we believe the expectations reflected in the forward-looking statements are based upon reasonable assumptions, we give no assurance that we will attain these expectations or that any deviations will not be material. Except to the extent required by applicable law or regulation, we do not undertake any obligation to update forward-looking statements to reflect events or circumstances after the date of this proxy statement or to reflect the occurrence of unanticipated events.

Table of Contents

THE BIOMET SPECIAL MEETING

We are furnishing this proxy statement to Biomet shareholders as part of the solicitation of proxies by the Biomet board of directors for use at the special meeting.

Date, Time and Place

We will hold the special meeting on September 5, 2007 at 9:00 am, local time, at 56 East Bell Drive, Warsaw, Indiana 46582. Seating will be limited to shareholders. Admission to the special meeting will be on a first-come, first-served basis.

Purpose of the Special Meeting

The special meeting is being held for the following purposes:

- To approve the merger agreement (see Approval of the Merger Agreement beginning on page 15); and

- To transact any other business that is properly brought before the special meeting or any reconvened meeting after any adjournment or postponement of the meeting.

Recommendation of Our Board of Directors

Our board of directors unanimously recommends that our shareholders vote **FOR** the approval of the merger agreement.

Record Date; Shareholders Entitled to Vote; Quorum

Only holders of record of Biomet common shares at the close of business on July 20, 2007, the record date, are entitled to notice of and to vote at the special meeting. On the record date, 245,836,352 Biomet common shares were issued and outstanding and held by 3,087 holders of record. Holders of record of Biomet common shares on the record date are entitled to one vote per common share at the special meeting on each proposal. Biomet s shareholders list will be available at our executive offices for inspection by any shareholder entitled to vote at the special meeting beginning no later than five days before and continuing through the special meeting.

A quorum is necessary to hold a valid special meeting. A quorum will be present at the special meeting if the holders of a majority of Biomet s common shares outstanding and entitled to vote on the record date are present, in person or by proxy. Because Merger Sub currently owns in excess of 75% of the outstanding Biomet common shares, Merger Sub s presence at the special meeting, in person or by proxy, is sufficient to constitute a quorum.

Vote Required

Approval of the Merger Agreement

The approval of the merger agreement by our shareholders requires the affirmative vote of the holders of at least 75% of Biomet s common shares outstanding and entitled to vote at the special meeting as of the record date, either in person or by proxy. Merger Sub already owns in excess of 75% of Biomet s common shares as a result of the tender offer made pursuant to the merger agreement. In addition, Parent has entered into a voting agreement with Dane A. Miller, Ph.D and his wife, Mary Louise Miller, pursuant to which Dr. and Mrs. Miller agreed to vote approximately 2.3% of our outstanding shares in favor of the merger. Accordingly, the approval of the merger agreement is assured regardless of the vote of any other Biomet shareholder.

Table of Contents

Other Proposals

The approval of any other items properly brought before the special meeting requires that holders of more of Biomet s common shares vote in favor of the proposal than vote against the proposal. Abstentions and broker non-votes will have no effect on the outcome of such proposals. Since Merger Sub owns a majority of Biomet s common shares, it will have the ability to approve other items properly brought before the special meeting regardless of the vote of any other Biomet shareholder.

Voting Procedures

Voting by Proxy or in Person at the Special Meeting

Holders of record can ensure that their common shares are voted at the special meeting by completing, signing, dating and delivering the enclosed proxy card in the enclosed postage-paid envelope. Submitting by this method or voting by telephone or the Internet as described below will not affect your right to attend the special meeting and to vote in person. If you plan to attend the special meeting and wish to vote in person, you will be given a ballot at the special meeting. Please note, however, that if your common shares are held in street name by a broker, bank or other nominee and you wish to vote at the special meeting, you must bring to the special meeting a proxy from the record holder of the common shares authorizing you to vote at the special meeting.

Electronic Voting

Our holders of record and many shareholders who hold their common shares through a broker, bank or other nominee will have the option to submit their proxy cards or voting instruction cards electronically by telephone or the Internet. Please note that there are separate arrangements for using the telephone depending on whether your common shares are registered in our records in your name or in the name of a broker, bank or other nominee. Some brokers, banks or other nominees may also allow voting through the Internet. If you hold your common shares through a broker, bank or other nominee, you should check your voting instruction card forwarded by your broker, bank or other nominee to see which voting options are available.

Please read and follow the instructions on your proxy or voting instruction card carefully.

Voting Shares Held in Biomet s 401(k) Savings and Retirement Plan

Biomet s team members (Biomet refers to its employees as team members) eligible to participate in Biomet s 401(k) Savings and Retirement Plan will receive a request for voting instructions from the 401(k) Plan trustee with respect to the shares allocated to its team members accounts in the 401(k) Plan. Biomet team members are entitled to direct the 401(k) Plan trustee how to vote their 401(k) Plan shares. If a team member does not provide voting instructions to the 401(k) Plan trustee within the prescribed time, the shares allocated to such team member s account in the 401(k) Plan will be voted by the 401(k) Plan trustee in the same proportion as the shares held by the 401(k) Plan trustee for which voting instructions have been received from other participants in the 401(k) Plan. A team member may revoke his or her previously provided voting instructions by filing with the 401(k) Plan trustee either a written notice of revocation or a properly executed proxy bearing a later date.

Adjournments; Other Business

Adjournments may be made for the purpose of, among other things, providing additional information to shareholders. An adjournment requires that holders of more of Biomet s common shares vote in favor of adjournment than vote against adjournment, whether or not a quorum exists, without further notice other than by an announcement made at the special meeting of the date, time and place at which the meeting will be reconvened. If the adjournment is for more than 120 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting will be given to each shareholder of record entitled to vote at the meeting. Since Merger Sub owns a majority of Biomet s common shares, it will have the ability to approve an adjournment of the special meeting regardless of the vote of any other Biomet shareholder. We are not soliciting proxies for any proposal to adjourn the special meeting and do not currently intend to seek an adjournment of the special meeting.

We do not expect that any matter other than the proposal to approve the merger agreement will be brought before the special meeting. If, however, other matters are properly presented at the special meeting, the persons named as proxies will vote in accordance with their best judgment with respect to those matters.

Revocation of Proxies

Submitting a proxy on the enclosed form does not preclude a shareholder from voting in person at the special meeting. A shareholder of record may revoke a proxy at any time before it is voted by filing with our corporate secretary a duly executed revocation of proxy, by properly submitting a proxy by mail, the Internet or telephone with a later date or by appearing at the special meeting and voting in person. A shareholder of record may revoke a proxy by any of these methods, regardless of the method used to deliver the shareholder s previous proxy. Attendance at the special meeting without voting will not itself revoke a proxy. If your common shares are held in street name, you must contact your broker, bank or other nominee to revoke your proxy.

Solicitation of Proxies

We are soliciting proxies for the proposal to approve the merger agreement from our shareholders. We will bear the entire cost of soliciting proxies from our shareholders. In addition to the solicitation of proxies by mail, we will request that banks, brokers and other record holders send proxies and proxy materials to the beneficial owners of Biomet common shares held by them and secure their voting instructions if necessary. We will reimburse those record holders for their reasonable expenses in so doing. We may use several of our regular employees, who will not be specially compensated, to solicit proxies from our shareholders, either personally or by telephone, Internet, telegram, facsimile or special delivery letter.

Dissenters Rights

Biomet shareholders are not entitled to dissenters rights under Indiana law in connection with the merger.

Assistance

If you need assistance in completing your proxy card or have questions regarding the Biomet special meeting, please contact Biomet at (574) 372-1514.

Table of Contents

APPROVAL OF THE MERGER AGREEMENT

The following is a description of the material aspects of the merger. While we believe that the following description covers the material terms of the merger, the description may not contain all of the information that is important to you. We encourage you to read carefully this entire document, including the merger agreement attached to this proxy statement as Annex A, for a more complete understanding of the merger. The following description is subject to, and is qualified in its entirety by reference to, the merger agreement.

The Companies

Biomet, Inc.

56 East Bell Drive

Warsaw, Indiana 46582

(574) 267-6639

We are an Indiana corporation and we design, manufacture and market products used primarily by musculoskeletal medical specialists in both surgical and non-surgical therapy. Our product portfolio encompasses reconstructive products, fixation devices, spinal products and other products. Our corporate headquarters are located in Warsaw, Indiana and we have manufacturing facilities and/or offices in more than fifty locations worldwide. Our common shares are currently listed on the NASDAQ Global Select Market under the symbol BMET.

LVB Acquisition, Inc.

c/o Corporation Trust Center

1209 Orange Street

Wilmington, Delaware 19801

LVB Acquisition, Inc., which we refer to as Parent, is a Delaware corporation that was originally formed as a limited liability company solely for the purpose of acquiring Biomet. Parent is controlled by a consortium of private equity funds sponsored by each of The Blackstone Group L.P., Goldman, Sachs & Co., Kohlberg Kravis Roberts & Co. L.P. and TPG Capital, L.P. The equity investors of Parent have re-formed Parent as a Delaware corporation prior to the date hereof.

LVB Acquisition Merger Sub, Inc.

c/o CT Corporation System

251 E. Ohio Street, Suite 1100

Indianapolis, Indiana 46204

LVB Acquisition Merger Sub, Inc., which we refer to as Merger Sub, is an Indiana corporation and a wholly-owned subsidiary of Parent, that was formed solely for the purpose of facilitating Parent s acquisition of Biomet. Merger Sub currently owns 202,601,130 Biomet common shares, representing approximately 82.41% of our outstanding common shares, and its designees hold nine seats on our thirteen-member board of directors. Upon consummation of the proposed merger, Merger Sub will merge with and into Biomet and will cease to exist with Biomet continuing as the surviving corporation.

Overview of the Transaction

Biomet, Parent and Merger Sub entered into a merger agreement on December 18, 2006, which was amended and restated on June 7, 2007. In the merger agreement, Parent agreed to acquire Biomet through a two-step process. The first step was a tender offer by Merger Sub for all of the outstanding common shares of Biomet at a price of $46.00 per share, net to the seller in cash without interest, which was completed on July 12,

2007. The second step of Parent s acquisition is a merger of Merger Sub with and into Biomet, with Biomet surviving the merger as a wholly-owned subsidiary of Parent. The following will occur in connection with the merger:

each common share issued and outstanding immediately before the effective time of the merger (other than those shares owned by Parent, Merger Sub or any other direct or indirect wholly-owned subsidiary

Table of Contents

of Parent and shares owned by us or any of our direct or indirect wholly-owned subsidiaries and except for those shares as otherwise agreed by the holder and Biomet) will be converted into the right to receive $46.00 per share in cash, less any required withholding taxes and without interest;

all common shares so converted will, by virtue of the merger and without any action on the part of the holder, cease to be outstanding, be cancelled and cease to exist, and each certificate formerly representing any of the common shares will thereafter represent only the right to receive the per share merger consideration, without interest;

each common share owned by Parent, Merger Sub or any other direct or indirect wholly-owned subsidiary of Parent and common shares owned by us or any of our direct or indirect wholly-owned subsidiaries, will automatically cease to be outstanding, will be cancelled without payment of any consideration and will cease to exist; and

each common share, without par value, of Merger Sub issued and outstanding immediately prior to the effective time of the merger, will be converted into one common share, without par value, of the surviving corporation.

Following and as a result of the merger:

Biomet shareholders (other than Parent and its affiliates and any other person, including any current or former members of management of Biomet, who becomes a direct or indirect investor in Parent) will no longer have any interest in, and no longer be shareholders of, Biomet, and will not participate in any of our future earnings or growth;

our common shares will no longer be listed on the NASDAQ Global Select Market and price quotations with respect to our common shares in the public market will no longer be available; and

the registration of our common shares under the Exchange Act will be terminated.

Management and Board of Directors of the Surviving Corporation

The board of directors of Merger Sub will be the board of directors of the surviving corporation after the completion of the merger. The officers of Biomet will be the officers of the surviving corporation after the completion of the merger.

Background of the Merger

During the course of 2005, members of Biomet s board of directors became increasingly concerned about lagging performance in certain of Biomet s operations, including EBI, L.P. (doing business as Biomet Trauma & Biomet Spine). At the board s September 2005 annual meeting, the independent members of the board of directors recommended that Biomet identify and hire a chief operating officer in order to address these concerns. The board determined to consider this recommendation at its next regularly scheduled board meeting in December 2005.

During the intervening months, the senior management of Biomet conducted an internal review of management and operations and developed recommendations for the board to consider. Separately, independent members of the board continued their discussions regarding Biomet s performance and direction. Commencing in the Fall of 2005, members of the board had periodic and informal meetings and discussions with representatives of Morgan Stanley regarding Biomet s strategic alternatives in light of the operational, managerial, board, market and industry dynamics confronting Biomet.

At the regularly scheduled December 2005 board meeting, senior management provided the board with its evaluation of the issues and opportunities facing Biomet and senior management s recommendations regarding those matters. At the meeting, the board appointed two chief operating officers, one for Biomet s domestic

operations and one for Biomet s international operations. Both individuals came from within Biomet s senior management. In addition, the board discussed the need for more formal succession planning and also continued informal discussions regarding strategic alternatives.

In early 2006, Dane A. Miller, Ph.D, our then President and CEO, was contacted by the Chairman and CEO of a potential strategic bidder, which we refer to as *Strategic Bidder 1.* Thereafter, Dr. Miller met with representatives of Strategic Bidder 1 to explore whether there was a basis for entering into a dialogue regarding a strategic transaction between the two companies. During the meeting, the parties did not reach agreement on a basis for entering into a dialogue regarding a strategic transaction between the two companies.

On March 21, 2006, Biomet announced third quarter results for fiscal 2006, which reflected continued underperformance in certain of Biomet s operational divisions relative to both management and board expectations. Also on March 21, 2006, Dr. Miller and Mr. Noblitt met with the CEO of Smith & Nephew plc (*Smith & Nephew*) during the 2006 American Academy of Orthopaedic Surgeons conference in Chicago to discuss whether there was a basis for entering into a dialogue regarding a strategic combination between the two companies. Smith & Nephew indicated that it was not currently in a position to entertain such discussions. On March 21, 2006, given the preliminary nature of the discussions, neither Dr. Miller nor Mr. Noblitt had formed an opinion as to whether there was a basis for entering into a dialogue regarding a strategic combination between Biomet and Smith & Nephew.

At the board s regularly scheduled quarterly meeting on March 23 through March 25, 2006, members of the board expressed continued dissatisfaction with the pace of improvement with respect to Biomet s performance issues and opportunities. These discussions led to the resignation of Dr. Miller as President and CEO (although Dr. Miller maintained his seat on the board of directors until the annual meeting of shareholders in September 2006), the appointment of Daniel P. Hann as interim President and CEO and the engagement of Morgan Stanley to assist the board and Biomet in a strategic review of Biomet s business and alternatives for enhancing shareholder value. The board also established a review committee of the board to monitor the progress of the strategic review, including setting milestones for completing the review.

On or about April 4, 2006, news began to publicly leak that Biomet had engaged Morgan Stanley to assist Biomet in exploring strategic alternatives to enhance shareholder value. On April 3, 2006, the trading day prior to this information being leaked, the closing price per common share was $34.78. Biomet confirmed by way of a press release on April 6, 2006, that Morgan Stanley was assisting Biomet in exploring its strategic alternatives.

On May 3, 2006, after having previously discussed the matter with the review committee, Morgan Stanley reviewed strategic alternatives (and likely potential bidders as a part of an exploratory sale process) for Biomet with the board at a special meeting, including (1) a recapitalization analysis, (2) a leveraged buyout analysis, (3) an analysis of Biomet as a stand-alone company and (4) an analysis of potential combinations of Biomet with various strategic parties.

During this meeting, the board authorized representatives of the board to accept an outstanding invitation to meet again with representatives of Strategic Bidder 1 to determine whether Strategic Bidder 1 was interested in a potential strategic transaction between the two companies. In addition, the board authorized a management proposal to develop a five-year strategic business plan to be presented at the board s annual meeting in September 2006.

On May 15, 2006, Niles Noblitt and Dr. Scott Harrison, our lead director, met with representatives of Strategic Bidder 1, but Strategic Bidder 1 did not advance a proposal regarding a potential transaction.

In May 2006, Dr. Miller discussed with one or more representatives of Kohlberg Kravis Roberts, TPG and a third private equity sponsor a potential transaction involving Biomet in which Dr. Miller would participate as an equity investor. Dr. Miller and these private equity sponsors entered into confidentiality agreements with respect to those discussions.

By late May 2006, Kohlberg Kravis Roberts, TPG and the third private equity sponsor had joined together to form a consortium that we refer to as the *Sponsor Group*. We refer to the third private equity sponsor, which was no longer part of the Sponsor Group at the time the merger agreement was signed, as *Financial Sponsor 1*.

In early June 2006, a representative of the Sponsor Group contacted a representative of Morgan Stanley to express an interest in engaging in discussions regarding a possible leveraged buyout of Biomet. During June 2006, Dr. Harrison engaged in follow-up discussions with the Sponsor Group to assess its level of interest.

On June 29, 2006, at the board s regularly scheduled quarterly meeting, the board discussed the contacts between the Sponsor Group and Dr. Miller. Dr. Miller did not attend this meeting or any subsequent meeting of the board of directors. The board determined to continue to evaluate the possibility of engaging in further discussions with the Sponsor Group on an ongoing basis.

On July 5, 2006, at a special telephonic meeting of the board, Dr. Harrison reported that Strategic Bidder 1 indicated it would not make an offer for the acquisition of Biomet at that time. Dr. Harrison also reported that the Sponsor Group was interested in reviewing preliminary due diligence materials. The board then adjourned the meeting until the next day.

On July 6, 2006, the board reconvened its special telephonic meeting. A representative of Morgan Stanley reported that (1) the Sponsor Group had submitted a preliminary indication of interest that was in the $38 to $39 per share price range, (2) as directed by the board, Morgan Stanley responded to the Sponsor Group that the offer was not within an acceptable range and (3) the Sponsor Group responded by indicating that it could get to a higher price, but that it required access to due diligence materials. After receiving a presentation from financial and legal advisors, and after thoroughly discussing various options with respect to responding to any potential bidders, the board determined that it would not provide financial or any other due diligence information to the Sponsor Group or any other third parties until senior management completed its five-year strategic business plan and the board completed a thorough and careful review of that plan.

On July 17, 2006, the board of directors received a letter from the Sponsor Group expressing disappointment that the board did not want to move forward with a potential transaction until after the board concluded its process with respect to its strategic business plan. This letter also confirmed the Sponsor Group s interest in acquiring Biomet at a price in excess of $40 per share, subject to the Sponsor Group being given access to non-public information and successfully completing a due diligence investigation of Biomet. From and after this date through the middle of September, representatives of the Sponsor Group periodically contacted Biomet and its advisors to reiterate the Sponsor Group s interest in pursuing a transaction and seeking to commence a diligence review.

On July 19, 2006, the board convened a special telephonic meeting. Among other things, the board approved the recommendation of the Nominating and Corporate Governance Committee to not include Dr. Miller in the slate of directors nominated for reelection at Biomet s 2006 annual meeting of shareholders. The board also discussed the July 17 letter from the Sponsor Group regarding its continued interest in acquiring Biomet.

On July 28, 2006, the board convened a special telephonic meeting. Among other things, the board approved the creation of an ad hoc committee of the board to oversee the search for a permanent President and CEO.

In mid-September 2006, Morgan Stanley received confirmation from the Sponsor Group of its ongoing interest in putting forward an offer of greater than $40 per share for Biomet, subject to a successful completion of its due diligence review.

Table of Contents

On September 21, 2006, our board of directors convened its annual meeting. During the meeting, management presented its five-year strategic business plan, which the board discussed and analyzed with the assistance of Morgan Stanley. In addition to authorizing the implementation of the five-year strategic business plan and receiving an update on the search for a permanent President and CEO, the board authorized Biomet to enter into (1) confidentiality agreements with the Sponsor Group and to provide it with preliminary financial due diligence information and (2) change in control agreements with its executive officers to provide for continuity of management in the event of a change in control of Biomet. Morgan Stanley also informed the board that funds sponsored by The Blackstone Group and Goldman, Sachs & Co. had joined the other private equity firms in the Sponsor Group.

On September 21, 2006 two shareholder derivative complaints were filed against Biomet s current and former directors and officers related to Biomet s stock-option grants. They assert a variety of claims including claims of unjust enrichment, breach of fiduciary duty, violations of Indiana Code § 23-1-35-1, abuse of control, gross mismanagement, waste of corporate assets, constructive fraud, and violation of the federal securities laws. They seek a variety of remedies, including an accounting, rescission, imposition of a constructive trust, and order directing Biomet to take necessary actions to reform and improve its corporate governance, equitable and injunctive relief impounding the proceeds of defendants trading activities, disgorgement of all profits and benefits from improper backdating of stock options grants, costs and disbursements of the action, punitive damages, and other equitable and injunctive relief as permitted by law. Pursuant to Indiana law, if the transaction is consummated, and Biomet s current shareholders lose their status as shareholders, Biomet believes they would likely lose any ability to prosecute or partake of any recovery with regard to these suits.

On October 3, 2006, Mr. Hann, Charles E. Niemier (one of our executive officers and directors at the time) and representatives of Morgan Stanley held an introductory meeting with representatives of the Sponsor Group. On October 5 and October 6, 2006, representatives of Biomet s management team held due diligence meetings with representatives of the Sponsor Group. Thereafter, and continuing through December 17, 2006, management and Morgan Stanley held numerous additional due diligence meetings and follow-up sessions with representatives of the Sponsor Group.

In early October, Smith & Nephew contacted Morgan Stanley indicating it would be prepared to put forward an offer of $42 per share for Biomet, subject to the successful completion of its due diligence review. At that time, representatives of Morgan Stanley also contacted previously identified likely bidders to indicate that Biomet was conducting a due diligence process with potential buyers. One of the likely bidders, a strategic bidder which we refer to as *Strategic Bidder 2*, indicated an interest in participating in the process.

On October 9, 2006, the board held a special telephonic meeting to discuss the contacts with other potential bidders and their expressions of interest. The board also received a report that two shareholder derivative lawsuits had been filed in Kosciusko County Superior Court relating to Biomet s historical stock option granting practices. Biomet disclosed these lawsuits in its Quarterly Report on Form 10-Q filed with the SEC on October 10, 2006.

On October 17, 2006, Mr. Hann, Mr. Noblitt and Dr. Harrison held separate meetings with both Strategic Bidder 2 and Smith & Nephew. Thereafter, Biomet entered into confidentiality agreements with each of Strategic Bidder 2 and Smith & Nephew. In early November, Biomet separately hosted an all-day management meeting with each of Strategic Bidder 2 and Smith & Nephew and in November and December, held numerous due diligence meetings and follow-up sessions with representatives of Smith & Nephew.

On October 18, 2006, the board held a special telephonic meeting to review the status of discussions with each of the potential bidders for Biomet.

On November 2, 2006, the board held a special telephonic meeting to discuss the strategic alternative review process with representatives of Morgan Stanley. The board requested that Morgan Stanley provide a process timeline for the development of the various alternatives.

Also on November 2, 2006, Smith & Nephew, in response to market rumors, issued a press release confirming that Smith & Nephew had held very preliminary talks with Biomet, but that no agreement had been reached. In response to Smith & Nephew s press release, Biomet announced in a press release also on November 2, 2006, that while Biomet had held a preliminary discussion with Smith & Nephew, as Smith & Nephew had stated in its press release, Biomet had not at that time made a determination that it was in Biomet s best interests for it to engage in a transaction with any third party.

On November 7, 2006, the board held a special telephonic meeting. Representatives of Morgan Stanley presented a process timeline for the board s review and discussion. The board also established a committee called the Strategic Alternatives Committee to facilitate development of the strategic alternatives. The members of the Strategic Alternatives Committee were Niles Noblitt, Marilyn Tucker Quayle and C. Scott Harrison, M.D. The Strategic Alternatives Committee subsequently retained Simpson Thacher & Bartlett LLP (*Simpson Thacher*) to advise it in connection with its review.

The board then received a briefing regarding the claims advanced in the two shareholder derivative lawsuits. The board established a committee called the Special Litigation Committee charged with investigating the allegations and determining whether it was in the best interest of Biomet to pursue a remedy or to dismiss the lawsuits. The members of the Special Litigation Committee were Marilyn Tucker Quayle, Sandra A. Lamb and Jonathan Hiler. The board decided that on balance it was in the best interests of Biomet to proceed with the bid process timeline, notwithstanding the commencement of the investigation into Biomet s historical stock option granting practices by the Special Litigation Committee.

On November 10, 2006, on behalf of Biomet, Morgan Stanley sent to the three bidders a letter outlining the procedures for submitting a final bid for the acquisition of Biomet and establishing a due date of December 4, 2006. Pursuant to the bidding instructions, each bidder was asked to submit final comments to a draft merger agreement (to be provided at a later date), along with information regarding their plans for financing an acquisition of Biomet. Potential bidders were instructed not to contact management or discuss compensation or the terms of management s equity participation in a potential transaction. Shortly thereafter, Strategic Bidder 2 informed Morgan Stanley that it was not in a position to proceed further.

On November 21, 2006, the Strategic Alternatives Committee held a telephonic meeting. The committee discussed different potential features of a transaction. The committee reviewed the status of the process with representatives of Morgan Stanley relative to the desired process timeline and reviewed the form of the proposed merger agreement to be distributed to potential bidders.

On November 22, 2006, Morgan Stanley circulated to the Sponsor Group and to Smith & Nephew an initial draft of the merger agreement. Each bidder was invited to contact Kirkland & Ellis LLP (*Kirkland & Ellis*), counsel to Biomet, in advance of the bid due date in order to discuss the non-financial terms of the merger agreement. The draft merger agreement reflected Biomet s perspective that, among other things, (1) the transaction should not be contingent upon the receipt of financing, (2) the closing conditions and representations and warranties should be customary, (3) the board must have the right to change its recommendation to its shareholders with respect to the transaction if failure to do so would be inconsistent with their fiduciary duties under applicable law, (4) the board must be able to terminate the agreement if it received a superior proposal following execution of a definitive agreement and (5) the bidders should accept risk with respect to potential adverse developments which might arise from our ongoing investigation into Biomet s historical stock option granting practices (which was then at a preliminary stage).

On November 27, 2006, the Strategic Alternatives Committee held a telephonic meeting to review the status and timing of the process and the availability and timing of Biomet s production of due diligence information. The committee also discussed with legal counsel various considerations, focusing on timing and certainty with respect to the sale process and the issues uniquely presented by a Smith & Nephew bid, including London Stock Exchange and UK regulatory issues, potential antitrust issues and the requirement of Smith & Nephew s shareholder approval. The committee determined that moving the bid due date to December 11, 2006 was in the best interests of Biomet. The following day, Morgan Stanley communicated the revised bid due date to the bidders.

On November 29, 2006, at the request of the Sponsor Group, the Strategic Alternatives Committee held a telephone conference with representatives of Morgan Stanley and members of the Sponsor Group in which the Sponsor Group described, among other things, the reasons for its interest in Biomet, areas of concern and its plan for the business. Separately, the Sponsor Group conveyed its disappointment in the timeline delay to Morgan Stanley.

On December 1, 2006, Cleary Gottlieb Steen Hamilton LLP (*Cleary Gottlieb*), counsel to the Sponsor Group, provided initial comments to the draft merger agreement to Kirkland & Ellis. On December 5, 2006, Kirkland & Ellis and Simpson Thacher contacted Cleary Gottlieb to discuss the Sponsor Group s initial comments to the draft merger agreement. Our counsel focused on those comments in the Sponsor Group mark-up to the merger agreement that increased conditionality or decreased the certainty of closing and on the circumstances under which the board could consider and accept superior offers and terminate the agreement, as well as other non-financial terms and conditions. Our counsel requested that the Sponsor Group improve a number of the non-financial terms and conditions of its proposed draft merger agreement in its bid.

On December 6, 2006, Morgan Stanley provided the initial draft of Biomet s disclosure schedules to the merger agreement to each of the bidders.

On December 7, 2006, the Strategic Alternatives Committee held a telephonic meeting to review the status of the process. The committee considered whether to further extend the bid due date because the Special Litigation Committee s investigation into Biomet s historical stock option granting practices was still at a preliminary stage. The committee determined that resolving as soon as practicable the uncertainty surrounding Biomet as a result of the publicly announced review of strategic alternatives was in Biomet s best interest, and that, on balance, a further postponement of the bid due date or halting of the bidding process pending completion of the recently launched investigation into Biomet s historical stock option granting practices was more likely to have an adverse impact on the potential bidders willingness to submit bids. The committee also recommended that Biomet provide information to the bidders regarding the investigation into Biomet s historical stock option granting practices as that investigation progressed and information became available.

On December 8, 2006, Kirkland & Ellis circulated a revised draft of the merger agreement to Cleary Gottlieb and discussed the disclosure schedules to the merger agreement and related diligence matters with Cleary Gottlieb.

Also on December 8, 2006, Kirkland & Ellis and Simpson Thacher contacted Smith & Nephew s legal counsel to discuss the merger agreement sent to Smith & Nephew by Morgan Stanley on November 22, 2006 and to answer any questions that Smith & Nephew or its counsel had regarding the merger agreement in advance of the bid due date on the following Monday. Counsel to Smith & Nephew emphasized that it would not provide a heavy mark-up of the merger agreement, that it would address Biomet s desire for certainty, that it would seek to significantly limit Biomet s ability to consider or accept other offers and terminate the agreement and that Smith & Nephew would expect to be paid a high termination fee. Counsel discussed potential high-level issues with the agreement, including allocation of risk, antitrust issues and certain UK regulatory and London Stock Exchange requirements for the merger, including the need for a vote of the shareholders of Smith & Nephew. However, Smith & Nephew s legal counsel did not avail itself of the opportunity to provide a mark-up of the merger agreement in advance of the bid deadline for discussion with our counsel.

On December 9, 2006, 42 of Biomet s 54 distributors sent a letter to Biomet s board of directors, with a copy to Smith & Nephew, stating their opposition to an acquisition of Biomet by Smith & Nephew. According to

Table of Contents

the December 9, 2006 letter sent by certain Biomet distributors to the board of directors of Biomet stating their opposition to an acquisition of Biomet by Smith & Nephew, the basis for such distributors opposition was that Biomet had a unique business culture and model and such distributors feared that Biomet s unique business culture and model would not be reproduced in a new combined environment. Biomet did not respond to the letter.

On December 10, 2006, our counsel, on behalf of Biomet, held a telephone conference with Cleary Gottlieb to respond to questions from Cleary Gottlieb regarding the revised draft of the merger agreement sent back to them on December 8, 2006. Again, our counsel asked the Sponsor Group to improve a number of the non-financial terms and reduce conditionality, narrow the scope of representations and warranties, expand the exceptions to the material adverse effect definition and provide more latitude for the board to respond to offers regarding alternative transactions, among other provisions.

On December 11, 2006, the bid deadline, Biomet received a written bid proposal, including final comments to the merger agreement and debt and equity commitment letters, from the Sponsor Group. Biomet also received initial comments to the merger agreement from Smith & Nephew, but did not receive a bid proposal or debt commitment letter. The Sponsor Group s proposal for the acquisition of Biomet was $43 per share.

On December 13, 2006, Biomet received a written bid proposal, including a highly confident letter from four financing sources describing its debt financing proposal (but not a debt commitment letter), from Smith & Nephew. Smith & Nephew s bid proposal requested a termination fee equal to 4.0% of the deal value (i.e., approximately $435 million) and offered a reverse termination fee payable to Biomet equal to 1.0% of Smith & Nephew s market capitalization (i.e., approximately $89 million). The bid proposal also contained redacted unsigned drafts of financing agreements which, when considered in combination with the highly confident letter, Biomet determined to represent a more conditional commitment than the debt commitments provided by the Sponsor Group. Smith & Nephew s per share consideration proposed for the acquisition of Biomet was $45 per share.

On December 13, 2006, Kirkland & Ellis and Simpson Thacher contacted the Sponsor Group s legal counsel and Smith & Nephew s legal counsel to clarify their respective comments to the draft merger agreement. Both indicated a desire to complete and sign the merger agreement by the following week.

On the evening of December 13, 2006, a telephonic meeting of the Strategic Alternatives Committee was convened to discuss the two bid proposals received by Biomet. Representatives of Morgan Stanley, Kirkland & Ellis and Simpson Thacher participated in the meeting and reviewed for the Strategic Alternatives Committee the risks associated with a potential transaction with each bidder, including the respective outside dates proposed for termination of the merger agreement in the event a transaction had not yet been completed. The committee considered the potential impact on Biomet s operations of announcing a transaction with a competitor and certain additional risks associated with completing a transaction with Smith & Nephew, including interloper risk (the risk that a competitor would emerge seeking to acquire Smith & Nephew and interfere with a transaction between Smith & Nephew and Biomet), Smith & Nephew s need for its own shareholder approval, the antitrust risk associated with combining with a competitor and certain London Stock Exchange reporting and re-listing requirements. The interloper risk associated with agreeing to a transaction with Smith & Nephew was the result of public speculation that a particular strategic investor might seek to acquire Smith & Nephew. With respect to the potential impact on Biomet s operations from announcing a transaction with Smith & Nephew, the committee discussed the receipt of the letters from certain distributors opposing a transaction with Smith & Nephew. Next, the legal advisors participating in the meeting reviewed the draft contracts submitted by the two bidders. It was noted that Smith & Nephew s contract was significantly less favorable to Biomet than that submitted by the Sponsor Group. During discussions regarding the Sponsor Group proposal, it was also noted that the Sponsor Group agreed, subject to certain conditions, to draw down on bridge financing to close a transaction if certain financial statements of Biomet customarily required for high yield financing were unavailable by a certain date.

Table of Contents

The Strategic Alternatives Committee requested that Morgan Stanley ascertain whether the Sponsor Group would be willing to increase the per share merger consideration of its offer, and requested that legal counsel continue to seek an improvement in the non-financial terms and conditions offered by both bidders. With respect to Smith & Nephew, in particular, the committee requested more information regarding the proposed financing and asked legal counsel to seek confirmation of the manner in which Smith & Nephew would be willing to assume any antitrust risk, as well as improvement in the other non-financial terms and conditions to provide more certainty, less conditionality and greater flexibility for the board to respond to offers for alternative transactions.

On the morning of December 14, 2006, the Sponsor Group indicated to Morgan Stanley that it was prepared to increase its offer to $44.00 per share, but that $44 per share was its best and final offer.

Later that day, our board of directors convened a meeting to discuss, among other things, the preliminary report of the Special Litigation Committee and a report from the Strategic Alternatives Committee. After receiving a briefing from the Special Litigation Committee, the board asked the Special Litigation Committee to make its advisors available to each of the bidders to provide a briefing on the status of their work and findings no later than December 15, 2006.

Next, the Strategic Alternatives Committee provided a report to the board in which representatives of Morgan Stanley reviewed the two bid proposals, including the proposed financing for each. Kirkland & Ellis and Simpson Thacher then reviewed certain terms proposed in the merger agreement by each bidder and discussed the relative advantages and disadvantages of these terms. Throughout the discussion the board engaged in an in-depth discussion with representatives of Morgan Stanley, Kirkland & Ellis and Simpson Thacher concerning, among other things, the price offered by each bidder, the merger agreement terms offered by each bidder and the potential probability of successfully closing a transaction with each bidder, as well as the relative risks associated with completing any transaction or continuing as a stand-alone company. Representatives of Morgan Stanley made a formal presentation to our board and discussed in detail its preliminary views and analysis of the consideration to be received by holders of Biomet s common shares. The members of the board each received a copy of the presentation by Morgan Stanley. In addition, Mr. Hann confirmed to the board that members of management had not negotiated with or agreed to any arrangements regarding future employment with either bidder or the terms of management s equity participation in a potential transaction with the Sponsor Group. The board agreed to reconvene the meeting on December 15, 2006 to further discuss and deliberate on the bids and to receive any further updates from its advisors regarding the two bids. Following the Strategic Alternatives Committee report, the board discussed the relative advantages and disadvantages of remaining a stand-alone company and each of the two bids.

Later on December 14, 2006, at the request of Biomet, Morgan Stanley requested in a discussion with Smith & Nephew s financial advisors that Smith & Nephew increase the per share merger consideration of its offer. In response, Morgan Stanley was advised that Smith & Nephew s $45 per share offer was its best and final offer.

In the morning of December 15, 2006, the Strategic Alternatives Committee convened a meeting at the offices of Kirkland & Ellis where it continued to discuss with legal counsel certain differences between the bids submitted by the Sponsor Group and Smith & Nephew, including the requirement that the transaction be approved by Smith & Nephew s shareholders, the difficulty of entering into a binding agreement acceptable to the parties pursuant to which Smith & Nephew would bear the risk of gaining antitrust clearance, the fact that Smith & Nephew had the right to change its recommendation that its shareholders vote in favor of the transaction if it would be inconsistent with its directors fiduciary duties while Biomet did not have the flexibility to do so without giving rise to a termination right of Smith & Nephew, the disparity between the termination fee being requested of Biomet by Smith & Nephew and what it was willing to offer in the event its board no longer supported the transaction, the increased conditionality of the financing papers provided by Smith & Nephew and other non-financial terms and conditions that were less favorable to Biomet than those being offered by the Sponsor Group. After further discussion, the committee recommended that negotiations continue with both bidders, but with a focus on developing the Sponsor Group bid.

Table of Contents

Later on December 15, 2006, our board of directors convened a meeting to, among other things, continue its discussion and review of the two bids. Kirkland & Ellis and Simpson Thacher reviewed with the board a presentation comparing various details of each of the bids submitted by the two bidders. The board noted that, while Smith & Nephew s proposed purchase price of $45 per share exceeded the $44 per share purchase price proposed by the Sponsor Group, there were several risks, uncertainties and other disadvantages associated with Smith & Nephew s bid that were not present in the Sponsor Group s bid. The board s discussion included, among other things, a discussion regarding (1) whether to postpone the process in light of potential uncertainty or delay arising from the preliminary state of the investigation into Biomet s historical stock option granting practices, (2) the risk that antitrust or other competition laws could delay or prevent successful completion of a transaction with Smith & Nephew, (3) Smith & Nephew s proposed financing for the transaction and the relative uncertainty of this financing compared to the more certain financing commitments provided by the Sponsor Group (including the Sponsor Group s commitment to close into bridge financing under certain specified circumstances), (4) the risk that the shareholder vote required by Smith & Nephew would delay or prevent the successful completion of a transaction, (5) the potential that Smith & Nephew s bid for Biomet would make Smith & Nephew an acquisition target of a third party, (6) the potential impact on Biomet s operations of announcing a transaction with Smith & Nephew, as evidenced by the letters from certain Biomet distributors opposing a transaction with Smith & Nephew, (7) the more onerous merger agreement terms proposed by Smith & Nephew compared to the terms proposed by the Sponsor Group, including certain additional representations and warranties, closing conditions, covenants and termination provisions and the large termination fee required by Smith & Nephew, (8) the financial analysis and presentations delivered by Morgan Stanley with respect to each bid, and (9) the likelihood and value of other potential alternatives to Biomet. The board also discussed the fact that some of these and other additional risks and uncertainties contained in Smith & Nephew s bid were inherent to Smith & Nephew s operations, identity and corporate structure, while others were a product of the terms of Smith & Nephew s proposal.

On December 15, 2006, counsel to the Special Litigation Committee held separate telephone conferences and webcasts for both bidders reviewing the information presented to the board of directors the previous day regarding the status of the investigation into Biomet s historical stock option granting practices.

Also on December 15, 2006, Morgan Stanley, Kirkland & Ellis and Simpson Thacher held telephone conferences with Smith & Nephew and its advisors to further understand the requirements of Smith & Nephew s shareholder approval process, financing arrangements and proposal regarding antitrust matters.

On the evening of December 15, 2006, Morgan Stanley called both bidders to confirm the bases under which the bidders would move forward with a transaction. Both bidders confirmed their continued interest and desire to announce a deal the next week. In addition, Smith & Nephew requested a number of additional due diligence materials.

On the night of December 15, 2006, Kirkland & Ellis circulated comments to the Sponsor Group s counsel relating to the financing sections of the merger agreement.

On December 16, 2006, Kirkland & Ellis also circulated a revised draft of the merger agreement to Smith & Nephew s counsel responding to the contract provided by Smith & Nephew with its bid.

Beginning on the morning of December 16, 2006 and ending on the morning of December 18, 2006, Kirkland & Ellis, Simpson Thacher and the Sponsor Group s counsel, along with Biomet management, engaged in negotiations with the Sponsor Group and its counsel in an attempt to reach an agreement on the terms of the merger agreement, equity and debt commitment letters and limited guarantee.

On December 16, 2006, our board of directors convened a special telephonic meeting. Morgan Stanley reported to the board that Financial Sponsor 1 had dropped out of the Sponsor Group, but that the remaining members of the Sponsor Group reaffirmed their desire to move forward without Financial Sponsor 1. Morgan

Table of Contents

Stanley also reported that Smith & Nephew continued to make due diligence inquiries. Kirkland & Ellis discussed with the board the current status of negotiations with the Sponsor Group, including the Sponsor Group s request to extend by one month the deadline for when it would be required to close the potential transaction using bridge financing. Kirkland & Ellis and Simpson Thacher also reviewed with the board other potential advantages and disadvantages of the Sponsor Group s bid compared to Smith & Nephew s bid.

On the morning of December 17, 2006, Morgan Stanley spoke to Smith & Nephew and its advisors to clarify the terms of Smith & Nephew s intended financing and to request again that Smith & Nephew provide greater financing certainty.

On the evening of December 17, 2006, the Strategic Alternatives Committee convened a telephonic meeting during which the members of the committee discussed with Simpson Thacher and Kirkland & Ellis the status of the negotiations with the Sponsor Group and Smith & Nephew. Morgan Stanley reported that Smith & Nephew continued to make due diligence inquiries and had asked to schedule a meeting with Mr. Hann in the upcoming week, but had not otherwise advanced negotiations on the proposed merger agreement. Kirkland & Ellis then reported that negotiations with the Sponsor Group were nearly complete and summarized the changes in the non-financial terms and conditions arising from the negotiations over the course of the last day. The committee then discussed the advantages and disadvantages of the Sponsor Group s proposal, and noted that the fairness opinion of Morgan Stanley was anticipated to be delivered at the special meeting of the board immediately to follow. After further discussion, the committee unanimously resolved to recommend to the board the approval and adoption of the merger agreement with the Sponsor Group.

Beginning late in the evening on December 17, 2006 and ending in the early morning on December 18, 2006, Biomet s board of directors convened a special meeting to consider whether to approve the transaction being proposed by the Sponsor Group. During the meeting, Morgan Stanley reported that Smith & Nephew continued to make due diligence inquiries and had asked to schedule a meeting with Mr. Hann in the upcoming week, but had not otherwise advanced negotiations on the proposed merger agreement. In contrast, Kirkland & Ellis and Morgan Stanley reported that negotiations with the Sponsor Group had continued and were near completion. Kirkland & Ellis and Simpson Thacher then led a discussion with the board regarding certain provisions of the proposed merger agreement with the Sponsor Group, including the financing commitments, the closing conditions (including the requirement that certain financial information be delivered to the Sponsor Group and publicly disclosed prior to the Sponsor Group drawing down on the bridge financing), the no-shop covenants precluding Biomet and its representatives from soliciting alternative transaction proposals, the termination rights, the termination fee provisions, the scope of the representations and warranties, the definition of material adverse effect and the covenants (including Biomet s financial reporting requirements). These provisions were then compared to the initial bid draft of the merger agreement and to the draft of the merger agreement submitted by Smith & Nephew. The board then asked about and discussed the process, filings, information deliveries, approvals, risks and timing under different scenarios required for closing. Kirkland & Ellis asked the directors to reconfirm to the board whether or not they had any conflicts of interest. Mr. Noblitt noted that his wife held a small portion of her overall investments through Goldman Sachs & Co. and its affiliated funds. The board discussed the disclosure, deemed the investments financially immaterial to Mr. Noblitt, and approved the transaction.

Morgan Stanley reviewed for the board its financial analysis of the Sponsor Group s proposed transaction. Morgan Stanley then orally delivered the opinion of Morgan Stanley, subsequently confirmed in writing, that as of December 17, 2006, and based on and subject to the various considerations, assumptions and limitations set forth in its written opinion, the consideration of $44.00 per share to be received by holders of Biomet common shares in accordance with the merger agreement was fair from a financial point of view to such shareholders. For more information on Morgan Stanley s opinion see Biomet s Definitive Proxy Statement on Schedule 14A, filed with the SEC on April 24, 2007. The Strategic Alternatives Committee also delivered its recommendation to the board that the Sponsor Group proposal be approved and adopted. Following these presentations, the board discussed at length the proposed transaction with the Sponsor Group, the timing and risks under different scenarios as well as the alternatives to a transaction, including continuing to operate Biomet on a stand-alone basis and the risks associated with such alternatives. The board then provided guidance to its legal counsel on the resolution of the remaining open issues on the merger agreement. Thereafter, the board determined that a transaction with the Sponsor Group was in the best interests of Biomet and its shareholders and voted unanimously to approve the transaction with the Sponsor Group. Finally, the disinterested directors of Biomet (i.e., all directors other than the two employees of Biomet) also voted unanimously to approve the transaction with the Sponsor Group.

On the morning of December 18, 2006, Biomet, Parent and Merger Sub executed the original merger agreement. Shortly thereafter, Morgan Stanley, on behalf of Biomet, contacted Smith & Nephew to inform them that Biomet had executed the original merger agreement with Parent and the process with respect to Smith & Nephew s bid would be terminated pursuant to the terms of the original merger agreement. Prior to the opening of trading on NASDAQ on December 18, 2006, Biomet and the Sponsor Group issued a joint press release announcing commencement of the transaction.

Following December 18, 2006, the Sponsor Group, Biomet and their respective advisors began to prepare for the anticipated closing of the transaction pursuant to the original merger agreement, including by working on the proxy statement relating to the special meeting of Biomet shareholders to approve the transaction, drafting disclosure and definitive documentation for the debt financing for the merger contemplated by the original merger agreement and coordinating with respect to, and making required filings under, the Hart-Scott-Rodino Antitrust Improvement Act of 1976, or the HSR Act. Also following December 18, 2006, representatives of Biomet, the Sponsor Group and their respective legal counsels were in frequent and extensive contact concerning a wide variety of matters and ongoing developments with respect to Biomet s business and operations, including the preliminary and final publicly-disclosed reports by the Special Litigation Committee, the decision by Biomet to restate its historical financial statements and the expected timing anticipated to complete such restatements, developments with respect to the various commercial arrangements involving Biomet, including Biomet s distributors, litigation developments with respect to Biomet and various management changes at Biomet.

On January 17, 2007, the parties filed the required notifications and reports under the HSR Act with the Federal Trade Commission. Following this filing Biomet, the Sponsor Group and Cleary Gottlieb worked together to facilitate early termination of the waiting period under the HSR Act which was granted by Department of Justice on February 15, 2007.

On January 31, 2007, Biomet filed its preliminary proxy statement relating to the original merger agreement. Thereafter, legal counsel to each of Biomet and the Sponsor Group were consulted regarding the responses to comments received from staff of the SEC.

On February 15, 2007, the parties were granted early termination of the waiting period under the HSR Act for the proposed merger contemplated by the original merger agreement and related transactions.

On February 20, 2007, March 21, 2007 and April 13, 2007, Biomet responded to comments from staff of the SEC relating to the preliminary proxy statement.

On February 26, 2007, Biomet announced the appointment of Jeffrey R. Binder as President and Chief Executive Officer and as a member of Biomet s board.

On March 22, 2007 and March 23, 2007, Biomet s board convened its quarterly meeting. During the meetings, the board discussed the status of the proposed transaction with the Sponsor Group. In addition, the board discussed an updated report from the Special Litigation Committee which was later supplemented by the final report of the Special Litigation Committee received and discussed by the board on May 25, 2007. During the following week members of the board and Biomet management took steps to consider and implement certain remedial actions in response to the Special Litigation Committee s investigation.

Table of Contents

On March 29, 2007, in response to the Special Litigation Committee s preliminary report all current members of Biomet s board agreed that, with respect to misdated or mispriced stock option awards to such current directors on or after January 1, 1996 that had not yet been exercised, the exercise price of such unexercised stock option awards would be increased to the fair market value of Biomet s common shares on the *Measurement Date* (as that term is defined in the Financial Accounting Standards Board Statement No. 123(R)) applicable to such awards. In addition, in light of the Special Litigation Committee s findings, which were announced on March 30, 2007, on March 30, 2007, Gregory D. Hartman retired as Senior Vice President Finance, Chief Financial Officer and Treasurer, and Daniel P. Hann retired as Executive Vice President of Administration and a Director of Biomet. On March 30, 2007, Biomet also announced the appointment of J. Pat Richardson as Vice President Finance, Treasurer and Interim Chief Financial Officer.

On April 24, 2007, Biomet filed a definitive proxy statement with the SEC, which also served as notice of the special meeting of Biomet shareholders to take place on June 8, 2007 for the purpose of approving the original merger agreement, and thereafter began on April 25, 2007 to mail such proxy statement to its shareholders.

Beginning May 9, 2007 and on various dates thereafter, representatives of each of the Sponsor Group, Cleary Gottlieb, Kirkland & Ellis and Georgeson Inc., Biomet s proxy solicitor (*Georgeson*), engaged in telephone conferences to discuss the proxy solicitation process that had been undertaken as of that date. During the week of May 21, 2007, representatives of each of the Sponsor Group, Biomet and their respective legal counsels held discussions and shared information concerning a telephone conversation with respect to the transactions contemplated by the original merger agreement that Biomet then had on May 24, 2007 with Institutional Shareholder Services (*ISS*), a proxy advisory firm.

On May 14, 2007, Biomet announced the appointment of Daniel P. Florin as Senior Vice President and Chief Financial Officer to become effective June 5, 2007.

During the period from May 18, 2007 through May 30, 2007 the parties and their counsel held a series of telephone conferences relating to the proposed financing of the merger and the other transactions contemplated by the original merger agreement.

On May 25, 2007 Biomet s board of directors received the final report of the Special Litigation Committee and issued a press release concerning its findings. Later in the day representatives of Biomet and the Sponsor Group discussed the telephone conference held by Biomet with representatives of ISS the previous day.

On May 29, 2007 Biomet filed with the SEC its amended and restated Annual Report on Form 10-K/A for the fiscal year ended May 31, 2006, completing the restatement of its historical annual financial statements for the periods covered thereby.

During the last weeks of May 2007, two proxy advisory firms, ISS and Proxy Governance, Inc., issued reports recommending that shareholders vote against the original merger agreement. A third institutional investor proxy advisory firm, Glass Lewis & Co., issued a report recommending that shareholders vote in favor of the original merger agreement. During this same period, Georgeson was contacted by various Biomet shareholders to express their views regarding the original merger agreement.

On May 30, 2007, at the request of the Sponsor Group, representatives of Biomet held a telephone conference with representatives of Morgan Stanley, Georgeson and representatives of the Sponsor Group in which Georgeson described, among other things, the status of the proxy solicitation process with respect to the original merger agreement. During the call representatives from Georgeson noted the recent trading volume in Biomet s common shares and discussed the potential impact of this trading on the upcoming special meeting of shareholders to approve the original merger agreement. In particular the group discussed the possibility that shareholders who sold their shares in the open market after the April 20, 2007 record date would fail to cast votes

Table of Contents

in the upcoming June 8, 2007 special meeting, and furthermore that votes that were not cast in the meeting had the same effect as a vote against the original merger agreement. During this telephone conference, representatives of the Sponsor Group and Biomet discussed whether it might be necessary for the Sponsor Group to modify the original merger agreement in order to obtain the requisite shareholder vote necessary to consummate the acquisition of Biomet.

On May 31, 2007, counsel to Biomet and counsel to the Sponsor Group entered into a memorandum of understanding regarding the proposed settlement of class action lawsuits that were filed on behalf of Biomet s shareholders following the announcement of the merger contemplated by the original merger agreement.

Also on May 31, 2007, representatives of the Sponsor Group contacted representatives of Biomet to discuss potential revisions to the transaction structure contemplated by the original merger agreement. One such possible change that the Sponsor Group indicated it was considering was a tender offer structure in which the Sponsor Group would make an offer directly to the shareholders of Biomet. Representatives of Biomet affirmed that if the structure of the original merger agreement was to be revised, any such revisions would need to deliver superior value to Biomet s shareholders in a more efficient and more immediate fashion than the process provided by the original merger agreement, and that any such revisions would need to provide greater certainty and visibility to completion of the transaction. During the call representatives from the Sponsor Group emphasized that they were not at that time proposing any increase in the per share purchase price.

On June 1, June 2 and June 3, 2007, Cleary Gottlieb, Kirkland & Ellis and Simpson Thacher held further discussions concerning the proposed restructuring of the Sponsor Group s acquisition of Biomet and the timing of any proposal that the Sponsor Group might decide to make to the Biomet board of directors with respect thereto. Representatives of the Sponsor Group also discussed these matters with representatives of Morgan Stanley during this period.

On the morning of June 4, 2007, Biomet filed with the SEC its amended and restated quarterly report on Form 10-Q/A for the period ended August 31, 2006. Later that day, Biomet filed with the SEC its quarterly reports on Form 10-Q for the periods ended November 30, 2006 and February 28, 2007.

In the afternoon of June 4, 2007, a telephonic meeting of the Strategic Alternatives Committee was convened to discuss the proposed amendments to the original merger agreement. Representatives from Morgan Stanley, Kirkland & Ellis, Simpson Thacher and the Sponsor Group participated in the meeting. Representatives from the Sponsor Group presented to the Strategic Alternatives Committee a revised transaction structure under which Merger Sub would make a tender offer for any and all of Biomet s outstanding shares at $46.00 per share, with such an offer conditioned on the receipt by Merger Sub of at least 75% of Biomet s outstanding shares and Biomet s agreement not to declare or pay its annual dividend to shareholders. Representatives from the Sponsor Group asserted that they had no intention of raising their price above $46.00 per share. Furthermore, the Sponsor Group indicated a desire to complete and sign the merger agreement prior to the originally scheduled shareholder meeting on June 8, 2007. Following this presentation Morgan Stanley and the Sponsor Group s representatives were excused from the meeting. The Strategic Alternatives Committee then discussed the potential advantages and disadvantages to the proposed change in structure.

Later in the day on June 4, 2007, Biomet s board of directors held a telephonic meeting. During the meeting members of the board discussed the Sponsor Group s proposal to amend and restate the original merger agreement with Morgan Stanley, Kirkland & Ellis and Simpson Thacher. Following a discussion of the Sponsor Group s proposal, Morgan Stanley was excused from the meeting. The board of directors then discussed potential advantages and disadvantages of the Sponsor Group s proposal. After further discussion, the board of directors recommended that negotiations continue with the Sponsor Group.

Later that night, representatives of Biomet indicated to the Sponsor Group that it wished to proceed with its consideration of the revised transaction proposed by the Sponsor Group, and Kirkland & Ellis delivered a draft of the proposed merger agreement to Cleary Gottlieb.

Table of Contents

On June 5, 2007 and June 6, 2007, pursuant to discussions between Biomet and the Sponsor Group, Biomet s Compensation and Stock Option Committee held a meeting and passed resolutions relating to certain matters involving compensation of Biomet officers, employees and consultants, including, among other things, the adjustment of certain misdated or mispriced stock option awards and ratifications of certain change in control agreements, consulting agreements and other executive compensation and equity incentive arrangements. In addition, the Compensation and Stock Option Committee approved and/or ratified, in accordance with the non-exclusive safe harbor provisions contained in Rule 14d-10 under the Exchange Act, certain compensatory arrangements including:

- all distributor agreements, including the equity award arrangements described therein, entered into between Biomet and its distributors as of June 6, 2007 or to be entered into prior to the date on which Parent accepted for payment all common shares validly tendered in the tender offer;

- those change in control agreements entered into as of September 20, 2006 between Biomet and certain executives;

- the retirement and consulting agreements entered into as of March 30, 2007 between Biomet and each of Daniel P. Hann and Gregory T. Hartman, respectively;

- the separation and retirement agreements between Biomet and Garry L. England dated May 31, 2007 and Charles E. Niemier dated June 18, 2007;

- the adjustment of the per-share exercise price of certain misdated or mispriced stock option awards and cash payment to holders of such options; and

- that upon the Share Purchase Date, outstanding options shall be cancelled and the holder of each such option would receive in exchange therefor for a cash payment.

Throughout the day on June 5, 2007, and June 6, 2007, the parties and their legal counsel focused on revising the original merger agreement and limited sponsor guarantees to reflect the change in structure and other agreed upon terms. During this same period the parties and their legal counsel engaged in a series of conversations to reach agreement on the equity and debt commitment letters to be delivered in connection with the amended and restated merger agreement.

On June 6, 2007, Biomet announced its separation and retirement agreement with Garry L. England, pursuant to which he retired as Chief Operating Officer Domestic Operations effective as of May 31, 2007. On June 6, 2007, Biomet also announced its separation and retirement agreement with Charles E. Niemier, pursuant to which he was to retire as Senior Vice President, Biomet, Inc. and Senior Vice President, Biomet International and Corporate Relations effective as of June 18, 2007. Mr. Niemier will remain with Biomet as a Class III member of the board.

On June 6, 2007, the board convened a special telephonic meeting to consider the requested change in structure. Kirkland & Ellis then summarized for the board certain provisions of the proposed merger agreement with the Sponsor Group that had changed from the original merger agreement, including the change in structure of the transaction, certain new conditions in the merger agreement such as a financing condition and minimum number of shares required to be tendered for the offer to be completed, the financing commitments, the subsequent offering period and top-up option provided for in connection with the tender offer, the termination rights and the termination fee provisions.

Morgan Stanley reviewed for the board its financial analysis of the Sponsor Group s revised proposal. Morgan Stanley then orally delivered the opinion of Morgan Stanley, subsequently confirmed in writing, that as of June 6, 2007, and based on and subject to the various considerations, assumptions and limitations set forth in its written opinion, the consideration of $46.00 per share to be received by holders of Biomet common shares in accordance with the merger agreement was fair from a financial point of view to such shareholders.

Following these presentations, the board discussed the terms of the Sponsor Group s revised proposal, the timing and risks under the original merger agreement as compared with the proposed amended and restated merger agreement, and the risks associated with, and likelihood of completion of, such alternatives. Kirkland & Ellis asked the directors to reconfirm to the board whether or not they had any conflicts of interest. Mr. Noblitt noted that his wife held a small portion of her overall investments through Goldman Sachs & Co. and its affiliated funds. The board discussed the disclosure, deemed the investments financially immaterial to Mr. Noblitt, and approved the transaction. Thereafter, the board determined that entering into the amended and restated merger agreement with the Sponsor Group was in the best interests of Biomet and its shareholders and voted unanimously to approve the transaction with the Sponsor Group. Finally, the disinterested directors of Biomet (i.e., all directors other than the two employees of Biomet) also voted unanimously to approve the amended and restated merger agreement with the Sponsor Group.

On the morning of June 7, 2007, Biomet, Parent and Merger Sub executed the amended and restated merger agreement. Prior to the opening of trading on NASDAQ on June 7, 2007, Biomet and the Sponsor Group issued a joint press release announcing the amended and restated merger agreement.

From June 7 through June 13, 2007, Kirkland & Ellis, Simpson Thacher and Cleary Gottlieb, along with Biomet management and the Sponsor Group, were in frequent contact regarding, and coordinated with one another concerning, Biomet s Schedule 14D-9 and Merger Sub s Schedule TO.

On June 13, 2007, Merger Sub filed with the SEC a Schedule TO, which included its offer to purchase, and commenced the tender offer, and we filed with the SEC a Schedule 14D-9 responding to the Schedule TO.

From June 13, 2007 through July 12, 2007, representatives of Biomet and the Sponsor Group and their respective legal counsels were in frequent contact regarding, among other things, Biomet s business and operations, Biomet s July 9, 2007 earnings release and other matters.

On June 27, 2007, the Indiana Securities Commissioner conducted a hearing to evaluate the Offer. On July 6, 2007, the Indiana Securities Commissioner granted a final order stating that the takeover offer described in our Offer to Purchase complies with the Indiana Takeover Offers Act, and that the Offer may proceed accordingly.

On July 6, the Compensation and Stock Option Committee approved and/or ratified, in accordance with the non-exclusive safe harbor provisions contained in Rule 14d-10 under the Exchange Act, certain compensatory arrangements including:

- that all shares and options to purchase Biomet common shares held by directors and officers subject to Section 16 of the Exchange Act may be deemed disposed of, converted or cancelled pursuant to the merger agreement and that such disposition, conversion or cancellation is exempted from Section 16(b) of the Exchange Act;

- suspension of option exercises beginning on July 9, 2007 at 12:01 AM Eastern Daylight Savings Time;

- payment of taxes to the IRS on behalf of persons, other than Section 16 officers or individuals not subject to United States income tax, who exercised options during the 2006 calendar year that were priced at less than the fair market value of the shares underlying the options on the date the options were granted, as well as the amount needed to gross-up such option exercisers for taxes they incur due to any income they recognize due to Biomet s payments on their behalf, for a total aggregate payment of approximately $1.5 million;

- payment of taxes incurred by Mr. Richard Borror as a result of his exercising options to purchase Biomet common shares priced at less than the fair market value of the shares underlying the options on the date the options were granted, as well as the amount needed to gross-up Mr. Borror for taxes he incurs due to any income he recognizes due to Biomet s payment on his behalf, for a total aggregate payment of approximately $20,000; and

Table of Contents

changing the effective date of the exercise price adjustment of options granted at below fair market value on the date of grant, except those held by Section 16 officers or individuals not subject to United States income tax, and the cash payment made to each such option holder (both of which had been previously approved) to June 26, 2007.

On July 12, 2007, Merger Sub announced that it had accepted for payment all Biomet common shares tendered into the tender offer.

On July 17, 2007, Sandra A. Lamb, Niles L. Noblitt, Marilyn Tucker Quayle, Jerry L. Ferguson, Thomas F. Kearns, M. Ray Harroff, Jerry L. Miller and Charles E. Niemier resigned from our board. As required by the merger agreement, the remaining directors appointed Parent s designees, Chinh Chu, Jonathan Coslet, Michael Dal Bello, Sean Fernandes, Adrian Jones, Michael Michelson, Dane Miller, John Saer and Todd Sisitsky, to Biomet s board.

On July 17, 2007, pursuant to the terms of Biomet s options and the merger agreement, all stock options outstanding (whether held by officers, directors, employees or distributors) were cancelled and the holders thereof received from Biomet an amount equal to the excess, if any, of the $46.00 offer price over the option exercise price for each share subject to the stock option, in each case, less any applicable withholding taxes and without interest.

Recommendation of Our Board of Directors; Reasons for Recommending the Approval of the Merger Agreement

Our Board of Directors Recommendation

At a special meeting of our board of directors convened on June 6, 2007, our board of directors (all of whom were unaffiliated with Parent or Merger Sub at that time) unanimously adopted and declared advisable the amended and restated merger agreement, the offer and the merger and unanimously determined that the merger is in the best interests of Biomet and its shareholders. Accordingly, our board of directors recommends that our shareholders vote FOR approval of the merger agreement.

Our Reasons for the Merger

The Original Merger Agreement

In reaching its decision to unanimously adopt the original merger agreement and declare advisable the original merger agreement and the original merger and related transactions, and its unanimous determination that the original merger was in the best interests of Biomet and its shareholders and to unanimously recommend that Biomet s shareholders vote to approve the original merger agreement, our board of directors consulted with management and its financial and legal advisors. The board considered the following factors and potential benefits of the original merger, each of which it believed supported its decision:

- the then current and historical market prices of Biomet s common shares, and the fact that the $44.00 per share to be paid for each Biomet common share in the original merger represented a premium to those historical trading prices a premium of approximately:

  - 27% over Biomet s closing price on April 3, 2006, the trading day prior to public speculation of Biomet executing a significant transaction, which was subsequently confirmed by Biomet on April 6, 2006 when it announced that it had retained Morgan Stanley to assist it in exploring strategic alternatives; and

  - 45% over Biomet s 52-week low closing price on July 14, 2006.

- the possible alternatives to the sale of Biomet, including continuing to operate Biomet on a stand-alone basis, and the risks associated with such alternatives, each of which the board determined not to pursue

Table of Contents

in light of its belief, and the belief of Biomet s management, that the original merger was in the best interests of Biomet and its shareholders;

the evaluation by the board of directors of Biomet s five-year strategic business plan, as well as the execution risks related to achieving that plan, compared to the risks and benefits of the transaction;

the business, operations, management, financial condition, earnings and cash flows of Biomet on a historical and prospective basis;

the review of strategic alternatives conducted by Biomet with the assistance of Morgan Stanley, which involved publicizing Biomet s review of strategic alternatives, engaging in discussions with four parties to determine their potential interest in a business combination transaction with Biomet, entering into confidentiality agreements with three parties and the receipt of two definitive proposals to acquire Biomet;

from at least fiscal 2005, Biomet underperformed and has continued to underperform its peer group in terms of median sales and earnings growth;

the judgment of our board of directors that extending the process by continuing or entering into negotiations with any other parties, including Smith & Nephew, would extend the uncertainty that was becoming increasingly disruptive to Biomet s operations and subject Biomet to significant additional negotiation and risks, including endangering the offer received from the Sponsor Group;

the fact that the original merger consideration was all cash, which provides our shareholders with certainty of value for their shares;

the presentation of Morgan Stanley, including its opinion dated December 17, 2006 that, as of such date and based upon and subject to the various considerations, assumptions and limitations set forth in its written opinion, the consideration of $44.00 per share to be received by holders of Biomet common shares in accordance with the original merger agreement was fair from a financial point of view to such shareholders;

the then current and prospective environment in which we operate, including national economic conditions, the competitive environment in our industry generally, the trend towards consolidation in our industry, the evolving regulatory environment and the likely effect of these factors on us;

the terms of the original merger agreement, including without limitation:

the limited number and nature of the conditions to Parent and Merger Sub s obligation to consummate the original merger and the limited risk of non-satisfaction of such conditions, including that for purposes of the original merger agreement a material adverse effect on Biomet did not include circumstances resulting from certain carve-outs to the definition of material adverse effect ;

the provisions of the original merger agreement which allocated risk with respect to developments arising out of the review into Biomet s historical stock option granting practices to the Sponsor Group;

the provisions of the original merger agreement that allowed the board of directors, under certain limited circumstances where failure to take such actions would be inconsistent with its fiduciary duties under applicable law, to change its recommendation that Biomet shareholders vote in favor of the approval of the original merger agreement;

the provisions of the original merger agreement that allowed Biomet, under certain limited circumstances where failure to take such actions would be inconsistent with the fiduciary duties of its directors under applicable law, to furnish information to and conduct negotiations with third parties;

the provisions of the original merger agreement that allowed Biomet, under certain limited circumstances where failure to take such actions would be inconsistent with the board s fiduciary

Table of Contents

duties under applicable law, to terminate the original merger agreement in order to accept a superior proposal (subject to negotiating with Parent in good faith and paying to Parent the $272.5 million termination fee);

the conclusion of the board that both the $272.5 million termination fee (and the circumstances when such fee is payable) and the requirement to reimburse Parent for certain expenses, up to a limit of $40 million, in the event that the original merger agreement was terminated because Biomet s shareholders fail to approve the original merger agreement at the special meeting or any adjournment thereof at which it was voted on and a termination fee was not otherwise payable at the time of such termination, were reasonable in light of the benefits of the original merger, the auction process conducted by Biomet with the assistance of Morgan Stanley and commercial practice;

the obligation of Parent to pay to Biomet a $272.5 million termination fee if we terminated the original merger agreement on the termination date and all conditions to the obligations of Parent and Merger Sub (other than delivery of an officer s certificate) had been satisfied and Parent failed to close, including because Parent and Merger Sub failed to receive the proceeds of the debt financing contemplated by the debt financing commitment,(or alternative debt financing on terms not materially less beneficial to Merger Sub than the terms set forth in the debt financing commitment) sufficient to have consummated the original merger; and

the ability of Biomet to seek up to an aggregate of $272.5 million in damages from Parent and Merger Sub under certain circumstances if Parent or Merger Sub breached the original merger agreement;

the recommendation of the Strategic Alternatives Committee that the board of directors adopt the original merger agreement;

the debt commitment letter indicated a strong commitment on the part of the lenders to Parent with few conditions that would permit the lenders to terminate their commitment;

the commitment of the Sponsor Group under certain circumstances to utilize bridge financing to close the transaction;

the experience of members of the Sponsor Group in closing acquisitions of this scale;

the fact that the non-financial terms of the proposal received from Smith & Nephew were, in the aggregate, significantly less favorable to Biomet than the proposal from the Sponsor Group, including as to conditionality;

the potential impact on Biomet s operations from announcing a transaction with a competitor and the greater uncertainty and potential for delay in closing a transaction with Smith & Nephew; and

the advantages to employees, suppliers, customers, team members and various other constituencies of Biomet in remaining an independent company owned by the Sponsor Group.

Each of these factors supported the conclusion by our board of directors that the original merger was in the best interests of Biomet and its shareholders. Our board of directors relied on management at that time to provide accurate and complete financial information, projections and assumptions as of that time as the starting point for its analysis and also considered the possible impact on the information provided that might arise from the ongoing investigation into Biomet s historical stock option granting practices.

Our board of directors also considered, and balanced against the potential benefits, a variety of risks and other potentially negative factors relating to the original merger agreement and the transactions contemplated by it. These factors included:

the fact that the per share merger consideration offered by Smith & Nephew was $1 per share higher than the Sponsor Group s offer, and that Smith & Nephew proposed to finance the acquisition of Biomet with less debt financing than the Sponsor Group;

- the fact that we were entering into the original merger agreement with a newly formed corporation with essentially no assets and, accordingly, that our remedy in connection with a breach of the original merger agreement by Parent or Merger Sub, even a breach that was deliberate or willful, was limited to $272.5 million;

- the fact that, following the original merger, our shareholders would cease to participate in any of our future earnings or benefit from any future increase in our value, including any appreciation in value that could be realized as a result of improvements to Biomet s operations;

- the potential impact that the Special Litigation Committee s then ongoing investigation into Biomet s historical stock option granting practices may have had on the bidding process and timing for completion of the original merger, the associated potential risk that closing conditions might not be satisfied and the costs and benefits of delaying the process until completion of the review;

- the fact that certain individuals associated with us may have had interests that were different from those of our shareholders;

- the limitations contained in the original merger agreement on our ability to solicit or discuss other offers, as well as the possibility that we may have been required to pay to Parent a termination fee under certain circumstances;

- the possibility that the original merger may not have been completed in a timely manner or at all, which would divert significant resources and have a negative impact on our operations;

- the possible effects of the announcement of the original merger on employees, distributors and customers, suppliers and various other constituencies;

- the transaction costs that would be incurred in connection with the original merger, as well as the risk of diverting management focus and resources from other strategic opportunities and from operational matters while working to implement the original merger;

- the fact that, for U.S. federal income tax purposes, the original merger consideration would have been taxable to our shareholders; and

- restrictions on the conduct of Biomet s business prior to the completion of the original merger, requiring us to conduct business only in the ordinary course, subject to specific limitations or Parent consent, which may have delayed or prevented us from undertaking business opportunities that may arose pending completion of the original merger.

This discussion of the information and factors considered by our board of directors in reaching its conclusions and recommendation with respect to the original merger agreement includes all of the material factors considered by our board of directors, but is not intended to be exhaustive. In view of the wide variety of factors considered by our board of directors in evaluating the original merger agreement and the transactions contemplated by it, including the original merger, and the complexity of these matters, our board of directors did not find it practicable to, and did not attempt to, assign relative weight to those factors. In addition, different members of our board of directors may have assigned different weight to different factors.

The Amended and Restated Merger Agreement

In reaching its decision to unanimously adopt and declare advisable the merger agreement, the offer and the merger, and unanimously determine that the merger is in the best interests of Biomet and our shareholders the board considered the information and factors listed above, both positive and negative. In addition, the board considered the following factors:

the fact that the cash consideration of $46.00 per share, net to be paid under the merger agreement exceeds the consideration of $44.00 per share, net payable under the original merger agreement and represents a premium of approximately:

4% premium over Biomet s closing price on June 6, 2007, the last trading day prior to the public announcement of the terms of the offer and the merger;

- 32% over Biomet s closing price on April 3, 2006, the trading day prior to public speculation of Biomet executing a significant transaction, which was subsequently confirmed by Biomet on April 6, 2006 when it announced that it had retained Morgan Stanley to assist it in exploring strategic alternatives; and

- 52% over Biomet s 52-week low closing price on July 14, 2006.

the fact that a direct offer to shareholders allows the decision regarding the transaction to be made by the shareholders who actually own common shares at the time of tendering, and accordingly have a true economic interest in the decision, and accordingly may result in a higher response rate from Biomet s shareholders;

the presentation of Morgan Stanley, including its opinion dated June 6, 2007 that, as of such date and based upon and subject to the various considerations, assumptions and limitations set forth in its written opinion, the consideration of $46.00 per share to be received by Biomet shareholders in accordance with the merger agreement was fair from a financial point of view to such shareholders (see Approval of the Merger Agreement Opinion of our Financial Adviser beginning on page 36 and Annex B to this proxy statement);

the recent changes in Biomet s management, the status of ongoing efforts to improve operating performance, the current and prospective environment in which we operate and the likely effect of these factors on us;

the terms of the merger agreement and the offer, including without limitation:

- the number and nature of the conditions to Parent and Merger Sub s obligations in the merger agreement, including the minimum condition and the financing condition described below;

- the minimum condition of the offer which, subject to certain adjustments, conditioned the offer on at least 75% of Biomet s outstanding common shares being tendered in the offer;

- the financing condition of the offer which conditioned the offer on the debt financing arranged by Parent and Merger Sub being available for borrowing on the terms and conditions set forth in the debt financing commitment letters obtained by Merger Sub or on terms and conditions that are no less favorable, in the aggregate, to Parent and Merger Sub;

- the top-up option under the merger agreement, which subject to certain conditions provided Merger Sub an option (which it did not exercise) to purchase, at a price per share equal to the price paid in the offer, a number of newly issued common shares equal to the number of common shares that, when added to the number of common shares owned, directly or indirectly, by Parent or Merger Sub at the time of exercise of the top-up option, constitutes 90.0005% of the total common shares that would be outstanding immediately after the issuance of all common shares subject to the top-up option;

- the provisions of the merger agreement that allowed the board, under certain limited circumstances where failure to take such actions would be inconsistent with its fiduciary duties under applicable law, to render inapplicable or take action to exempt any third party from any standstill arrangement and to change its recommendation set forth in this proxy statement;

the provisions of the merger agreement that allowed Biomet, under certain limited circumstances where failure to take such actions would be inconsistent with the fiduciary duties of its directors under applicable law, to furnish information to and conduct negotiations with third parties;

the provisions of the merger agreement that allowed Biomet, under certain limited circumstances where failure to take such actions would be inconsistent with the board s fiduciary duties under applicable law, to terminate the merger agreement in order to accept a superior proposal (subject to negotiating with Parent in good faith and paying to Parent the $272.5 million termination fee);

the conclusion of the board that both the $272.5 million termination fee (and the circumstances when such fee is payable) and the requirement to reimburse Parent for certain expenses, up to a limit of $40 million, in the event that the merger agreement had been terminated because of a failure to meet the minimum condition in the offer, were reasonable in light of the benefits of the merger agreement, the previous auction process conducted by Biomet with the assistance of Morgan Stanley and commercial practice;

the obligation of Parent to pay to Biomet a $272.5 million termination fee under certain conditions, including if all conditions to the obligations of Parent and Merger Sub (other than delivery of an officer s certificate) had been satisfied and Parent failed to close the offer and if Parent and Merger Sub had failed to receive the proceeds of the debt financing contemplated by the debt financing commitment (or alternative debt financing on terms not materially less beneficial to Merger Sub than the terms set forth in the debt financing commitment) sufficient to consummate the offer; and

the ability of Biomet to seek up to an aggregate of $272.5 million in damages (without duplication of any termination fee payable by Parent) from Parent and Merger Sub under certain circumstances if Parent or Merger Sub breaches the merger agreement;

the fact that following completion of the offer, Biomet s remaining shareholders who are unaffiliated with Parent do not have a meaningful opportunity to vote, as following completion of the offer Parent controls at least 75% of Biomet s outstanding common shares, meaning that Parent has control of the votes required to approve the merger and would have been able to consummate the merger without a shareholder vote if Parent, with or without the top-up option, had owned more than 90% of Biomet s outstanding common shares;

the provisions of the merger agreement that provided, subject to certain conditions, Parent the ability to obtain representation on Biomet s board proportional to Merger Sub s ownership of common shares upon completion of the offer; and

the debt commitment letter received by Parent in connection with the offer indicated a strong commitment on the part of the lenders to Parent with few conditions that would permit the lenders to terminate their commitment.

This discussion of the information and factors considered by the board in reaching its conclusions and recommendation includes all of the material factors considered by the board, but is not intended to be exhaustive. In view of the wide variety of factors considered by the board in evaluating the merger agreement and the transactions contemplated by it, including the offer and the merger, and the complexity of these matters, the board did not find it practicable to, and did not attempt to, assign relative weight to those factors. In addition, different members of the board may have assigned different weight to different factors.

After careful consideration by the board, the board unanimously adopted and declared advisable the merger agreement, the offer and the merger and other transactions contemplated thereby, and unanimously determined that the offer and the merger are in the best interests of Biomet and its shareholders. **Accordingly, our board of directors unanimously recommends that our shareholders vote FOR approval of the merger agreement**.

Opinion of Our Financial Advisor

Biomet engaged Morgan Stanley to provide it with financial advisory services and a financial opinion in connection with a possible merger, sale or other strategic business combination. Biomet selected Morgan Stanley to act as its financial advisor based on Morgan Stanley s qualifications, experience and reputation and its knowledge of the sector in which Biomet operates. At the special meeting of the Biomet board of directors convened on the evening of June 6, 2007, Morgan Stanley rendered its oral opinion, subsequently confirmed in writing, that as of June 6, 2007, and based on and subject to the various considerations, assumptions and limitations set forth in its opinion, the consideration to be received by holders of Biomet common shares in accordance with the merger agreement was fair from a financial point of view to shareholders.

Table of Contents

The full text of the written opinion of Morgan Stanley, dated as of June 6, 2007, is attached to this proxy statement as Annex B. The opinion sets forth, among other things, the assumptions made, procedures followed, matters considered and limitations on the scope of the review undertaken by Morgan Stanley in rendering its opinion. We encourage you to read the entire opinion carefully. Morgan Stanley s opinion is directed to Biomet s board of directors and addresses only the fairness from a financial point of view of the consideration pursuant to the merger agreement to Biomet shareholders as of the date of the opinion. It does not address any other aspects of the offer and merger and does not constitute a recommendation to any Biomet shareholder whether such shareholder should accept the offer, or how to vote in connection with the offer and merger. The summary of the opinion of Morgan Stanley set forth in this proxy statement is qualified in its entirety by reference to the full text of the opinion.

In connection with rendering its opinion, Morgan Stanley, among other things:

- reviewed certain publicly available financial statements and other business and financial information of Biomet;
- reviewed certain internal financial statements and other financial and operating data concerning Biomet prepared by the management of Biomet;
- reviewed certain financial projections prepared by the management of Biomet;
- discussed the past and current operations and financial condition and the prospects of Biomet with senior executives of Biomet;
- reviewed the reported prices and trading activity for Biomet s common shares and other publicly available information regarding Biomet;
- compared the financial performance of Biomet and the prices and trading activity of Biomet s common shares with that of certain other comparable publicly-traded companies and their securities;
- reviewed the financial terms, to the extent publicly available, of certain comparable acquisition transactions;
- participated in discussions and negotiations among representatives of Biomet, Parent and certain other parties and their financial and legal advisors;
- reviewed the merger agreement, the debt and equity financing commitments provided to Parent by certain lending institutions and private equity funds, and certain related documents; and
- performed such other analyses and considered such other factors as Morgan Stanley deemed appropriate.

In arriving at its opinion, Morgan Stanley assumed and relied upon, without independent verification, the accuracy and completeness of the information supplied or otherwise made available to it by Biomet for the purposes of its opinion. With respect to the financial projections, Morgan Stanley assumed that they were reasonably prepared on bases reflecting the best currently available estimates and judgments of the future financial performance of Biomet. Morgan Stanley also assumed that the offer and merger would be consummated in accordance with the terms set forth in the merger agreement without any waiver, amendment or delay of any terms or conditions. Morgan Stanley assumed that in connection with the receipt of all the necessary governmental, regulatory or other approvals and consents required for the offer and merger, no delays, limitations, conditions or restrictions would be imposed that would have a material adverse effect on the contemplated benefits expected to be derived in the offer and merger. Morgan Stanley is not a legal, tax or regulatory advisor and relied upon, without independent verification, the assessment of Biomet and its legal, tax or regulatory advisors with respect to such matters, and has made no assessment as to the impact or timing implications, if any, of any ongoing legal or regulatory investigations. Morgan Stanley has not made any independent valuation or appraisal of the assets or liabilities of Biomet, nor has Morgan Stanley been furnished with any such appraisals. Morgan Stanley s opinion is necessarily based on financial, economic, market and

Table of Contents

other conditions as in effect on, and the information made available to Morgan Stanley as of, June 6, 2007. Events occurring after the date hereof may affect this opinion and the assumptions used in preparing it, and Morgan Stanley did not assume any obligation to update, revise or reaffirm this opinion.

Morgan Stanley has not been asked to express, and has not expressed, any opinion as to any other transaction other than the offer and merger, nor has Morgan Stanley been asked to express, and has not expressed, any opinion as to the relative merits of or consideration offered in the offer and merger as compared to any other alternative business transaction, or other alternatives, or whether or not such alternatives could be achieved.

The following is a brief summary of the material financial analyses performed by Morgan Stanley in connection with the preparation of its opinion dated June 6, 2007. The various analyses summarized below were based on closing prices for the common shares of Biomet as of June 5, 2007, the last full trading day preceding the day of the special meeting of Biomet s board of directors to adopt and declare advisable the merger agreement and the merger and related transactions and to determine that the offer and merger is in the best interests of Biomet and its shareholders. Although each financial analysis was provided to the board of directors of Biomet in connection with arriving at its opinion, Morgan Stanley considered all of its analyses as a whole and did not attribute any particular weight to any analysis described below. These summaries of financial analyses include information presented in tabular format. To fully understand the financial analyses used by Morgan Stanley, the tables must be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses.

Comparable Company Analysis

Morgan Stanley, using publicly available information, compared certain financial and operating information of a group of selected orthopedic companies comparable to Biomet. The companies used in this comparison included the following companies:

Based on share prices as of June 5, 2007 unless otherwise stated	**Aggregate Value /2007E EBITDA (x)**	**Aggregate Value /2008E EBITDA (x)**	**2007E P/E (x)**	**2008E P/E (x)**	**2008E P/E to Long Term EPS Growth(x/%)**
Smith & Nephew plc	12.2	10.2	23.8	20.3	1.5
Stryker Corporation	15.5	13.7	27.8	23.2	1.2
Synthes, Inc.	12.5	10.9	22.7	19.4	NA
Wright Medical Group, Inc.	13.4	12.3	NM	NM	2.2
Zimmer Holdings, Inc.	13.2	11.8	21.7	19.0	1.4
Median	13.2	11.8	23.8	20.3	1.4
Biomet (As of October 20, 2006)	10.7	9.4	18.7	16.6	1.1
Biomet (Offer Price)	14.0	12.3	24.6	21.7	1.4

For purposes of this analysis, Morgan Stanley analyzed the following statistics of each of these companies for comparison purposes:

- the ratio of aggregate value, defined as market capitalization plus total debt less cash and cash equivalents, to estimated calendar year 2007 and 2008 EBITDA, defined as earnings before interest, taxation, depreciation and amortization (based on publicly available estimates);

- the ratio of price to estimated EPS for calendar year 2007 and 2008 (based on publicly available estimates);

Table of Contents

the relationship between the ratio of stock price to estimated calendar year 2008 EPS divided by the estimated long-term EPS growth rate (based on publicly available estimates) as of June 5, 2007 and October 20, 2006, the last trading day prior to speculation around a potential transaction between Biomet and Smith & Nephew plc. The long-term EPS growth rate is based on equity research analyst estimates of the projected five-year compounded EPS growth rate.

Based on the analysis of the relevant metrics for each of the comparable companies, Morgan Stanley selected a representative range of financial multiples of the comparable companies and applied this range of multiples to the relevant financial statistic. Morgan Stanley calculated a range of estimates by utilizing publicly available equity research projections. Based on Biomet s current outstanding shares and options, Morgan Stanley estimated the implied value per Biomet share as of June 5, 2007 as follows:

Calendar Year Financial Statistic	Financial Statistic (Based on Research)		Comparable Company Multiple Statistic	Implied Value Per Share Range for Biomet	
Aggregate Value / 2007E EBITDA	$	799MM	12.0-13.5x	$	39-$44
Aggregate Value / 2008E EBITDA	$	911MM	10.0-12.5x	$	37-$46
Price to 2007E Earnings	$	1.87	22.0-24.0x	$	41-$45
Price to 2008E Earnings	$	2.12	19.0-22.0x	$	40-$47
Price to 2008E Earnings vs. Long-Term Growth		15.0%	1.2-1.5x	$	38-$48

Morgan Stanley noted that the consideration in the merger agreement was $46 per Biomet common share.

No company selected for the comparable company analysis is identical to Biomet. In evaluating comparable companies, Morgan Stanley made judgments and assumptions with regard to industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of Biomet, such as the impact of competition on the businesses of Biomet and the industry generally, industry growth and the absence of any adverse material change in the financial condition and prospects of Biomet or the industry or in the financial markets in general. Mathematical analysis (such as determining the average or median) is not in itself a meaningful method of using comparable company data.

Discounted Cash Flow Analysis

Morgan Stanley calculated a range of equity values per share for Biomet based on a discounted cash flow analysis. Morgan Stanley relied on financial projections provided by the management of Biomet for fiscal years 2007 through 2011 and extrapolations from those projections for fiscal years 2007 through 2011 and publicly available equity research analyst estimates for fiscal years 2007 through 2011 for four cases that were developed as part of the analysis. The four cases described in this proxy statement are: (1) Management Case, (2) Market Growth Case, (3) Discount to Market Case and (4) Street Case.

Projections for the Management Case were based on Biomet s internal strategic plan. Morgan Stanley noted that (1) the projected revenue growth in the Management Case was in line with both street projections and expected market growth and (2) operating margins in the Management Case were expected to expand relative to current margins and were in line with street projections. The Market Growth Case is defined as top-line market growth rates based on publicly available equity research analyst estimates of orthopedic industry revenues with constant EBIT (operating) margins based on Biomet s fiscal year 2007 margin. The Discount to Market Case is based on top-line market growth rates adjusted for 2% discount to market due to the fact that historically, Biomet s sales growth trailed the aggregate market growth of Biomet s primary markets by approximately 2%. Constant EBIT margins were assumed based on Biomet s fiscal year 2007 margin. The Street Case is based on consensus publicly available equity research analyst estimates. Cash flow assumptions were based on management projections.

Table of Contents

Morgan Stanley performed a discounted cash flow analysis for the (1) Management Case, (2) Market Growth Case, (3) Discount to Market Case and (4) Street Case. Morgan Stanley discounted the unlevered free cash flows of Biomet for fiscal years 2007 through 2011 to present values using an 8.0% estimated weighted average cost of capital calculated using the Capital Asset Pricing Model. The analysis also assumed terminal values based on a range of multiples of 19.0x to 21.0x estimated net income to arrive at a range of present values for Biomet. Such multiple range was derived, based on Morgan Stanley s judgment, after considering trading multiples of selected orthopedic companies comparable to Biomet and the perpetual growth rates implied by such multiples. The present values as of June 1, 2007 were adjusted for Biomet s debt as of February 2007 (net of cash) and estimated proceeds from the exercise of outstanding options to arrive at an implied equity value per share. Based on this analysis, Morgan Stanley calculated values representing an implied equity value per Biomet common share. These ranges of value per case are represented below:

Equity Value per Share ($)	Range
Management Case	$ 47 51
Market Growth Case	$ 41 44
Discount to Market Case	$ 38 42
Street Case	$ 43 46

Morgan Stanley noted that the consideration provided for by the merger agreement was $46.00 per Biomet common share.

Precedent Transactions Analysis

Morgan Stanley also analyzed the offer and merger as compared to other publicly announced transactions. In connection with this analysis, Morgan Stanley reviewed a number of transactions in the orthopedic industry with a value greater than $100 million, which consisted of the following transactions:

Acquired Company	Acquiror	Aggregate Value /LTM Sales (x)	Aggregate Value / LTM EBITDA (x)
Spine-Tech, Inc.	Sulzer Medica, Ltd.	13.2	47.9
Depuy, Inc.	Johnson & Johnson	4.4	15.3
Howmedica Osteonics Corporation	Stryker Corp.	2.0	7.6
Sofamor Danek Group, Inc.	Medtronic, Inc.	9.5	28.6
STRATEC Holding	Synthes, Inc.	5.1	17.6
Centerpulse Ltd.	Zimmer Holdings, Inc.	3.6	15.7
Mathys Medizinaltechnik AG	Synthes-Stratec AG	3.9	NA
Interpore Cross International	Biomet, Inc.	3.8	30.7
Midland Medical Technologies Ltd.	Smith & Nephew plc	5.0	75.3
EMPI, Inc.	Encore Medical Corp.	2.4	NA
Implex Corp.	Zimmer Holdings, Inc.	NA	NA
Royce Medical Company	Ossur Hf.	3.2	NA
Aircast, Inc.	DJ Orthopedics, Inc.	3.0	11.9
Diagnostic Products Corp.	Siemens Ltd.	3.9	12.7
Encore Medical Corp.	The Blackstone Group	2.6	14.7
Blackstone Medical, Inc.	Orthofix International	5.6	NA
Kyphon, Inc.	St. Francis Medical Technologies, Inc.	13.6	41.7
Plus Orthopedics Holdings AG	Smith & Nephew plc	3.0	14.3
Median		3.9	15.7

Table of Contents

Based on this analysis, Morgan Stanley calculated values representing an implied equity value per Biomet common share of $30-43 based on Biomet s last-twelve-months revenue and $35-46 based on Biomet s last-twelve-months EBITDA.

Morgan Stanley compared the premia paid in U.S. public company transactions during the period 2001 to June 1, 2007, with a transaction value greater than $5 billion. Morgan Stanley selected a representative range of premia paid of 15.0%-25.0% for the selected transactions, representing an implied value per share of $40-$44 per Biomet common share, calculated based on a share price of $35.05 as of October 20, 2006, which was the last trading day prior to speculation arising as to a potential transaction involving Biomet and Smith & Nephew plc. Morgan Stanley selected a representative range of premia paid of 15.0%-25.0% for the selected transactions, representing an implied value per share of $47-$51 per Biomet common share, calculated based on an indexed unaffected premium paid based on appreciation of peers subsequent to October 20, 2006 assuming Biomet s shares would have increased comparably notwithstanding its inferior financial results.

No company or transaction utilized in the precedent transaction analyses is identical to Biomet or the tender offer and merger. In evaluating the precedent transactions, Morgan Stanley made judgments and assumptions with regard to general business, market and financial conditions and other matters for the purposes of their analysis.

Morgan Stanley noted that the consideration provided for by the merger agreement was $46.00 per Biomet common share.

Trading Range Analysis

Morgan Stanley reviewed the range of closing prices of Biomet s common shares for the period between June 5, 2006 and June 5, 2007. Morgan Stanley observed the range of closing prices of $30-$44, and noted that the consideration provided for in the merger agreement was $46.00 per Biomet common share.

Securities Research Analysts Price Targets

Morgan Stanley reviewed and analyzed future public market trading price targets for Biomet s common shares prepared and published by equity research analysts. These targets reflect each analyst s estimate of the future public market trading price of Biomet s common shares. The range of equity analyst price targets for Biomet, discounted to the present value using a discount rate of 8.0%, was $32 to $44. Morgan Stanley noted that the consideration in the merger agreement was $46 per Biomet common share.

The public market trading price targets published by securities research analysts do not necessarily reflect current market trading prices for Biomet s common shares and these estimates are subject to uncertainties, including the future financial performance of Biomet and future financial market conditions.

Leveraged Buyout Analysis

Morgan Stanley also analyzed Biomet from the perspective of a potential purchaser that was not a strategic buyer, but rather primarily a financial buyer that would effect a leveraged buyout of Biomet. This analysis, calculated as of the last twelve months ended February 28, 2007, assumed a leveraged buyout of Biomet s consolidated businesses, based on the same financial forecasts described above. Morgan Stanley determined the implied valuation range for Biomet s common shares based on a five-year internal rate of return range of 17.5% to 22.5% and an exit multiple range of 11.5x to 13.5x, which was derived, based on Morgan Stanley s judgment, after considering trading multiples of selected orthopedic companies comparable to Biomet. Based on these projections and assumptions, Morgan Stanley calculated an implied valuation range of Biomet s common shares of $38 to $46 for the Management Case, $35 to $42 for the Market Growth Case, $34 to $40 for the Discount to Market Case and $35 to $42 for the Street Case. Morgan Stanley noted that the consideration in the merger agreement was $46 per Biomet common share.

Table of Contents

In connection with the review of the offer and merger by Biomet s board of directors, Morgan Stanley performed a variety of financial and comparative analyses for purposes of rendering its opinion. The preparation of a financial opinion is a complex process and is not necessarily susceptible to a partial analysis or summary description. In arriving at its opinion, Morgan Stanley considered the results of all of its analyses as a whole and did not attribute any particular weight to any analysis or factor it considered. Morgan Stanley believes that selecting any portion of its analyses, without considering all analyses as a whole, would create an incomplete view of the process underlying its analyses and opinion. In addition, Morgan Stanley may have given various analyses and factors more or less weight than other analyses and factors, and may have deemed various assumptions more or less probable than other assumptions. As a result, the ranges of valuations resulting from any particular analysis described above should not be taken to be Morgan Stanley s view of the actual value of Biomet. In performing its analyses, Morgan Stanley made numerous assumptions with respect to industry performance, general business and economic conditions and other matters. Many of these assumptions are beyond the control of Biomet. Any estimates contained in Morgan Stanley s analyses are not necessarily indicative of future results or actual values, which may be significantly more or less favorable than those suggested by such estimates.

Morgan Stanley conducted the analyses described above solely as part of its analysis of the fairness of the offer and merger consideration in accordance with the merger agreement from a financial point of view to Biomet shareholders and in connection with the delivery of its opinion to Biomet s board.

The offer and merger consideration was determined through arm s-length negotiations between Biomet and Parent and was approved by Biomet s board of directors. Morgan Stanley provided advice to Biomet during these negotiations. Morgan Stanley did not, however, recommend any specific consideration to Biomet or that any specific consideration constituted the only appropriate consideration for the offer and merger.

Morgan Stanley s opinion and its presentation to Biomet s board of directors was one of many factors taken into consideration by Biomet s board of directors in deciding to adopt and declare advisable the merger agreement and the offer and merger and related transactions and to determine that the offer and merger is in the best interests of Biomet and its shareholders. Consequently, the analyses as described above should not be viewed as determinative of the opinion of Biomet s board with respect to the offer and merger consideration or of whether Biomet s board would have been willing to agree to different offer and merger consideration.

Biomet s board of directors retained Morgan Stanley based upon Morgan Stanley s qualifications, experience and expertise. Morgan Stanley is an internationally recognized investment banking and advisory firm. Morgan Stanley, as part of its investment banking and financial advisory business, is continuously engaged in the valuation of businesses and securities in connection with mergers and acquisitions, negotiated underwritings, competitive biddings, secondary distributions of listed and unlisted securities, private placements and valuations for corporate, estate and other purposes. In the ordinary course of its trading, brokerage, investment management and financing activities, Morgan Stanley or its affiliates may actively trade the equity securities of Biomet for its own accounts or for the accounts of its customers and, accordingly, may at any time hold long or short positions in such securities. In the past, Morgan Stanley and its affiliates have provided financial advisory services for Biomet and for the members of the Sponsor Group and Morgan Stanley has received fees for the rendering of these services. Based on information provided by the Sponsor Group, the aggregate amount of such fees estimated to have been paid by the Sponsor Group to Morgan Stanley (excluding any payments made by a portfolio company in connection with its acquisition by, or otherwise not on behalf of, a member of the Sponsor Group) during the 12-month period prior to the date of this proxy statement was in excess of $150 million. Morgan Stanley may also seek to provide such services to Biomet and to the investors in Parent in the future and will receive fees for the rendering of these services.

Table of Contents

Under the terms of its engagement letter, Morgan Stanley provided Biomet financial advisory services and a financial opinion in connection with the offer and merger, and Biomet agreed to pay Morgan Stanley a fee of approximately $34 million, $29 million of which was contingent upon completion of the offer. Biomet has also agreed to reimburse Morgan Stanley for its expenses incurred in performing its services. In addition, Biomet has agreed to indemnify Morgan Stanley and its affiliates, their respective directors, officers, agents and employees and each person, if any, controlling Morgan Stanley or any of its affiliates, against certain liabilities and expenses, including certain liabilities under the federal securities laws, related to or arising out of Morgan Stanley s engagement.

Strategic Plan Financial Targets

Biomet s senior management does not as a matter of course make public projections as to future performance or earnings beyond the current fiscal year and is especially wary of making projections for extended periods due to the unpredictability of the underlying assumptions and estimates. However, certain financial targets prepared by senior management in connection with the five-year strategic plan discussed in Approval of the Merger Agreement Background of Merger were made available to the Sponsor Group and other bidders and their respective financial advisors, our board of directors and Morgan Stanley in connection with their consideration of the original merger agreement. We have included below the material financial targets (on a consolidated basis) from our strategic plan to provide our shareholders access to certain nonpublic information considered by the Sponsor Group and other bidders, our board of directors and Morgan Stanley for purposes of considering and evaluating the merger. The inclusion of this information should not be regarded as an indication that the Sponsor Group, the board of directors, Morgan Stanley or any other recipient of this information considered, or now considers, it to be a reliable prediction of future results, especially in light of Biomet s recent underperformance versus its peer group. Our board of directors considered the execution risks associated with the financial targets below in considering and evaluating the merger, including the fact that the market and earnings per share growth targets were not reflective of recent historical results for Biomet.

The financial targets reflect numerous estimates and assumptions with respect to industry performance, general business, economic, regulatory, market and financial conditions, as well as matters specific to Biomet s business, all of which are difficult to predict and many of which are beyond Biomet s control. As a result, there can be no assurance that the projected results will be realized or that actual results will not be significantly higher or lower than projected. The financial targets cover multiple years and such information by its nature becomes less reliable with each successive year. The financial targets were prepared solely for internal use and for the use of the bidders and their financial advisors, our board of directors and Morgan Stanley in connection with the potential transaction and not with a view toward public disclosure or toward complying with GAAP, the published guidelines of the SEC regarding projections or the guidelines established by the American Institute of Certified Public Accountants for preparation and presentation of prospective financial information. The financial targets included below were prepared by, and are the responsibility of, Biomet s management. Neither Biomet s independent registered public accounting firm, nor any other independent accountants, have compiled, examined or performed any procedures with respect to the prospective financial information contained herein, nor have they expressed any opinion or any other form of assurance on such information or its achievability, and assume no responsibility for, and disclaim any association with, the prospective financial information. The financial targets were prepared in 2006 and do not take into account any circumstances or events occurring after the date they were prepared. Accordingly, they do not reflect the Company s actual results of operations for the fiscal year ended May 31, 2007, nor do the targets necessarily reflect management s current projections as to future performance or earnings.

Readers of this proxy statement are cautioned not to place undue reliance on the financial targets set forth below. No one has made or makes any representation to any shareholder regarding the information included in these projections. The inclusion of financial targets in this proxy statement should not be regarded as an indication that such targets will be an accurate prediction of future events, and they should not be relied on as such. Except as required by applicable securities laws, Biomet does not intend to update, or otherwise revise the

Table of Contents

financial targets to reflect circumstances existing after the date when made or to reflect the occurrence of future events, even in the event that any or all of the assumptions are shown to be in error. See Cautionary Statement Regarding Forward-Looking Statements.

	Fiscal Year Ended				
	Estimated 5/31/2007	Estimated 5/31/2008	Estimated 5/31/2009	Estimated 5/31/2010	Estimated 5/31/2011
Net Sales	$ 2,229,835,765	$ 2,492,248,843	$ 2,881,495,687	$ 3,337,252,177	$ 3,812,056,114
Cost of Sales	646,644,788	707,742,980	795,986,153	897,170,902	992,070,549
Gross Profit	1,583,190,977	1,784,505,863	2,085,509,534	2,440,081,275	2,819,985,565
Total SG&A	886,828,468	971,780,942	1,085,623,128	1,222,592,959	1,361,084,198
Income from Operations	696,362,509	812,724,921	999,886,406	1,217,488,316	1,458,901,367
Other Income	35,483,754	62,229,893	85,910,242	118,299,460	156,403,954
Income before taxes	731,846,263	874,954,814	1,085,796,648	1,335,787,776	1,615,305,321
Provision for taxes	244,437,000	292,235,000	362,618,000	446,149,000	539,556,000
Net Income	487,409,263	582,719,814	723,178,648	889,638,776	1,075,749,321
Diluted EPS	1.99	2.38	2.95	3.63	4.39
Capital Expenditures	(111,157,618)	(140,362,000)	(135,806,000)	(136,401,000)	(143,239,000)

Change of Control

On July 12, 2007, Merger Sub accepted for payment of all Biomet common shares validly tendered and not withdrawn in the offer at an aggregate purchase price of approximately $9.3 billion using funds provided to Merger Sub by Parent, as described below under Financing of the Offer and the Merger. As a result, Parent may be deemed to own beneficially an aggregate of 202,601,130 common shares, or approximately 82.41% of our outstanding common shares. Pursuant to the merger agreement, Parent was entitled, upon payment of shares tendered pursuant to the offer, to designate a number of directors of Biomet, rounded up to the next whole number, that is equal to the product of the total number of directors on the Biomet board and the percentage that the number of shares purchased bears to the total number of Biomet shares outstanding. Accordingly, upon such payment on July 17, 2007, Sandra A. Lamb, Niles L. Noblitt, Marilyn Tucker Quayle, Jerry L. Ferguson, Thomas F. Kearns, M. Ray Harroff, Jerry L. Miller and Charles E. Niemier resigned from our board and Parent s designees, Chinh Chu, Jonathan Coslet, Michael Dal Bello, Sean Fernandes, Adrian Jones, Michael Michelson, Dane Miller, John Saer and Todd Sisitsky, were appointed to our board.

The merger agreement provides that, until the effective time of the merger, our board of directors shall have at least three independent directors (as defined in the merger agreement) who were on the board on June 7, 2007, and certain actions of Biomet may only be authorized by a majority of these independent directors (and will not require any additional approval by our board).

Financing of the Offer and Merger

The total amount of funds necessary to purchase shares tendered pursuant to the offer, to complete the merger and to pay related fees and expenses is anticipated to be approximately $11.4 billion. These payments are expected to be funded by debt financing, equity financing provided by the current equity investors in Parent and other co-investors that it may identify (which may include one or more existing holders of Biomet common shares) and, to the extent available, cash of Biomet. Parent has obtained debt commitments described below in connection with the transactions contemplated by the merger agreement and, in connection with the consummation of the offer, received $5.2 billion in equity financing. In accordance with the merger agreement, Parent is obligated to use its reasonable best efforts to take, or cause to be taken, all actions reasonably necessary to arrange the debt financing described below as promptly as practicable on the terms of the debt financing commitments.

Equity Financing

The current equity investors in Parent have collectively contributed approximately $5.2 billion of cash to LVB Acquisition Holding, LLC, which constitutes the equity portion of the financing for the offer and the merger. The approximate contribution of each such investor to LVB Acquisition Holding, LLC was as follows:

Blackstone Capital Partners V L.P.	$1,299,140,311.66
GS Capital Partners VI Parallel, L.P., GS Capital Partners VI GmbH & Co. KG, GS Capital Partners VI Fund, L.P. and GS Capital Partners VI Offshore Fund, L.P.	$1,299,140,311.66
KKR 2006 Fund L.P.	$1,299,140,311.66
TPG Partners V, L.P.	$1,299,140,311.66

LVB Acquisition Holding, LLC, which owns 100% of the outstanding equity interests in Parent, contributed such funds to Parent in connection with the consummation of the offer.

Debt Financing

Parent has received a debt commitment letter, dated as of June 12, 2007, from Banc of America Securities LLC (*BAS*), Bank of America, N.A. (*BOA*), Banc of America Bridge LLC (*BAB*), Goldman Sachs Credit Partners L.P. (*GSCP*), Bear, Stearns & Co. Inc., Bear Stearns Corporate Lending Inc., Lehman Brothers Inc., Lehman Commercial Paper Inc., Lehman Brothers Commercial Bank, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Merrill Lynch Capital Corporation, Wachovia Capital Markets, LLC, Wachovia Bank, National Association and Wachovia Investment Holdings, LLC (collectively, the *Debt Financing Sources*) to provide the following, subject to the conditions set forth in the debt commitment letter:

- to Merger Sub (the *Tender Facility Borrower*), up to $6.165 billion of a senior secured tender offer facility (the *Tender Facility*), a portion of which was made available to finance a portion of the offer and the remainder of which may, at the option of the Tender Facility Borrower, be used to finance the merger and pay related fees and expenses and to pay interest and fees on the Tender Facility as and when needed;

- to Merger Sub or the surviving corporation of the merger (the *Borrower*), up to $4.35 billion of senior secured credit facilities (not all of which is expected to be drawn at closing of such facilities) for the purpose of refinancing the Tender Facility, financing the merger, repaying or refinancing certain existing indebtedness of Biomet and its subsidiaries, paying fees and expenses incurred in connection with the merger and for providing ongoing working capital and for other general corporate purposes of the surviving corporation and its subsidiaries;

- to Borrower, up to $775.0 million of senior unsecured cash pay bridge loans for the purpose of refinancing the Tender Facility, financing the merger, repaying or refinancing certain existing indebtedness of Biomet and its subsidiaries and paying fees and expenses incurred in connection with the merger;

- to Borrower, up to $775.0 million of senior unsecured PIK option bridge loans for the purpose of refinancing the Tender Facility, financing the merger, repaying or refinancing certain existing indebtedness of Biomet and its subsidiaries and paying fees and expenses incurred in connection with the merger; and

- to Borrower, up to $1.015 billion of senior subordinated bridge loans for the purpose of refinancing the Tender Facility, financing the merger, repaying or refinancing certain existing indebtedness of Biomet and its subsidiaries and paying fees and expenses incurred in connection with the merger.

The commitment of the Debt Financing Sources with respect to the Cash Flow Facilities, the Asset-Based Credit Facility and the bridge facilities (each as described below) expires upon the earlier to occur of (a) the execution and delivery of the definitive documentation relating to such facilities by all of the parties thereto or

(b) June 6, 2008. The documentation governing the debt financings other than the Tender Facility has not been finalized and, accordingly, their actual terms may differ from those described in this proxy statement. Parent has agreed to use its reasonable best efforts to arrange the debt financing on the terms and conditions described in the debt commitment letter. If any portion of the debt financing becomes unavailable on the terms and conditions contemplated in the debt commitment letter, Parent must use its reasonable best efforts to arrange to obtain alternative financing from alternative sources in an amount sufficient to consummate the merger and other transactions contemplated by the merger agreement on terms that are not materially less favorable in the aggregate to Parent than as contemplated by the debt commitment letter as promptly as practicable following the occurrence of such event.

Although the debt financing described in this proxy statement is not subject to a due diligence or market out, such financing may not be considered assured. As of the date of this proxy statement, no alternative financing arrangements or alternative financing plans have been made in the event the debt financing described herein is not available as anticipated.

Tender Facility.

The Tender Facility consists of a $6.165 billion term loan facility maturing on June 6, 2008. The Tender Facility permits the Tender Facility Borrower to make additional drawings after the initial funding of the Tender Facility in order to finance the merger, pay related fees and expenses and to pay interest and fees on the Tender Facility. The availability of such additional drawings is subject to the accuracy of representation and warranties, absence of defaults, delivery of borrowing notices and compliance with margin regulations.

Roles. BAS and GSCP have been appointed as joint lead arrangers for the Tender Facility. BAS, GSCP, Bear, Stearns & Co. Inc., Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated have been appointed as joint bookrunners and Wachovia Capital Markets, LLC has been appointed as co-manager for the Tender Facility. BOA has been appointed as administrative agent, GSCP has been appointed as syndication agent and Bear Stearns Corporate Lending Inc., Lehman Commercial Paper Inc. and Merrill Lynch Capital Corporation have been appointed as co-documentation agents for the Tender Facility.

Interest Rates. Amounts outstanding under the Tender Facility bear interest at a rate equal to, at our option (i) an alternate base rate plus a spread or (ii) an adjusted London interbank offer rate plus a spread. The spreads are 1.25% with respect to ABR loans and 2.25% with respect to LIBOR loans, provided that the spread will increase by 0.25% at the end of the first sixth-month period after the Tender Closing Date.

Prepayments and Amortization. The Tender Facility Borrower is permitted to make voluntary prepayments with respect to the Tender Facility at any time, without premium or penalty (other than LIBOR breakage costs, if applicable). There is no amortization of the Tender Facility.

Guarantors. The obligations of the Tender Facility Borrower under the Tender Facility are not guaranteed.

Security. The obligations of the Tender Facility Borrower under the Tender Facility are secured (on a first priority basis) by a perfected lien on, and pledge of, and security interest in the Biomet common shares owned by the Tender Facility Borrower.

Other Terms. The Tender Facility contains representations and warranties and affirmative covenants, in each case consistent with documentation for transactions of this type for companies owned by major private equity sponsors. In addition, prior to the consummation of the merger, the Tender Facility Borrower will limit the scope of its activities to activities related to the transactions described herein and will not hold material assets other than the common shares. Certain negative covenants will apply to Biomet and its subsidiaries, including restrictions on indebtedness, acquisitions, investments, sales of assets, mergers and consolidations, dividends and other distributions.

Permanent Credit Facilities.

The availability of the Cash Flow Facilities, the Asset-Based Credit Facility and the bridge facilities is subject, among other things, to consummation of the merger in accordance with the merger agreement (without giving effect to any amendments or waivers by Parent that are material and adverse to the lenders under such facilities without the consent of the joint lead arrangers thereunder), payment of required fees and expenses, the funding of the equity financing, the refinancing of certain of our existing debt and the absence of certain types of other debt, delivery of certain historical and pro forma financial information, cooperation from Parent and its affiliates in marketing the notes, the execution of certain guarantees and the creation of security interests and the negotiation, execution and delivery of definitive documentation.

Senior Secured Term and Cash Flow Revolving Credit Facilities (the Cash Flow Facilities)

The borrower under the Cash Flow Facilities will be the surviving corporation upon consummation of the merger. The Cash Flow Facilities are expected to consist of (1) a $3.55 billion term loan facility with a term of seven and a half years and (2) a cash flow revolving credit facility with a term of six years equal to $750.0 million minus the estimated amount of the borrowing base availability on the closing date under the Asset-Based Credit Facility.

Roles. BAS and GSCP have been appointed as joint lead arrangers for the Cash Flow Facilities. BAS, GSCP, Bear, Stearns & Co. Inc., Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated have been appointed as joint bookrunners and Wachovia Capital Markets, LLC has been appointed as co-manager for the Cash Flow Facilities. BOA has been appointed as administrative agent, GSCP has been appointed as syndication agent and Bear Stearns Corporate Lending Inc., Lehman Commercial Paper Inc. and Merrill Lynch Capital Corporation have been appointed as co-documentation agents for the Cash Flow Facilities.

Interest Rate. Loans under the Cash Flow Facilities are expected to bear interest, at the Borrower s option, at a rate equal to the adjusted London interbank offer rate or an alternate base rate, in each case plus a spread. After the Borrower s delivery of financial statements with respect to at least one full fiscal quarter ending after the effective date of the merger, interest rates under the Cash Flow Facilities shall be subject to decreases based on a senior secured leverage ratio (which means the ratio of the Borrower s total net senior secured debt to adjusted EBITDA) and shall be as agreed upon between the Borrower and the Debt Financing Sources.

Prepayments and Amortization. Borrower will be permitted to make voluntary prepayments with respect to the Cash Flow Facilities at any time, without premium or penalty (other than LIBOR breakage costs, if applicable). The term loans under the Cash Flow Facilities will amortize 1% per annum in equal quarterly installments until the final maturity date.

Guarantors. All obligations under the Cash Flow Facilities and under any interest rate protection or other hedging arrangement entered into with a lender or any of its affiliates will be unconditionally guaranteed jointly and severally by Parent and each of the existing and future direct and indirect, wholly-owned domestic subsidiaries of the Borrower (other than certain subsidiaries to be mutually agreed upon).

Security. The obligations of the Borrower and the guarantors under the Cash Flow Facilities and the guarantees, and under any interest rate protection or other hedging arrangement entered into with a lender or any of its affiliates, will be secured, subject to permitted liens and other agreed upon exceptions, (1) on a first-lien basis, by all the capital stock of the Borrower and its subsidiaries (limited, in the case of foreign subsidiaries, to 100% of the non-voting capital stock and 65% of the voting capital stock of such subsidiaries) directly held by the Borrower or any guarantor, (2) on a first-lien basis, by substantially all present and future assets of the Borrower and each guarantor (other than account receivables, inventory, cash, deposit accounts and the intangible assets and proceeds relating to such account receivables, inventory, cash and deposit accounts) and (3) on a second-lien basis, all account receivables, inventory, cash, deposit accounts and the intangible assets and proceeds relating to such account receivables, inventory, cash and deposit accounts. If certain security is not provided at closing despite the use of commercially reasonable efforts to do so, the delivery of such security will not be a condition precedent to the availability of the Cash Flow Facilities on the closing date, but instead will be required to be delivered following the closing date pursuant to arrangements to be agreed upon.

Other Terms. The Cash Flow Facilities will contain customary representations and warranties and customary affirmative and negative covenants, including, among other things, restrictions on indebtedness, investments, sales of assets, mergers and consolidations, prepayments of subordinated indebtedness, liens and dividends and other distributions. The Cash Flow Facilities will also include customary events of defaults including a change of control to be defined.

Senior Secured Asset-Based Revolving Credit Facility (the Asset-Based Credit Facility)

The borrower under the Asset-Based Credit Facility will also be the Borrower. The Asset-Based Credit Facility will have a term of six years and aggregate commitments equal to the estimated amount of the borrowing base availability on the closing date under the Asset-Based Credit Facility, such commitments not to exceed $750.0 million. Availability under the Asset-Based Credit Facility will be subject to a borrowing base.

Roles. BAS and GSCP have been appointed as joint lead arrangers for the Asset-Based Credit Facility. BAS, GSCP, Bear, Stearns & Co. Inc., Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated have been appointed as joint bookrunners and Wachovia Capital Markets, LLC has been appointed as co-manager for the Asset-Based Credit Facility. BOA has been appointed as administrative agent, GSCP has been appointed as syndication agent and Bear Stearns Corporate Lending Inc., Lehman Commercial Paper Inc. and Merrill Lynch Capital Corporation have been appointed as co-documentation agents for the Asset-Based Credit Facility.

Interest Rate. Loans under the Asset-Based Credit Facility are expected to bear interest, at the Borrower s option, at a rate equal to the adjusted London interbank offer rate or an alternate base rate, in each case plus a spread. After the Borrower s delivery of financial statements with respect to at least one full fiscal quarter ending after the effective date of the merger, interest rates under the Asset-Based Credit Facility shall be subject to decreases based on a senior secured leverage ratio (which means the ratio of the Borrower s total net senior secured debt to adjusted EBITDA) and shall be as agreed upon between the Borrower and the administrative agent.

Guarantors. All obligations under the Asset-Based Credit Facility will be unconditionally guaranteed jointly and severally by Parent and each of the existing and future direct and indirect, wholly-owned domestic subsidiaries of the Borrower (other than certain subsidiaries to be mutually agreed upon).

Security. The obligations of the Borrower and the guarantors under the Asset-Based Credit Facility and the guarantees will be secured, subject to permitted liens and other agreed upon exceptions, on a first-lien basis, by all account receivables, inventory, cash, deposit accounts and the intangible assets and proceeds relating to such account receivables, inventory, cash and deposit accounts. If certain security is not provided at closing despite the use of commercially reasonable efforts to do so, the delivery of such security will not be a condition precedent to the availability of the Asset-Based Credit Facility on the closing date, but instead will be required to be delivered following the closing date.

Other Terms. The Asset-Based Credit Facility will contain customary representations and warranties and customary affirmative and negative covenants, including, among other things, restrictions on indebtedness, investments, sales of assets, mergers and consolidations, prepayments of subordinated indebtedness, liens and dividends and other distributions. The Asset-Based Credit Facility will also include customary events of defaults, including a change of control to be defined.

Bridge Facilities

The Borrower is expected to issue up to $2.565 billion aggregate principal amount of senior unsecured notes and/or senior subordinated unsecured notes. The notes will not be registered under the Securities Act of 1933

Table of Contents

(*Securities Act*) and may not be offered in the United States absent registration or an applicable exemption from registration requirements.

If the offering of notes by the Borrower is not completed on or prior to the closing of the Cash Flow Facilities and the Asset-Based Credit Facility, the Debt Financing Sources have committed to provide up to $2.565 billion in loans comprised of (1) a senior unsecured cash pay bridge facility of up to $775.0 million, (2) a senior unsecured PIK option bridge facility of up to $775.0 million and (3) a senior subordinated bridge facility of up to $1.015 billion. The Borrower would be the borrower under each bridge facility. The bridge facilities will be guaranteed (on a senior subordinated basis, in the case of the senior subordinated bridge facility) by the domestic subsidiaries of the surviving corporation that guarantee the Asset-Based Credit Facility and the Cash Flow Facilities.

BAS and GSCP have been appointed as joint lead arrangers for each of the bridge facilities. BAS, GSCP, Lehman Brothers Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Wachovia Capital Markets, LLC have been appointed as joint bookrunners and Bear, Stearns & Co. Inc. has been appointed as co-manager for the bridge facilities. Banc of America Bridge LLC has been appointed as administrative agent, GSCP has been appointed as syndication agent and Lehman Commercial Paper Inc., Merrill Lynch Capital Corporation and Wachovia Capital Markets, LLC have been appointed as co-documentation agents for the bridge facilities.

Certain Effects of the Merger

The merger will terminate all equity interests in our company held by our current shareholders and Parent will be the sole owner of our company and our business. Biomet shareholders (other than Parent and its affiliates and any other person, including any current or former members of management of Biomet, who becomes a direct or indirect investor in Parent) will no longer have any interest in, and no longer be shareholders of, Biomet, and will not participate in any of our future earnings or growth. Our common shares will no longer be listed on the NASDAQ Global Select Market and price quotations with respect to our common shares in the public market will no longer be available. The registration of our common shares under the Exchange Act will be terminated.

Interests of Biomet Directors and Executive Officers in the Merger

In considering the recommendation of our board of directors to vote for the proposal to approve the merger agreement, you should be aware that our directors and executive officers may have agreements or arrangements that may provide them with interests that differ from, or are in addition to, those of other Biomet shareholders, as applicable. Our board of directors was aware of these agreements and arrangements as they relate to our directors and executive officers during its deliberations of the merits of the merger agreement and in determining the recommendation set forth in this proxy statement.

Sponsor Representatives

Pursuant to the Merger Agreement, following the purchase of shares in the tender offer, Merger Sub had the right to designate a number of directors to Biomet s board, rounded up to the next whole number, that is equal to the product of the total number of directors on Biomet s board and the percentage that the number of common shares beneficially owned by Parent and its affiliates (excluding Biomet common shares owned by Biomet and its subsidiaries) bears to the total number of Biomet common shares outstanding. On July 17, 2007, Merger Sub exercised this right and appointed Chin E. Chiu, Jonathan J. Coslet, Michael Dal Bello, Sean Fernandes, Adrian Jones, Michael Michelson, Dane A. Miller, John Saer and Todd Sisitsky as directors of Biomet. Each of Mssrs. Chiu, Coslet, Dal Bello, Fernandes, Jones, Michelson, Saer and Sisitsky is affiliated or associated with a member of the Sponsor Group.

Treatment of Stock Options

Biomet s directors and executive officers who participated in the offer received the $46.00 offer price for each shares tendered by them. In addition, pursuant to the terms of Biomet s options and the merger agreement,

Table of Contents

on July 17, 2007, all stock options outstanding (whether held by officers, directors, employees or distributors) were cancelled and the holders thereof became entitled to receive from Biomet an amount equal to the excess, if any, of the $46.00 offer price over the option exercise price for each share subject to the stock option, in each case, less any applicable withholding taxes and without interest. Furthermore if the merger is consummated, common shares owned by Biomet s directors and executive officers (and all other holders) will be converted as of the completion of the merger into the right to receive $46.00 per share, except in the case of those persons who are provided an opportunity to convert all or a portion of their existing equity interests in Biomet into LVB Acquisition Holding, LLC or Parent at the time of the merger.

The following table summarizes the interests of our executive officers and directors in the merger as of immediately prior to the purchase of shares tendered in the tender offer on July 17, 2007, including the amount of cash each individual received for shares tendered and the amount of cash each individual received upon the cash-out of outstanding stock options held by such individual following consummation of the offer, as well as the number of shares such individual had after the Share Purchase Date.

Name of Executive Officer or Director(1)(2)	Cash Received in Connection with the Share Purchase Date($)(3)	Biomet Common Shares Owned Following the Share Purchase Date(#)	Cash to Be Received in Connection with the Merger($)(9)
Thomas R. Allen	650,811	54,140	2,490,440
Jeffrey R. Binder(4)	0	0	0
Richard J. Borror	678,205	110,033	5,061,518
Jerry L. Ferguson(5)	134,514,304	0	0
Daniel P. Florin(6)	0	0	0
James W. Haller	1,672,858	18,070	831,220
C. Scott Harrison, M.D.	24,962,282	1,284	59,064
M. Ray Harroff(5)	2,348,406	2,999	137,954
Glen A. Kashuba(7)	0	0	0
Thomas F. Kearns, Jr.	446,904	1,288	59,248
William C. Kolter	1,012,155	37,456	1,722,976
Sandra A. Lamb	27,660	676	31,096
Jerry L. Miller	159,823,564	1,282	58,972
Kenneth V. Miller	648,706	1,282	58,972
Charles E. Niemier	31,848,354	66,646	3,065,716
Niles L. Noblitt(5)	177,955,278	0	0
Marilyn Tucker Quayle	1,565,118	1,282	58,972
J. Pat Richardson(8)	0	0	0
Gregory W. Sasso	711,918	69,497	3,196,862
Stephen F. Schiess	818,832	19,568	900,128
Bradley J. Tandy	722,694	39,680	1,825,280
L. Gene Tanner	4,658,250	2,558	117,668
Roger P. Van Broeck	997,721	66,076	3,039,496
Darlene Whaley	711,918	36,482	1,678,172

(1) On March 30, 2007, Gregory D. Hartman retired as Senior Vice President Finance, Chief Financial Officer and Treasurer, and Daniel P. Hann retired as Executive Vice President of Administration and as a Biomet director and, therefore, Messrs. Hartman and Hann are not included in this table. If the offer had been consummated prior to their resignations and the forfeiture of and adjustments to certain stock options described below, and Messrs. Hartman and Hann tendered their common shares in the offer, they would have received in the offer in respect of such shares (including stock options) an aggregate of approximately $11 million and $7 million, respectively. Pursuant to their severance and consulting agreements, Messrs. Hartman and Hann have, among other things, (a) terminated and forfeited unvested stock option awards to purchase approximately 164,000 and 89,000 common shares, respectively, (b) agreed that with respect to

misdated or mispriced stock option awards granted to Messrs. Hartman or Hann which had vested, but not been exercised, we would increase the exercise price of such unexercised stock option awards to the fair market value of the common shares on the Measurement Date applicable to such award and (c) agreed that with respect to misdated or mispriced stock option awards which had previously been exercised, Messrs. Hartman and Hann would, at a future date, remit to Biomet an amount equal to the excess, if any, of the fair market value of the common shares on the Measurement Date for such award over the exercise price of such award.

(2) Garry L. England retired as Chief Operating Officer Domestic Operations, effective May 31, 2007. Charles E. Niemier retired as Senior Vice President, Biomet, Inc. and Senior Vice President, Biomet International and Corporate Relations effective June 18, 2007. As of May 31, 2007, Mr. England owned 206,199 common shares, unvested options to purchase 139,750 common shares having a weighted average exercise price of 35.30543 and 17,750 vested options to purchase common shares having a weighted average exercise price of 30.95316 per share. Mr. England would have received $10,519,404 if he had determined to tender all shares owned by him as of May 31, 2007 in the offer. Pursuant to their severance and consulting agreements, Messrs. England and Niemier have, among other things, agreed that with respect to misdated or mispriced stock option awards granted to Messrs. England or Niemier which had not been exercised, Biomet could increase the per share exercise price of such unexercised stock option awards to the fair market value of a Biomet share on the Measurement Date applicable to such award. Furthermore, Messrs. Niemier and England have agreed that, with respect to misdated or mispriced stock option awards which had previously been exercised, Messrs. Niemier and England would, at a future date, remit to Biomet an amount equal to the excess, if any, of the fair market value of the common shares on the Measurement Date for such award over the exercise price of such award. Messrs. Niemier and England will also receive accelerated vesting of certain previously unvested equity awards and all vested, unexercised equity awards will be exerciseable in accordance with the terms of the awards until the earliest of (1) the awards expiration date, (2) the fifth anniversary of the separation date or (3) the date that the awards are cashed out in a change in control event.

(3) Represents the cash to be received, before considering the applicable tax withholdings, with respect to (a) common shares tendered in the tender offer and (b) the right to receive cash for the vested and unvested options owned as of the Share Purchase Date, which, per the merger agreement, were cancelled and the holders entitled to receive an amount in cash equal to the product of (i) the total number of shares subject to options immediately prior to the Share Purchase Date *multiplied by* (ii) the excess, if any, of $46.00 *over* the exercise price per share, less applicable taxes required to be withheld with respect to such payment.

(4) Mr. Binder was appointed President, Chief Executive Officer and a director on February 26, 2007.

(5) Founder of Biomet, Inc.

(6) Mr. Florin was appointed a Senior Vice President and Chief Financial Officer effective June 5, 2007.

(7) Mr. Kashuba was appointed a Senior Vice President and President of Biomet Trauma and Biomet Spine effective April 16, 2007.

(8) Mr. Richardson was appointed Vice President Finance, Treasurer and Interim Chief Financial Officer and Treasurer effective April 11, 2007. Upon Mr. Florin s appointment as Senior Vice President and Chief Financial Officer effective June 5, 2007, Mr. Richardson continued in his role as Biomet s Vice President Finance and Treasurer.

(9) Assumes remaining shares are cashed out in proposed merger.

Management Arrangements

On February 26, 2007, Biomet entered into an employment agreement with Jeffrey R. Binder to become President and Chief Executive Officer of Biomet. Effective June 5, 2007, and pursuant to an offer letter provided to him, Daniel P. Florin became Senior Vice President and Chief Financial Officer of Biomet. Under the terms of the employment agreement and offer letter, if the transaction with Parent and Merger Sub had been terminated, Messrs. Binder and Florin would have been granted an equity award after such termination and annually thereafter (if still employed) commencing May 31, 2008, in the case of Mr. Binder, or October 31, 2008, in the case of Mr. Florin, with a nominal value of no less than $3,500,000, in the case of Mr. Binder, or $1,000,000, in

Table of Contents

the case of Mr. Florin, on the date of each grant. Because the tender offer has been consummated, Messrs. Binder and Florin will not receive this benefit; but it is expected that Messrs. Binder and Florin will receive equity awards from the surviving corporation following the consummation of the merger (although such awards are still subject to negotiation and discussion).

Effective April 11, 2007, and pursuant to an offer letter provided to him, J. Pat Richardson became Vice President Finance and Interim Chief Financial Officer and Treasurer of Biomet. Effective April 16, 2007, and pursuant to an offer letter provided to him, Glen A. Kashuba became Senior Vice President and President of Biomet Trauma & Spine. Under the terms of their offer letters, Messrs. Richardson and Kashuba will be entitled to certain equity compensation commensurate with their positions at Biomet, the terms and conditions of which will be determined by the surviving corporation. In the event that the merger agreement had been terminated, Messrs. Richardson and Kashuba would have been entitled to equity awards issued by the compensation committee of Biomet s board of directors that are commensurate with their positions at Biomet.

As of the date of this proxy statement, no members of Biomet s current management have entered into any amendment or modification to an existing employment agreement with Biomet or its subsidiaries in connection with the offer or the merger. Parent has informed Biomet that it currently intends to retain members of Biomet s management team following the offer and merger. Parent also has informed Biomet that it intends to offer certain current and former members of management the opportunity to convert all or a portion of their current equity interests in Biomet into, or otherwise invest on terms that are no more favorable than the other investors in, equity in Parent (and/or a subsidiary thereof). Further, Parent has informed Biomet that it intends to establish equity-based incentive compensation plans for management of the surviving corporation, a portion of which is likely to be allocated to Biomet s executive officers. The size of such equity-based incentive compensation plans has not yet been determined and no awards have yet been made or promised to Biomet s current executive officers. It is anticipated that equity awards granted under these incentive compensation plans would generally vest over a number of years of continued employment and would entitle management to share in the future appreciation of the surviving corporation.

Although certain members of Biomet s current management team may enter into new arrangements with Parent or its affiliates regarding employment (and severance arrangements) with, and the right to purchase or participate in the equity of, Parent (and/or a subsidiary thereof), there can be no assurance that any parties will reach an agreement. These matters are subject to negotiation and discussion and no terms or conditions have been finalized. Any new arrangements are currently expected to be entered into at or prior to the completion of the merger and would not become effective until the time the merger is completed.

Change in Control Agreements and Severance Pay Plan

On September 20, 2006, Biomet entered into change in control agreements with its current executive officers, including those listed in the table below and Messrs. Daniel P. Hann and Gregory D. Hartman. The agreements were intended to provide for continuity of management in the context of a prospective change in control of Biomet (as defined in the agreements). Upon a change in control, as occurred upon the consummation of the offer, the agreements remain in effect for a period of at least 24 months beyond the month of such change in control. Each agreement provides that during the 24-month period following a change in control, Biomet agrees to continue to employ the executive and the executive agrees to remain in the employ of Biomet.

If, following the change in control, the executive dies or is terminated by us for any reason other than for cause (as defined in the agreements) or disability, or by the executive for good reason (as defined in the agreements), the executive would be entitled to a lump sum severance payment equal to two times the sum of the executive s annual base salary, target bonus (or, in certain circumstances, the executive s annual bonus earned during a specified time period), annual Biomet contributions to all qualified retirement plans on behalf of the executive and the executive s total annual car allowance. In addition, (1) the executive would receive a payout of his unpaid annual base salary, the higher of the executive s target bonus for the fiscal year in which termination occurs or the actual bonus paid to the executive for the fiscal year preceding termination and other accrued compensation and benefits through the end of the fiscal year containing the termination date, (2) Biomet will pay the executive a lump sum cash stipend equal to 24 times the monthly premium then charged for family coverage under Biomet s medical and dental plans and (3) the executive would receive life insurance and long-term disability benefits, or the cash equivalent if not available, substantially similar to those that the executive is receiving immediately prior to the notice of termination for a 24-month period after the date of termination. Further, all outstanding stock options granted to the executive would become immediately vested and exercisable and all restrictions on restricted stock awards would lapse, unless otherwise provided for under a written stock award agreement. The change in control agreements also provide for the reimbursement of outplacement services for a period of 12 months after termination occurs, but not in excess of $25,000.

In the event that any payments made to the executives in connection with a change in control and termination of employment would be subject to excise taxes under the Internal Revenue Code, Biomet will gross up the executive s compensation to offset certain of such excise taxes.

Severance benefits, other than the life insurance and long-term disability benefits, are generally not subject to mitigation or reduction. To receive the severance benefits provided under the agreements, the executive must sign a general release of claims. In connection with the execution of the agreements, each executive executed a customary confidentiality, non-competition and non-solicitation agreement with us.

On September 21, 2006, Biomet adopted the Biomet, Inc. Executive Severance Pay Plan (the *Plan*) for the executives party to the change in control agreements described above. The severance plan provides each participating Biomet executive with severance benefits in the event of a termination of the executive s employment unrelated to the executive s (1) performance of his employment duties or (2) commission of an act or acts outside of the scope of his employment duties that would constitute the basis of a termination for cause under his agreement.

Severance benefits under the plan generally consist of the following: (1) payment of a pro-rata target bonus (based on the elapsed portion of the year of termination) in a lump sum; (2) continued payment of base salary for no more than 78 weeks (depending on years of service at Biomet) following the termination date; (3) immediate vesting of all of the executive s outstanding equity awards (stock options and restricted stock); (4) at Biomet s expense, continuation of coverage under Biomet health insurance plans pursuant to COBRA for a period not to exceed eighteen months from the termination date; and (5) continuation of any Biomet-provided car allowance for a period of twelve months from the termination date.

As a condition to receiving severance benefits under the plan, the executive must execute a waiver and release of claims in favor of Biomet and enter into to a customary confidentiality, non-competition and non-solicitation agreement with Biomet. Severance benefits under the plan are generally intended to be the sole source of severance benefits payable upon a termination of the executive s employment and are generally not subject to mitigation or reduction. We may amend or terminate the severance plan at any time. In the event the executive is entitled to benefits under the change in control agreement as a result of a termination of employment, such executive is not entitled to receive benefits under the plan.

Although Parent has not indicated whether it plans to terminate any of Biomet s executive officers, the following table shows the amount of cash potentially payable (both accrued obligations and severance) to Biomet s executive officers as of June 1, 2007, pursuant to the change in control agreements, based on an assumed termination date of June 1, 2007. The table also shows the estimated present value of continuing coverage and other benefits under Biomet s group health, dental, disability and life insurance plans and the estimated tax gross-up payments to each such officer. Although the calculations are intended to provide reasonable estimates of the potential benefits, they are based on numerous assumptions and do not represent the actual amount an executive would receive if an eligible termination event were to occur.

Table of Contents

Name of Executive Officer(1)	Estimated Present Value of Accrued Obligations($)(2)(3)	Estimated Present Value of Cash Severance Payment($)(2)	Estimated Present Value of Benefits($)	Estimated Tax Gross-Up Payment($)(4)
Thomas R. Allen	470,850	941,700	41,202	666,107
Richard J. Borror	475,850	951,700	41,202	708,124
Garry L. England(5)	723,850	1,447,700	41,202	1,324,542
James W. Haller(6)				
William C. Kolter	525,850	1,051,700	41,202	818,843
Charles E. Niemier(5)	825,850	1,651,700	41,202	1,375,257
Gregory W. Sasso	431,650	863,300	41,202	626,560
Stephen F. Schiess	494,850	989,700	41,202	731,113
Bradley J. Tandy	525,850	1,051,700	41,202	786,714
Roger P. van Broeck	704,773	1,409,546	161,741	
Darlene Whaley	431,850	863,700	41,202	639,301

(1) Biomet also entered into change in control agreements with Messrs. Hann and Hartman on September 20, 2006. In connection with the retirement of Messrs. Hann and Hartman on March 30, 2007, Biomet entered into severance and consulting agreements with them. These severance and consulting agreements supersede the earlier change in control agreements Biomet entered into with Messrs. Hann and Hartman. As a result, Messrs. Hann and Hartman are not listed in the table. For more information, please see *Consulting Arrangements with Gregory D. Hartman and Daniel P. Hann* immediately below.

(2) Excludes the value of acceleration of stock option awards, as reported separately herein.

(3) Represents the sum of: (a) the executive s annual base salary and car allowance from the date of termination through the end of Biomet s fiscal year in which such termination occurred, (b) the higher of the executive s target bonus for the fiscal year in which termination occurs or the actual bonus paid to the executive for the fiscal year preceding termination, (c) the amount the executive would have received during the fiscal year in additional employer contributions to Biomet tax-qualified plans and (d) any unpaid accrued vacation or other accrued compensation.

(4) Estimates are subject to change based on the date of completion of the merger, date of termination of the executive officer, interest rates then in effect and certain other assumptions used in the calculation. Estimates include estimated tax gross-up as a result of any acceleration of stock option awards, the potential cash severance payment and estimated present value of benefits set forth in the preceding three columns. Mr. van Broeck is not a U.S. citizen and works outside the U.S. and, thus, does not pay U.S. taxes.

(5) Both Messrs. Niemier and England are covered by the Plan and are party to change in control agreements with Biomet. Garry L. England retired as Chief Operating Officer Domestic Operations, effective May 31, 2007. Charles E. Niemier retired as Senior Vice President, Biomet, Inc. and Senior Vice President, Biomet International and Corporate Relations effective June 18, 2007 and, effective July 17, 2007, resigned as a member of the Biomet board of directors. Pursuant to the terms of their separation and retirement agreements, both Messrs. Niemier and England began receiving payments and benefits under the Plan as of their separation date; however, each will receive 100% of their annual bonus for the fiscal year ended May 31, 2007. Upon an applicable change in control event, which occurred upon consummation of the offer, within six months of the date of Mr. Niemier s and Mr. England s separation and retirement agreements, Messrs. Niemier and England will no longer receive the payments and benefits under the Plan, but will receive certain payments and benefits under the change in control agreements. Notwithstanding the express terms of the change in control agreements, both Messrs. Niemier and England have agreed to, among other things, (1) forego any payments or benefits provided in Sections 3.01(a)(i), 3.01(c), 3.01(d) and 3.04(b)(E) of the change in control agreements and (2) reduce certain amounts payable under the change in control agreements by payments previously received by them under the Plan.

(6) Mr. Haller is not party to a change in control agreement.

Consulting Arrangements with Gregory D. Hartman and Daniel P. Hann

On March 30, 2007, Gregory D. Hartman retired as Senior Vice President Finance, Chief Financial Officer and Treasurer, and Daniel P. Hann retired as Executive Vice President of Administration and as a Biomet director. In order to ensure a smooth transition of business operations and financial matters, Messrs. Hartman and Hann agreed to serve as consultants to Biomet pursuant to severance and consulting agreements. These agreements discharged any other severance obligations that we may have had with respect to Messrs. Hartman and Hann, including pursuant to their change of control agreements with us dated September 20, 2006. Pursuant to Mr. Hartman s agreement, Mr. Hartman will be eligible to receive approximately $29,166 per month during a six-month consulting term. In addition, Mr. Hartman will be eligible to receive $325,000 upon completion of the six-month consulting term if the merger is consummated and the consulting arrangement has not otherwise been terminated. Mr. Hartman will also be reimbursed for insurance premiums he incurs as a result of his election to continue his health insurance coverage under COBRA. Biomet may terminate the consulting arrangement without any further payments or obligations to Mr. Hartman if the merger agreement has been terminated or the proposed merger is consummated at a price less than the price currently set forth in the merger agreement as a result of Biomet s review of historical stock option granting practices; or if Biomet determines that Mr. Hartman has not adequately performed his consulting duties under the contract or has failed to cooperate with the SEC in connection with Biomet s review of historical stock option granting practices.

Pursuant to Mr. Hann s agreement, Mr. Hann will be eligible to receive approximately $41,666 per month during a twelve-month consulting term. In addition, Mr. Hann is entitled to receive $133,333 in respect of his bonus for Biomet s 2007 fiscal year and will be eligible to receive $400,000 upon completion of the twelve-month consulting term if the consulting arrangement has not otherwise been terminated. Mr. Hann will also be reimbursed for insurance premiums he incurs as a result of his election to continue his health insurance coverage under COBRA. Furthermore, 75,000 options granted to Mr. Hann in March 2006 (of the 175,000 unvested options awarded to Mr. Hann in March 2006) were immediately vested in connection with Mr. Hann s retirement and consulting agreement. We refer to these accelerated options as the *CEO Options*. The CEO Options, or the proceeds therefrom, will be held by Biomet and will be distributable to Mr. Hann upon completion of the consulting arrangement provided that Biomet has not otherwise terminated the consulting arrangement. Biomet may terminate the consulting arrangement without any further payments or obligations to Mr. Hann, other than certain non-competition payments, if Biomet determines that Mr. Hann has not adequately performed his consulting duties under the contract or has failed to cooperate with the SEC in connection with Biomet s review of historical stock option granting practices. Lastly, Mr. Hann has agreed not to compete with Biomet during the period beginning on the effective date of his agreement and extending for a period of six months following the expiration or termination of his consulting arrangement. In exchange, Biomet has agreed to make a $50,000 per month payment to Mr. Hann during the six-month non-competition period.

Indemnification and Insurance

The merger agreement provides that, from and after the acceptance of shares in the offer, Parent will cause the surviving corporation to indemnify each of Biomet s and Biomet s subsidiaries present and former directors and officers against any costs, expenses, judgments, fines, losses, claims, damages or liabilities incurred in connection with any claim, action, suit, proceeding or investigation, arising out of or related to such person s service as a director or officer at or prior to the acceptance of shares in the offer, to the fullest extent permitted under Indiana law.

Pursuant to the merger agreement, prior to the acceptance of shares in the offer, Biomet obtained and fully paid for tail insurance policies with a claims period of six years from and after the acceptance of shares in the offer from a carrier with the same or better credit rating as Biomet s prior insurance carrier with respect to directors and officers liability insurance and fiduciary liability insurance, with benefits and levels of coverage that are at least as favorable as Biomet s prior policies with respect to matters existing or occurring at or prior to such time.

Compensation Granted in Connection with Biomet s Strategic Alternatives

On November 7, 2006, Biomet s board established a committee called the Strategic Alternatives Committee to facilitate development of strategic alternatives. This committee consisted of three disinterested directors: C. Scott Harrison, M.D., Niles L. Noblitt and Marilyn Tucker Quayle. On December 15, 2006, Biomet s board authorized the following compensation structure for the committee members in consideration of acting in this capacity, to be paid in addition to the reimbursement of expenses and payment of all other fees incurred as members of the board:

Fee	Amount ($)
Per Quarter	5,000
Per In-Person Meeting	1,800
Per Telephonic Meeting	1,200
Per Meeting held in conjunction with a Board Meeting	0

Compensation for Strategic Alternatives Committee members was not and is not contingent on the committee approving or recommending the offer, merger or any other strategic alternative or the consummation of the offer, merger or any other strategic alternative. The board considered, among other things, the complexities inherent in reviewing and considering strategic alternatives, the time expected to be required by the committee members, the need for the committee to evaluate a variety of matters and the publicly reported compensation of the strategic alternatives committees or similar committees of the boards of other companies.

In addition, on December 15, 2006, Biomet s board also authorized the one-time payment of $5,000 to each of Dr. Harrison, Thomas F. Kearns, Jr., and Sandra A. Lamb in recognition of the services they provided in connection with the board s preliminary review of strategic alternatives for Biomet prior to the formation of the Strategic Alternatives Committee.

Other

Parent has informed us that it is contemplated that one of Biomet s founders, Dane A. Miller, Ph.D, may be an equity investor in Parent and the surviving corporation. In addition, on July 17, 2007 Dr. Miller was appointed to the board of the surviving corporation. Biomet understands that, following the merger, Dr. Miller will remain on the board, but will not become a member of management. Dr. Miller was the chief executive officer of Biomet until March 27, 2006 and served on its board of directors until its annual meeting of shareholders on September 20, 2006. Dr. Miller was not an executive officer or a director of Biomet at the time the merger agreement or original merger agreement was negotiated and signed.

Claims Against Directors

There are shareholder derivative lawsuits pending against current and former directors and officers of Biomet relating to the Biomet s historical stock option granting practices. If the merger is consummated, any such claims that are currently pending or that could be brought against such directors and officers of Biomet by current shareholders would likely be extinguished.

Dividends

Pursuant to the merger agreement, we were prohibited from declaring any dividends prior to the date on which Parent accepted for payment all common shares validly tendered in the tender offer. Parent s designees currently hold a majority of the seats on our board of directors and Parent has informed us that its designees do not intend to approve any dividend on our common shares prior to consummation of the merger.

Determination of the Merger Consideration

The merger consideration was determined through arm s-length negotiations between Biomet and Parent.

Table of Contents

Regulatory Matters

In connection with the merger, we are required to make certain filings with, and comply with certain laws of, various federal and state governmental agencies, including:

- filing articles of merger with the Secretary of State of the State of Indiana in accordance with the Indiana Business Corporation Law (*IBCL*) after the approval of the merger agreement by our shareholders; and

- complying with U.S. federal securities laws.

The following regulatory approvals are required in order to complete the merger:

- Under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, or the HSR Act, the parties to the merger agreement cannot complete the merger until they have given notice and information to the Federal Trade Commission and the Department of Justice, and one or more specified waiting periods expire or are earlier terminated. The parties filed the required notifications and reports under the HSR Act with the Federal Trade Commission and the Department of Justice on January 17, 2007.

- The parties to the merger agreement are also required to comply with the antitrust laws of the European Union.

The parties were granted early termination of the waiting period under the HSR Act for the merger agreement and related transactions on February 15, 2007, and no approval of the antitrust authorities in the European Union is required in connection with the proposed merger and related transactions. In connection with the original merger agreement, Parent and Merger Sub made a filing with, and on May 10, 2007 received clearance from, the Brazilian Conselho Administrativo De Defesa Econômica. None of the parties is aware of any other required regulatory approvals.

Dissenters Rights

Holders of Biomet s common shares are not entitled to dissenters rights in connection with the merger and related transactions under Indiana law.

Certain Material United States Federal Income Tax Consequences

The following is a general discussion of certain material United States federal income tax considerations of the merger discussed earlier in this proxy statement to holders of our common shares. This discussion is a summary for general information purposes only and does not consider all aspects of federal taxation that may be relevant to particular holders in light of their individual investment circumstances or to certain types of holders subject to special tax rules, including partnerships, banks, financial institutions or other financial services entities, broker-dealers, insurance companies, tax-exempt organizations, regulated investment companies, real estate investment trusts, retirement plans, individual retirement accounts or other tax-deferred accounts, persons who use or are required to use mark-to-market accounting, persons that hold our common shares as part of a straddle, a hedge or a conversion transaction, persons who receive merger consideration as compensation for services, persons that have a functional currency other than the U.S. dollar, investors in pass-through entities, certain former citizens or permanent residents of the United States and persons subject to the alternative minimum tax, nor does it address any federal non-income, state, local or foreign tax considerations. This summary assumes that holders have held their shares as capital assets within the meaning of Section 1221 of the Internal Revenue Code of 1986, as amended (the *Code*). This summary is based on the Code and applicable Treasury Regulations, rulings, administrative pronouncements and decisions as of the date hereof, all of which are subject to change or differing interpretations at any time with possible retroactive effect.

This discussion applies to holders who exchange all of their Biomet common shares for cash as a result of the merger and who, after the merger, have no direct or indirect interest in Biomet (whether directly or indirectly from Parent or any other person pursuant to certain tax attribution rules). The tax considerations of the merger may differ for holders who have any direct or indirect interest in Biomet after the merger as described in the immediately preceding sentence, and this discussion does not apply to such holders.

For purposes of this discussion, a *U.S. Holder* is a beneficial owner of our common shares that is

- a citizen or individual resident of the United States,
- a corporation (or entity treated as a corporation for U.S. federal income tax purposes) created or organized, or treated as created or organized, in or under the laws of the United States or any political subdivision of the United States,
- an estate, the income of which is subject to U.S. federal income taxation regardless of its source, or
- a trust (1) if a court within the United States is able to exercise primary supervision over the trust s administration and one or more United States persons have authority to control all substantial decisions of the trust or (2) that has a valid election in effect under applicable Treasury Regulations to be treated as a United States person.

For purposes of this discussion, a *Non-U.S. Holder* is a beneficial owner of our common shares that does not qualify as a U.S. Holder under the definition above.

If a partnership (or entity or arrangement treated as a partnership for U.S. federal income tax purposes) holds our common shares, the tax treatment of a partner in the partnership generally will depend upon the status of the partner and the activities of the partnership. In this event, you should consult your tax advisor concerning the tax treatment of the merger.

EACH HOLDER IS URGED TO CONSULT ITS TAX ADVISOR REGARDING THE APPLICABILITY OF SPECIFIC U.S. FEDERAL, STATE, LOCAL OR FOREIGN INCOME AND OTHER TAX CONSIDERATIONS OF THE MERGER.

Consequences to U.S. Holders of Biomet Common Shares

A U.S. Holder of our common shares that receives cash as a result of the merger will recognize capital gain or loss equal to the amount of cash received minus the U.S. Holder s tax basis in our common shares. Any capital gain or loss recognized by the U.S. Holder will be long-term capital gain or loss if the U.S. Holder held our common shares for more than one year and short-term capital gain or loss otherwise. Long-term capital gains recognized by non-corporate taxpayers are taxable under current law at a maximum federal rate of 15 percent. Long-term capital gains recognized by corporations and short term capital gains recognized by corporations or individuals are taxable at a maximum federal rate of 35 percent. Your ability to use any capital loss to offset other income or gain is subject to certain limitations.

Consequences to Non-U.S. Holders of Biomet Common Shares

A Non-U.S. Holder that receives cash as a result of the merger generally will not be subject to U.S. federal income taxation unless:

- gain resulting from the merger is effectively connected with the conduct of a U.S. trade or business; or
- we are or have been a U.S. real property holding corporation (*USRPHC*) as defined in Section 897 of the Code at any time within the five-year period preceding the merger, the Non-U.S. Holder owned more than five percent of our common shares at any time within that five-year period and certain other conditions are satisfied.

58

In general, a corporation is a USRPHC if the fair market value of its U.S. real property interests equals or exceeds 50 percent of the sum of the fair market value of its worldwide (domestic and foreign) real property interests and its other assets used or held for use in a trade or business. We believe that as of the effective date of the merger, we will not have been a USRPHC at any time within the five-year period ending on the date hereof.

If a Non-U.S. Holder is subject to U.S. federal income taxation on the receipt of cash in the merger, the Non-U.S. Holder generally will recognize capital gain or loss (assuming, as noted above, that the Non-U.S. Holder holds our common shares as a capital asset within the meaning of the Code) equal to the amount of cash received minus the Non-U.S. Holder s tax basis in our common shares. The capital gain or loss will generally constitute long-term capital gain or loss if the Non-U.S. Holder held our common shares for more than one year and short-term capital gain or loss otherwise. Long-term capital gains recognized by non-corporate taxpayers are taxable under current law at a maximum federal rate of 15 percent. Long-term capital gains recognized by corporations and short-term capital gains recognized by corporations or individuals are taxable at a maximum federal rate of 35 percent. A Non-U.S. Holder that is a corporation may also be subject to a 30 percent branch profits tax on after-tax profits effectively connected with a U.S. trade or business to the extent that such after-tax profits are not reinvested and maintained in the U.S. business. A Non-U.S. Holder s ability to use any capital loss to offset other income or gain subject to U.S. federal income taxation is subject to certain limitations.

Under certain unusual circumstances, an individual who is present in the United States for 183 days or more in the individual s taxable year of the merger may be treated as a Non-U.S. Holder under the definition above. In this case, unless gain from the sale or disposition of our common shares is already subject to tax as effectively connected with the conduct of a U.S. trade or business, the gain of the Non-U.S. Holder may be subject to a 30 percent tax on the gross amount of the gain and the Non-U.S. Holder s ability to use other losses to offset the gain on our common shares will be limited.

Income Tax Treaties

If a Non-U.S. Holder is eligible for treaty benefits under an income tax treaty entered into by the United States, the Non-U.S. Holder may be able to reduce or eliminate certain of the U.S. federal income taxes discussed above, such as the branch profits tax, and the Non-U.S. Holder may be able to treat gain, even if effectively connected with a U.S. trade or business, as not subject to U.S. federal income taxation provided that the trade or business is not conducted through a permanent establishment located in the United States. Non-U.S. Holders should consult their tax advisors regarding possible relief under an applicable income tax treaty.

Backup Withholding and Information Reporting

A holder may be subject to backup withholding with respect to the receipt of cash as a result of the merger unless the holder is exempt from backup withholding and, when required, demonstrates that status, or provides a correct taxpayer identification number on a form acceptable under U.S. Treasury Regulations (generally an IRS Form W-9, W-8BEN or W-8ECI) and otherwise complies with the applicable requirements of the backup withholding rules. We may also be required to comply with taxation information reporting requirements under the Code with respect to the merger. Holders should consult their tax advisors as to their qualification for exemption from backup withholding and the procedure for obtaining such an exemption. Any amount withheld under the backup withholding rules of the Code is not an additional tax, but rather is credited against the holder s U.S. federal income tax liability. Non-U.S. Holders are advised to consult their tax advisors to ensure compliance with the procedural requirements to avoid backup withholding and, if applicable, to file a claim for a refund of any withheld amounts in excess of the Non-U.S. Holder s U.S. federal income tax liability.

THE U.S. FEDERAL INCOME TAX DISCUSSION SET FORTH ABOVE IS INCLUDED FOR GENERAL INFORMATION PURPOSES ONLY. HOLDERS SHOULD CONSULT THEIR OWN TAX ADVISORS TO DETERMINE THE U.S. FEDERAL, STATE, LOCAL AND NON-U.S. TAX CONSIDERATIONS OF THE MERGER.

Table of Contents

Delisting and Deregistration of Biomet Common Shares

If the merger is completed, Biomet common shares will be delisted from the NASDAQ Global Select Market and deregistered under the Exchange Act, and our common shares will no longer be publicly traded.

Redemption of the Rights Plan

On December 17, 2006, and immediately prior to the adoption of the original merger agreement, our board of directors terminated the Rights Agreement, dated as of December 16, 1999, as amended, between Biomet and American Stock Transfer & Trust Company (as the successor rights agent to Lake City Bank) and redeemed all Rights (as defined in the Rights Agreement) issued and outstanding under the rights agreement. Accordingly, as provided in the rights agreement, the Rights terminated on December 17, 2006, and, thereafter, holders of the Rights were entitled only to receive a redemption payment of $0.0001 per Right. In connection with the foregoing, Biomet paid Rights holders a redemption payment of $0.0001 per Right in accordance with the terms of the rights agreement. The record date for payment of $0.0001 per Right was December 28, 2006, and the payment date occurred on January 3, 2007.

Litigation Relating to the Merger

On December 20, 2006, a purported class-action lawsuit captioned *Long, et al. v. Hann, et al.*, was filed in Indiana State court in the County of Kosciusko. The lawsuit names as defendants each member of the Biomet board of directors at the time, Dane Miller, Ph.D and Blackstone Capital Partners V L.P., KKR 2006 Fund L.P., Goldman Sachs Investments Ltd. and TPG Partners V, L.P. The complaint alleges, among other things, that the defendants breached, or aided and abetted the breach of, fiduciary duties owed to Biomet shareholders by Biomet s directors in connection with, among other things, Biomet s entry into the merger agreement. The complaint seeks, among other relief, class certification of the lawsuit, a declaration that the merger agreement was entered into in breach of the fiduciary duties of the defendants, an injunction preventing the defendants from proceeding with the Merger unless and until the defendants implement procedures to obtain the highest possible sale price, an order directing the defendants to exercise their fiduciary duties to obtain a transaction which is in the best interests of Biomet s shareholders until the process for a sale of Biomet is completed and the highest price is obtained, an order directing the defendants to exercise their fiduciary duty to disclose all material information in their possession concerning the merger prior to the shareholder vote, including Biomet s fiscal year 2007 second quarter financial results, imposition of a constructive trust upon any benefits improperly received by the defendants, an award of attorneys fees and expenses and such other relief as the court might find just and proper. On March 29 and 30, 2007, the defendants filed motions to dismiss the plaintiffs complaint, and these motions are currently pending before the court.

On January 2, 2007, a purported class action lawsuit captioned *Gervasio v. Biomet, Inc., et al.*, was filed in the Supreme Court for the State of New York, New York County. A virtually identical action was filed on January 9, 2007, captioned *Corry v. Biomet, Inc., et al.*, in the same court. Both of these lawsuits named as defendants Biomet, each member of its board at the time, Dane Miller, Ph.D, The Blackstone Group L.P., Kohlberg Kravis Roberts & Co., Goldman Sachs Capital Partners and TPG. The lawsuits made essentially the same claims and sought the same relief as in the *Long* action described above. On January 29, 2007, defendants filed a joint motion to dismiss *Gervasio*. On February 14, 2007, the plaintiff in Corry voluntarily discontinued his lawsuit and informed defendants that he intended to intervene in *Gervasio*. On March 26, 2007, the court granted defendants motion to dismiss *Gervasio*.

On May 31, 2007, Biomet and the Sponsor Group entered into a memorandum of understanding regarding the settlement of class action lawsuits that were filed on behalf of Biomet s shareholders following the announcement of the proposed merger. Each of Biomet and the other defendants denies all of the allegations in these lawsuits, including any allegation that its merger-related disclosures were false, misleading or incomplete in any way. Pursuant to the terms of the settlement, Biomet agreed to make available meaningful additional information, including financial information, to its shareholders. Such additional information is contained in this proxy statement. In return, the plaintiffs agreed to the dismissal of the actions. In addition, the Sponsor Group has agreed to cause Biomet (or its successors) to pay the legal fees and expenses of plaintiffs counsel, in an amount of $600,000 in the aggregate, subject to certain conditions, including the approval by the court. This payment will not affect the amount of merger consideration to be paid in the merger. The details of the settlement will be set forth in a notice to be sent to Biomet s shareholders prior to a hearing before the court to consider the settlement.

Litigation Related to Stock Option Issues

On September 21, 2006, two shareholder derivative complaints were filed against certain of Biomet s current and former directors and officers in Kosciusko Superior Court I, in the State of Indiana. The complaints, captioned *Long v. Hann et al.*, and *Thorson v. Hann et al*., alleged violations of state law relating to the issuance of certain stock option grants by Biomet dating back to 1996. Both complaints sought unspecified money damages as well as other equitable and injunctive relief. These two cases were consolidated under the caption *In re Biomet, Inc. Derivative Litigation*, and on January 19, 2007, plaintiffs filed an amended complaint that made additional allegations based on Biomet s December 18, 2006 disclosures related to stock option grants, including allegations that the defendants sought to sell the company in order to escape liability for their conduct, and that they did so at a devalued price, thus further breaching their fiduciary duties to shareholders. On February 16, 2007, defendants filed a motion to dismiss plaintiffs amended complaint, which is currently pending with the court.

On December 11, 2006, a third shareholder derivative complaint captioned *International Brotherhood of Electrical Workers Local 98 Pension Fund v. Hann et al.*, No. 06 CV 14312, was filed in federal court in the Southern District of New York. The *IBEW* case makes allegations and claims similar to those made in the Indiana litigation, in addition to purporting to state three derivative claims for violations of federal securities laws. On February 15, 2007, defendants filed a motion to dismiss the plaintiff s complaint. On April 11, 2007, plaintiffs filed a motion for partial summary judgment claiming that the disclosures in Biomet s April 2, 2007 8-K filing and press release regarding Biomet s historical stock options granting practices constitute admissions sufficient to establish defendants liability on certain of plaintiffs claims. Both motions are currently pending with the court.

On May 25, 2007, Biomet s board received and discussed an updated report from its Special Litigation Committee, which concluded that pursuing these three shareholder derivative complaints was not in the best interests of Biomet. Under Indiana law, the Special Litigation Committee s determination may be binding on the pending shareholder derivative claims and result in the dismissal of these complaints.

Pursuant to Indiana law and provisions of our articles of incorporation, we are advancing reasonable expenses, including attorneys fees, incurred by the current and former Biomet directors and officers in defending these lawsuits.

Table of Contents

THE MERGER AGREEMENT

This section of the proxy statement describes certain material provisions of the merger agreement but does not purport to describe all of the terms of the merger agreement. The following summary is qualified in its entirety by reference to the complete text of the merger agreement, which is attached as Annex A to this proxy statement. We urge you to read the full text of the merger agreement because it is the legal document that governs the merger. Neither the merger agreement nor this summary is intended to provide you with any other factual information about us.

The Merger

The Merger; Closing; Effective Time. The merger agreement provides that, after satisfaction or waiver of certain conditions, Merger Sub will be merged with and into Biomet and Biomet will be the surviving corporation. The closing date of the merger will occur on the second business day after satisfaction or waiver of all of the conditions to the merger (other than those conditions that by their nature are to be satisfied at the closing) set forth in the merger agreement (or such other date as Merger Sub and Biomet may agree), which conditions are described below in Conditions to the Merger. The effective time of the merger will occur at the time specified in the articles of merger that the surviving corporation will file with the Secretary of State of the State of Indiana.

Articles, Bylaws, Directors, and Officers. At the effective time of the merger, the articles of incorporation of Biomet will be amended to read as the articles of incorporation of Merger Sub in effect immediately prior to the effective time of the merger (except that Article I of the amended certificate of incorporation shall read as follows: The name of the Corporation is Biomet, Inc.). Also at the effective time of the merger, the bylaws of Biomet will be amended and restated in their entirety so as to read as the bylaws of Merger Sub as in effect immediately prior to the effective time of the merger. The directors of Merger Sub immediately prior to the effective time of the merger will be the initial directors of the surviving corporation, and the officers of Biomet immediately prior to the effective time of the merger will be the initial directors of the surviving corporation.

Conversion of Shares. Except as may be agreed by Biomet and any shareholder, each common share issued and outstanding immediately prior to the effective time of the merger (other than common shares owned by Parent, Merger Sub or any wholly-owned subsidiary of Parent and common shares owned by Biomet or any wholly owned subsidiary of Biomet) will, by virtue of the merger and without any action on the part of the holder, be converted at the effective time of the merger into the right to receive the merger consideration, less any required withholding taxes and without interest. At the effective time of the merger, each common share of Biomet owned by Parent, Merger Sub or any wholly-owned subsidiary of Parent and common shares owned by Biomet or any wholly owned subsidiary of Biomet will be cancelled, and no payment or distribution will be made with respect to such common shares. At the effective time of the merger, each share of Merger Sub common stock issued and outstanding immediately prior to the effective time of the merger will, by virtue of the merger and without any action on the part of the holder thereof, be converted into one share of common stock of the surviving corporation.

Payment for Shares in the Merger. At the effective time of the merger, Parent will deposit with American Stock Transfer & Trust Company (or an affiliate thereof), as paying agent for the merger, for the benefit of the holders of common shares, sufficient funds to pay the aggregate merger consideration (which we refer to as the *exchange fund*). Within five business days after the effective time of the merger, the surviving corporation will cause the paying agent to mail to each holder of record of our common shares immediately prior to the effective time of the merger, a form of letter of transmittal and instructions to effect the surrender of their share certificate(s) in exchange for payment of the merger consideration (after giving effect to any required withholding tax). You should not send in your share certificates until you receive the letter of transmittal. The letter of transmittal and instructions will tell you what to do if you have lost a certificate, or if it has been stolen or destroyed. You will have to provide an affidavit to that fact and post a surety bond in a reasonable amount as Parent directs as indemnity against any claim that may be made against Parent or the surviving corporation with respect to that certificate.

The paying agent will promptly pay you your merger consideration after you have surrendered your certificates to the paying agent and provided to the paying agent any other items specified by the letter of transmittal and instructions. The surrendered certificates will be cancelled upon delivery of the merger consideration. Interest will not be paid or accrued in respect of cash payments of merger consideration. Parent, Merger Sub, the surviving corporation or the paying agent may reduce the amount of any merger consideration paid to you by any applicable withholding taxes.

Any portion of the exchange fund (including the proceeds of any investments thereof) that remains unclaimed for 180 days after the effective time of the merger will be delivered to the surviving corporation. Holders of shares outstanding before the effective time will thereafter be entitled to look only to the surviving corporation for payment of any claims for merger consideration to which they may be entitled (after giving effect to any required withholding tax). None of the surviving corporation, Parent, the paying agent or any other person will be liable to any person in respect of any merger consideration delivered to a public official pursuant to any applicable abandoned property, escheat or similar laws.

Transfer of Shares. After the effective time of the merger, there will be no transfers on our share transfer books of common shares outstanding immediately prior to the effective time. If, after the effective time of the merger, any certificate for our common shares is presented to the surviving corporation, Parent or the paying agent for transfer, it will be cancelled and exchanged for the per share merger consideration, multiplied by the number of shares represented by the certificate.

Representations and Warranties

The merger agreement contains representations and warranties the parties made to each other. The statements embodied in those representations and warranties were made for purposes of the contract between the parties and are subject to qualifications and limitations agreed by the parties in connection with negotiating the terms of that contract. Certain representations and warranties were made as of June 7, 2007 (or such other date specified in the merger agreement) may be subject to contractual standards of materiality different from those generally applicable to shareholders or may have been used for the purpose of allocating risk between the parties rather than establishing matters of fact. In addition, the representations and warranties are qualified by information in a confidential disclosure letter that the parties have exchanged in connection with signing the merger agreement attached as Annex A to this proxy statement. While we do not believe that the disclosure letter contains information required by securities laws to be publicly disclosed that has not already been disclosed either in this proxy statement or our other filings with the SEC, the disclosure letter does contain information that modifies, quantifies and creates exceptions to the representations and warranties set forth in the merger agreement. Accordingly, you should not rely on the representations and warranties as characterizations of the actual state of facts, since they are modified in important part by the relevant section of the disclosure letter. The disclosure letter contains information that has been included in our prior public disclosures as well as potential additional non-public information. Moreover, information concerning the subject matter of the representations and warranties may have changed since June 7, 2007, and such changes may or may not be fully reflected in our public disclosures. At the effective time of the merger, the representations and warranties contained in the merger agreement are only required to be true and correct subject to the materiality standards contained in the merger agreement, which may differ from what may be viewed as material by shareholders. These representations and warranties did not survive Merger Sub s purchase of shares tendered into the offer, but remain relevant for the limited purpose of determining whether the Marketing Period described below has occurred. The merger agreement should not be read alone, but should instead be read in conjunction with the other information regarding Biomet and the merger that is contained in this proxy statement as well as in the filings that Biomet makes and has made with the SEC. The representations and warranties contained in the merger agreement may or may not have been accurate as of the date they were made and we make no assertion herein that they are accurate as of the date of this proxy statement. However, we are not currently aware of any specific undisclosed facts that contradict such representations and warranties.

Table of Contents

In the merger agreement, Biomet, Parent and Merger Sub each made representations and warranties relating to, among other things:

- due organization, good standing and qualification;
- corporate power and authority to enter into and perform its obligations under, and enforceability of, the merger agreement;
- required regulatory filings and consents and approvals of governmental entities;
- the absence of conflicts with or defaults under organizational documents, other contracts and applicable laws;
- litigation; and
- brokers.

In the merger agreement, Parent and Merger Sub also each made representations and warranties relating to capitalization, the availability of the funds necessary to perform its obligations under the merger agreement, the solvency of Parent and the surviving corporation, limited guarantees, ownership of shares, the HSR Act, this proxy statement and any other ancillary documents related to the Offer (collectively, the *Offer Documents*) and information supplied for inclusion in any proxy or information statement to be sent to shareholders in connection with the merger or the transactions contemplated by the merger agreement.

We also made representations and warranties relating to, among other things:

- capital structure;
- our reports filed with the SEC and financial statements;
- absence of certain changes or events since August 31, 2006;
- absence of undisclosed liabilities;
- compliance with the Employee Retirement Income Security Act of 1974, as amended, and other employee benefit matters;
- compliance with applicable laws, including regulatory laws;
- state takeover statutes and the absence of a rights plan;

environmental matters;

taxes;

labor matters;

intellectual property;

insurance;

material contracts;

the Schedule 14D-9 and this proxy statement to be sent to shareholders in connection with the merger or the transactions contemplated by the merger agreement and information supplied for inclusion in the Offer Documents;

regulatory compliance;

properties; and

affiliate transactions.

Table of Contents

Many of our representations and warranties are qualified by a material adverse effect standard. For purposes of the merger agreement, material adverse effect for Biomet is defined to mean an event, change, effect, development, condition or occurrence (each a *Change*) that is or reasonably would be expected to be, individually or in the aggregate, materially adverse to (x) our ability to timely perform our obligations under and consummate the transactions contemplated by the merger agreement or (y) the condition (financial or otherwise), business, assets, liabilities or results of operations of Biomet and its subsidiaries taken as a whole; *provided* that no Change to the extent resulting from the following shall constitute or be taken into account in determining whether there has been or reasonably would be expected to be a material adverse effect under clause (x) or (y):

- changes in the economy or financial markets generally in the United States or other countries in which Biomet or any of our subsidiaries conduct operations or that are the result of acts of war or terrorism;
- general changes or developments in any industry in which Biomet and its subsidiaries operate;
- any loss or threatened loss of, or adverse change or threatened adverse change in, the relationship of Biomet or any of its subsidiaries with its customers, partners, employees, financing sources or suppliers, or any change in Biomet s credit ratings, caused by the pendency or the announcement of the transactions contemplated by the merger agreement;
- any restatement of Biomet s financial statements or any delay in filing periodic reports at the time required by the Exchange Act solely to the extent resulting from Biomet s failure to (1) properly document the measurement date for any stock option grant, (2) record stock option expense (or other items relating thereto) in accordance with GAAP or (3) issue stock options in accordance with the terms of any applicable stock option plan (the foregoing such failures, the *Option Accounting Issues*);
- any civil investigation or civil litigation to the extent arising out of or relating to any Option Accounting Issues or applicable laws relating thereto (including the IBCL and the Exchange Act);
- any of the potential consequences set forth in Biomet s disclosure letter solely to the extent resulting from Option Accounting Issues, such as, for example:
    - stock options not having been validly issued under the applicable stock option plan;
    - SEC filings not having been prepared in accordance with GAAP, or not otherwise complying with the applicable requirements of the Securities Act, the Exchange Act and/or the rules and regulations promulgated thereunder; or
    - SEC filings being required to be reaudited and/or restated, or otherwise no longer to be relied upon;
- the failure by Biomet to take any action prohibited by the merger agreement;
- changes in any law or GAAP or interpretation thereof after June 7, 2007;

- any failure by Biomet to meet any estimates of revenues or earnings for any period ending on or after June 7, 2007 in and of itself; provided that the exception in this bullet point will not prevent or otherwise affect a determination that any Change underlying or contributing to such failure has resulted in, or contributed to, a material adverse effect; and

- a decline in the price or trading volume of Biomet s common shares on the NASDAQ in and of itself; *provided* that the exception in this bullet point will not prevent or otherwise affect a determination that any Change underlying or contributing to such decline has resulted in, or contributed to, a material adverse effect;

unless, in the case of the first, second and eighth bullet points above, such changes have a disproportionate effect on Biomet and its subsidiaries, taken as a whole, when compared to other companies operating in the same industries in which Biomet or its subsidiaries operate.

Table of Contents

Shareholders Meeting

The merger agreement provides that we will take all reasonable action necessary to convene a special meeting of our shareholders as promptly as reasonably practicable. At the meeting, Parent will cause all common shares held of record by Parent or Merger Sub (or its assignees, if any) as of the applicable record date and entitled to vote thereon in favor of the approval of the merger and the merger agreement.

Filings and Other Actions

In the merger agreement, we and Parent have agreed to cooperate with each other and to use our respective reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things reasonably necessary, proper or advisable under the merger agreement and applicable laws to consummate and make effective the offer, the merger and the other transactions contemplated by the merger agreement as soon as practicable, including preparing and filing as promptly as practicable all documentation to effect all necessary notices, reports and other filings and to obtain as promptly as practicable all consents, registrations, approvals, permits and authorizations necessary or advisable to be obtained from any third party and/or any governmental entity in order to consummate the merger or any of the other transactions contemplated by the merger agreement. This includes Parent s willingness to sell or otherwise dispose of, or hold separate pending such disposition, and promptly to effect the sale, disposal and holding separate of, such assets, categories of assets or businesses or other segments of Biomet after the occurrence of the consummation of the offer and/or Parent or either s respective subsidiaries (in the case of Biomet, after the occurrence of the consummation of the offer), if such action should be necessary to avoid, prevent, eliminate or remove the actual, anticipated or threatened (1) commencement of any administrative, judicial or other proceeding in any forum by any government antitrust entity or (2) issuance of any order, decree, decision, determination or judgment that would restrain, prevent, enjoin or otherwise prohibit consummation of the offer or the merger by any government antitrust entity.

Employee Benefits

Parent has agreed that, during the period commencing on July 12, 2007, the date Merger Sub accepted for payment the shares tendered in the offer, and ending on December 31, 2008, the employees of Biomet as of July 12, 2007 (the *Current Employees*) will be provided with:

- base salary and bonus opportunities (including annual and quarterly bonus opportunities and long-term incentive opportunities) which are no less than the base salary and bonus opportunities provided by Biomet and its subsidiaries immediately prior to July 12, 2007;

- pension and welfare benefits and perquisites (excluding equity and equity-based benefits) that are no less favorable in the aggregate than those provided by Biomet and its subsidiaries immediately prior to July 12, 2007; and

- severance benefits that are no less favorable than those set forth in Biomet s separation pay plan in effect on December 18, 2006 and provided to Parent.

Parent has agreed to cause any employee benefit plans of Parent or the surviving corporation which the Current Employees are entitled to participate in from and after July 12, 2007 to take into account for purposes of eligibility, vesting and benefit accrual, service by the Current Employees with Biomet or any of its subsidiaries prior to the effective time of the merger as if such service were with Parent, to the same extent such service was credited under a comparable plan of Biomet or any of its subsidiaries prior to July 12, 2007 (except to the extent it would result in a duplication of benefits).

Indemnification and Insurance of Our Directors and Officers

The merger agreement provides that, from and after July 12, 2007, the date Merger Sub accepted for payment the shares tendered in the offer, Parent will cause the surviving corporation to indemnify each of our and our subsidiaries present and former directors and officers against any costs, expenses, judgments, fines, losses, claims, damages or liabilities incurred in connection with any claim, action, suit, proceeding or investigation, arising out of or related to such person s service as a director or officer at or prior to July 12, 2007, to the fullest extent permitted under applicable laws.

The merger agreement required Parent to cause the surviving corporation to, July 12, 2007, obtain and fully pay for tail insurance policies with a claims period of at least six years from and after July 12, 2007 from a carrier with the same or better credit rating as our current insurance carrier with respect to directors and officers liability insurance and fiduciary liability insurance, with benefits and levels of coverage that are at least as favorable as our existing policies with respect to matters existing or occurring at or prior to July 12, 2007.

Financing

Debt Financing

Parent has agreed to use its reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things reasonably necessary, proper or advisable to arrange its debt financing as promptly as practicable on the terms and conditions described in its debt financing commitment, including using reasonable best efforts to:

- maintain in effect the debt financing commitment, subject to Parent s replacement and amendment rights;
- satisfy on a timely basis all conditions applicable to Parent and Merger Sub to obtaining the debt financing set forth in the debt financing commitment that are within their control (including by consummating the financing pursuant to the terms of the equity financing commitments and by assisting in the syndication or marketing of the financing contemplated by the debt financing commitment); and
- enter into definitive financing agreements on the terms and conditions contemplated by the financing commitment or on other terms reasonably acceptable to Parent that would not adversely impact in any material respect the ability of Parent or Merger Sub to consummate the transactions contemplated by the merger agreement.

If any portion of the debt financing becomes unavailable on the terms and conditions contemplated in the debt financing commitment, Parent has agreed to use its reasonable best efforts to arrange to obtain alternative financing from alternative sources on terms not materially less beneficial to Parent and Merger Sub in an amount sufficient to consummate the transactions contemplated by the merger agreement as promptly as practicable following the occurrence of such event.

Parent is required to give us prompt notice of any material breach by any party to the financing commitments of which Parent or Merger Sub becomes aware, or any termination of the financing commitments. Parent is also required to keep us informed on a reasonably current basis of the status of its efforts to arrange the debt financing and provide copies of all documents related to the debt financing (other than any ancillary documents subject to confidentiality agreements) to us.

Cooperation of Biomet

Prior to the closing, we are required to provide to Parent and Merger Sub and to use our reasonable best efforts to cause our officers, employees and advisors, including legal and accounting, to provide to Parent and Merger Sub all cooperation reasonably requested in writing by Parent that is reasonably necessary or customary in connection with the Parent s financing (provided that such requested cooperation does not unreasonably interfere with the business or operations of Biomet and its subsidiaries), including:

- participating in a reasonable number of meetings, presentations, road shows, due diligence sessions and sessions with rating agencies;

Table of Contents

using commercially reasonable efforts to assist with the preparation of materials for rating agency presentations, offering documents, private placement memoranda, bank information memoranda, prospectuses and similar documents necessary or customary in connection with Parent s financing;

using commercially reasonable best efforts to furnish Parent and Merger Sub as promptly as reasonably practicable with financial and other pertinent information regarding Biomet and its subsidiaries as may be reasonably requested by Parent in connection with the debt financing and customarily included in private placement memoranda relating to private placements under Rule 144A promulgated under the Securities Act to consummate the offering(s) of debt securities contemplated by Parent s debt financing commitments at the time during our fiscal year such offering(s) will be made as soon as such financial and other information becomes available, including all financial statements and financial data of the type required by Regulation S-X and Regulation S-K under the Securities Act (other than Rule 3-10 of Regulation S-X and summary quarterly financial information and without giving effect to the executive compensation and related person disclosure rules related to SEC Release Nos. 33-8732A; 34-54302A; IC-27444A), including audits thereof to the extent so required (which audits need to be unqualified);

using reasonable best efforts to assist Parent in procuring accountants comfort letters and consents, legal opinions, surveys and title insurance and other customary documentation required by the debt financing commitments, in each case as reasonably requested by Parent and, if reasonably requested by Parent or Merger Sub, to cooperate with and assist Parent or Merger Sub in obtaining such documentation and items;

using commercially reasonable efforts to provide monthly financial statements (excluding footnotes) within the time frame, and to the extent, we prepare such financial statements in the ordinary course of business;

using reasonable best efforts to assist Parent in procuring the execution and delivery, as of the effective time of the merger, by the officers of the surviving corporation and its subsidiaries of any customary pledge and security documents, other definitive financing documents, or other certificates, legal opinions or documents as may be reasonably requested by Parent (including a certificate of the chief financial officer of the surviving corporation or any subsidiary with respect to solvency matters) and otherwise reasonably facilitating, to the extent reasonably requested by Parent, the pledging of collateral (including cooperation, to the extent reasonably requested by Parent, in connection with the payoff of existing indebtedness and the release of related liens);

taking all actions to the extent reasonably requested by Parent necessary to (A) permit the prospective lenders involved in the financing to evaluate our current assets, cash management and accounting systems, policies and procedures relating thereto for the purposes of establishing collateral arrangements and (B) establish bank and other accounts and blocked account agreements and lock box arrangements in connection with the foregoing; and

taking all corporate actions, subject to the occurrence of the closing, reasonably requested by Parent in connection with the consummation of the debt financing by the surviving corporation and its subsidiaries immediately following the effective time of the merger;

provided that none of Biomet or any of its subsidiaries shall be required to pay any commitment or other similar fee or incur any other cost or expense that is not simultaneously reimbursed by Parent in connection with the debt financing prior to the effective time of the merger.

Conditions to the Merger

The obligations of the parties to complete the merger are subject to the satisfaction or waiver of the following mutual conditions:

the merger agreement must have been approved by the affirmative vote of at least 75% of the votes entitled to be cast by the holders of the outstanding common shares (as a result of the tender offer and a

68

voting agreement with certain of our shareholders, LVB Acquisition beneficially owns or may be deemed to have voting control over a total of approximately 84.74% of the outstanding common shares, which is sufficient to assure approval of the merger agreement at the special meeting); and

no temporary restraining order, preliminary or permanent injunction or other judgment or order issued by any court or agency of competent jurisdiction or other law, rule, legal restraint or prohibition is in effect preventing, restraining or rendering illegal the consummation of the merger.

The obligations of Parent and Merger Sub to complete the merger are also subject to the Marketing Period having been completed or waived (provided that if the failure of the Marketing Period to be completed is due to Parent or Merger Sub s failure to comply with its obligations under the merger agreement, such condition will be deemed satisfied).

For purposes of the merger agreement, *Marketing Period* means the first period of 20 consecutive days after the first to occur of (a) the requirements to consummate a short form merger having been met and (b) the merger agreement having been approved by the affirmative vote of at least 75% of the votes entitled to be cast by the holders of the outstanding common shares voting together as a single class, throughout and on the last day of which:

Parent and its financing sources have the required financial information described above under Cooperation of Biomet from Biomet;

nothing has occurred and no condition exists that would cause any of the following events to occur:

(i) our representation and warranty set forth in the merger agreement that there has not been a material adverse effect since May 31, 2006 shall not be true and correct in all respects as of June 7, 2007 and as of July 11, 2007 as though made on and as of such date; (ii) any of our representations and warranties set forth in the merger agreement relating to capital structure, corporate authority, approval and fairness, takeover statutes and brokers and finders shall not be true and correct in all material respects as of June 7, 2007 and as of July 11, 2007 as though made on and as of such date (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall not be true and correct in all material respects as of such earlier date); or (iii) any of the other representations and warranties of Biomet set forth in the merger agreement (disregarding all qualifications and exceptions contained therein regarding materiality or material adverse effect) shall not be true and correct as of December 18, 2006 and as of July 11, 2007 (except for Biomet s representations and warranties with respect to organization, good standing and qualification, governmental filings; no violations, certain contracts, company reports, financial statements, rights agreement, and the Schedule 14D-9, Offer Documents, Proxy Statement and other filings, which must be true as of June 7, 2007 and as of July 11, 2007) as though made on and as of such date (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall not be true and correct as of such earlier date), except, in the case of this clause (iii), where the failure of such representations and warranties to be so true and correct, individually or in the aggregate, would not have a material adverse effect; or

we have failed to perform in all material respects any of our obligations required to be performed by us under the merger agreement, and such failure to perform has not been cured prior to the expiration date of the offer; and

the conditions of all of the parties to the merger shall have been satisfied.

Notwithstanding the foregoing, (1) the Marketing Period will end on any earlier date on which Parent consummates the debt financing to be drawn on the closing date of the merger, (2) the Marketing Period must occur either entirely before or entirely after August 17 through September 3, 2007 and (3) the Marketing Period will not be deemed to have commenced if, prior to the completion of the Marketing Period:

Ernst & Young LLP withdraws its audit opinion with respect to any financial statements contained in the required information provided by us to Parent, in which case the Marketing Period will not be deemed to commence at the earliest unless and until a new unqualified audit opinion is issued with respect to the consolidated financial statements for the applicable periods by Ernst & Young LLP or another independent registered accounting firm reasonably acceptable to Parent;

we announce any intention to restate any of our financial information included in the required information provided to Parent or any such restatement is under consideration or may be a possibility, in which case the Marketing Period will not be deemed to commence at the earliest unless and until such restatement has been completed and our reports with the SEC have been amended or we have announced that we have concluded that no restatement will be required in accordance with GAAP;

we are delinquent in filing any report with the SEC, in which case the Marketing Period will not be deemed to commence at the earliest unless and until all such delinquencies have been cured;

we have received any material accounting comments from the staff of the SEC on its Annual Reports on Form 10-K or Quarterly Reports on Form 10-Q, as such may be amended, and all such material accounting comments have not been satisfactorily resolved with the SEC staff;

If the financial statements included in the required financial information provided by us to Parent that is available to Parent on the first day of any such 20-consecutive-day period would not be sufficiently current on any day during such 20-consecutive-day period to permit (1) a registration statement using such financial statements to be declared effective by the SEC on the last day of the 20-consecutive-day period or (2) our independent registered accounting firm to issue a customary comfort letter to purchasers (in accordance with its normal practices and procedures) on the last day of the 20-consecutive-day period, then a new 20-consecutive-day period will commence upon Parent receiving updated required financial information from us that would be sufficiently current to permit the actions described in (1) and (2) on the last day of such 20-consecutive-day period.

Modification or Amendment

Subject to the provisions of applicable law, at any time prior to the effective time of the merger, the parties may modify or amend the merger agreement by written agreement among the parties, provided, however, that, prior to approval of the merger agreement by our shareholders, the merger agreement may not be amended in a manner that would adversely affect the right of our shareholders to receive the merger consideration. Any modification or amendment of the merger agreement by us will require the approval of a majority of directors on our board that were not designated by Parent.

Table of Contents

THE VOTING AGREEMENT

On June 7, 2007, prior to the execution of the amended and restated merger agreement, Parent entered into a voting agreement with Dane A. Miller, Ph.D and his wife, Mary Louise Miller. Pursuant to the voting agreement and in consideration of Parent s willingness to enter into the merger agreement, Dr. and Mrs. Miller agreed that during the time that the voting agreement is in effect, at any meeting of our shareholders, however called, and at every adjournment or postponement thereof, with respect to 5,723,595 common shares owned beneficially or of record by Dr. and Mrs. Miller (representing approximately 2.3% of the total number of outstanding common shares as of July 20, 2007) and any common shares acquired by Dr. and/or Mrs. Miller after the date of the voting agreement and prior to the termination of the voting agreement, Dr. and Mrs. Miller (individually and jointly) will: (i) appear at such meeting or otherwise cause their shares to be counted as present thereat for purposes of establishing a quorum; (ii) vote or cause to be voted their shares in favor of the merger and the approval and adoption by Biomet s shareholders of the plan of merger contained in the merger agreement, and any action required in furtherance thereof; and (iii) vote or cause to be voted, or execute consents in respect of, their shares against any proposal, action or transaction involving Biomet or any of our shareholders that could reasonably be expected to prevent or materially impede or delay the consummation of the transactions contemplated by the merger agreement. Pursuant to the voting agreement, the Millers have appointed Parent as their attorney and proxy in accordance with the IBCL, with full power of substitution and resubstitution, to vote the common shares owned beneficially or of record by them (individually and jointly) as indicated in the immediately foregoing sentence. Such proxy will expire automatically and without further action by the parties upon termination of the voting agreement. The voting agreement will terminate immediately upon the earliest of: (a) the effective time of the merger; (b) the termination of the merger agreement; and (c) the mutual agreement of the parties to terminate the voting agreement.

Table of Contents

STOCK OWNERSHIP

The following table sets forth certain data with respect to those persons known by Biomet to be the beneficial owners of more than 5% of the issued and outstanding Biomet common shares as of July 17, 2007.

Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percent of Class
LVB Acquisition, Inc. c/o Corporation Trust Center 1209 Orange Street Wilmington, Delaware 19801	208,324,725(1)	84.74%
State Farm Mutual Automobile Insurance Company and related entities One State Farm Plaza Bloomington, Illinois 61710	18,898,539(2)	7.7%

(1) This figure represents the shares beneficially owned by Parent, including 202,601,130 shares acquired by Merger Sub pursuant to the offer and 5,723,595 shares owned by Dr. and Mrs. Miller, who, pursuant to a voting agreement, have agreed with Parent to vote those shares in favor of the merger. Parent and Merger Sub disclaim beneficial ownership of any Biomet common shares beneficially owned by Dr. and/or Mrs. Miller other than those shares subject to the voting agreement.

(2) According to a Schedule 13G/A filed with the SEC on February 14, 2007 by State Farm Mutual Automobile Insurance Company (SFMAIC) and certain related entities on January 12, 2007, as of December 31, 2006, SFMAIC is the beneficial owner of 9,478,788 shares, as to which it has sole voting and dispositive power for 9,409,500 shares and shared dispositive power for 69,288 shares. State Farm Life Insurance Company is the beneficial owner of 179,068 shares, as to which it has sole voting and dispositive power for 169,975 shares and shared dispositive power for 9,093 shares. State Farm Fire and Casualty Company is the beneficial owner of 8,220 shares, as to which it has shared dispositive power. State Farm Investment Management Corp. is the beneficial owner of 4,410,158 shares, as to which it has sole dispositive power for 4,398,750 shares and shared voting and dispositive power for 11,408 shares. State Farm Insurance Companies Employee Retirement Trust is the beneficial owner of 7,305 shares, as to which it has shared dispositive power. State Farm Insurance Companies Savings and Thrift Plan for U.S. Employees is the beneficial owner of 4,815,000 shares, as to which it has sole voting and dispositive power.

The following table sets forth the beneficial ownership of Biomet common shares as of July 17, 2007, by each director, each named executive officer for fiscal 2007 and by all directors and executive officers currently employed by Biomet as a group (as well as Mr. Hann).

Name of Beneficial Owner	Number of Shares Beneficially Owned(#)(1)	Biomet s Employee Stock Bonus Plan(#)	Biomet 401(k) Savings & Retirement Plan (#)(2)	Option Shares Exercisable Within 60 Days(#)	Total Number of Shares Beneficially Owned(#)	Percent of Class(%)
Jeffrey R. Binder	0	0	0	0	0	0
Garry L. England	0	0	0	0	0	0
Daniel P. Hann(3)	74,406	0	15,032	0	89,438	*
C. Scott Harrison, M.D	1,284	0	0	0	1,284	*
Kenneth V. Miller	1,282	0	0	0	1,282	*
Charles E. Niemier	1,250	0	65,396	0	66,646	*
L. Gene Tanner	2,558	0	0	0	2,558	*
J. Pat Richardson	0	0	0	0	0	0
Gregory D. Hartman	166,903	0	34,694	0	203,807	*
Roger Van Broeck	65,347	0	1,731	0	67,078	*
Chinh E. Chu(4)	0	0	0	0	0	0
Jonathan J. Coslet(4)	0	0	0	0	0	0
Michael Dal Bello(4)	0	0	0	0	0	0

Sean Fernandes(4)(5)	124,282	0	0	3,100	127,382	*
Adrian Jones(4)(6)	124,282	0	0	3,100	127,382	*

Table of Contents

of icial r	Number of Shares Beneficially Owned(#)(1)	Biomet s Employee Stock Bonus Plan(#)	Biomet 401(k) Savings & Retirement Plan (#)(2)	Option Shares Exercisable Within 60 Days(#)	Total Number of Shares Beneficially Owned(#)

The following summary of certain provisions of our common stock does not purport to complete. You should refer to our amended and restated certificate of incorporation, as amended, and our amended and restated by-laws, both of which are filed or incorporat reference as an exhibit to the registration statement of which this prospectus is a part. T summary below is also qualified by provisions of applicable law.

Common Stock

Holders of common stock are entitled to one vote per share on matters on which our stockholders vote. There are no cumulative voting rights. Holders of common stock are entitled to receive dividends, if declared by our board of directors, out of funds that we legally use to pay dividends. If we liquidate or dissolve, holders of common stock are entitled to share ratably in our assets once our debts and any liquidation preference ow any then-outstanding preferred stockholders are paid. All shares of common stock that outstanding as of the date of this prospectus are fully-paid and non-assessable.

Options and Warrants

For a description of our outstanding options and warrants, reference is made to Note 2 Stock-Based Compensation and Note 4 Common Stock Warrants in our consolid financial statements for the year ended December 31, 2007, included elsewhere in this prospectus, and to Note 2 Stock-Based Compensation and Note 4 Common Stock in our interim financial statements for the nine and three months ended September 30, 2008, included elsewhere in this prospectus.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock and rights is Continental Stock Transfer & Trust Company, 17 Battery Place, 8th Floor, New York, NY 10004.

74

Table of Contents

INDEMNIFICATION OF DIRECTORS AND OFFICERS

Our amended and restated bylaws, as amended to date, provide for the indemnification our officers and directors to the fullest extent permitted by Section 7502 of Chapter 78 the Nevada Revised Statutes (NRS) (as from time to time amended), provided such or director acts in good faith and in a manner which such person reasonably believes to in or not opposed to our best interests, and with respect to any criminal matter, had no reasonable cause to believe such person s conduct was unlawful.

The NRS permits a present or former director or officer of a corporation to be indemni against certain expenses if the person has been successful, on the merit or otherwise, in defense of any proceeding brought against such person by virtue of the fact that the per is or was an officer or director of the corporation. In addition, the NRS permits the advancement of expenses relating to the defense of any proceeding to directors and off contingent upon the person s commitment to repay advances for expenses in the case she is ultimately found not to be entitled to be indemnified.

Our amended and restated bylaws, as amended, provide that, to the fullest extent perm by the NRS, we will pay the expenses of our directors and officers incurred in defendi civil or criminal action, suit or proceeding, as such expenses are incurred and in advanc the final disposition of such matter, upon receipt of an undertaking in form and substan acceptable to our board of directors for the repayment of such advances if it is ultimate determined by a court of competent jurisdiction that the officer or director is not entitle be indemnified.

Insofar as indemnification by us for liabilities arising under the Securities Act, may be permitted to our directors, officers and controlling persons pursuant to the provisions referenced in Item 14 of this registration statement, or otherwise, we have been advise in the opinion of the Securities and Exchange Commission such indemnification is aga public policy as expressed in the Securities Act and is, therefore, unenforceable. If a cl for indemnification against such liabilities (other than the payment by us of expenses incurred or paid by one of our directors, officers, or controlling persons in the successf defense of any action, suit or proceeding) is asserted by a director, officer or controllin person in connection with the securities being registered hereunder, we will, unless in t opinion of our counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by us is aga public policy as expressed in the Securities Act, and will be governed by the final adjudication of such issue.

75

Table of Contents

MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following discussion sets forth the material U.S. Federal income tax consequences the receipt of rights described in this offering (Rights) and of the exercise or expirat those Rights to U.S. Holders (as defined below) of our common stock that hold such st as a capital asset for Federal income tax purposes and to U.S. Holders of Company warrants dated February 14, 2006 (2006 Investor Warrants) who elect to receive Ri opposed to an adjustment of the exercise price of such warrants, other than U.S. Holde who received 2006 Investor Warrants as compensation. This discussion is based upon Code, Treasury Regulations promulgated thereunder, judicial decisions, and the U.S. Internal Revenue Service s (IRS) current administrative rules, practices and interpr of law, all as in effect on the date of this document, and all of which are subject to cha possible with retroactive effect. This discussion applies only to U.S. Holders and does address all aspects of Federal income taxation that may be important to particular hold light of their individual investment circumstances or to holders who may be subject to special tax rules, including, without limitation, holders of preferred stock, partnerships (including any entity or arrangement treated as a partnership for Federal income tax purposes), holders who are dealers in securities or foreign currency, foreign persons, insurance companies, tax-exempt organizations, non-U.S. Holders, banks, financial institutions, broker-dealers, holders who hold common stock as part of a hedge, stradd conversion, constructive sale or other integrated security transaction, or who acquired common stock pursuant to the exercise of compensatory stock options or otherwise as compensation, all of whom may be subject to tax rules that differ significantly from th summarized below.

We have not sought, and will not seek, a ruling from the IRS regarding the Federal inc tax consequences of this offering or the related share issuance. The following discussi does not address the tax consequences of this offering or the related share issuance und foreign, state, or local tax laws. Accordingly, each holder of common stock is urged to consult its tax advisor with respect to the particular tax consequences of this offering o related share issuance to such holder.

For purposes of this description, a U.S. Holder is a holder that is for U.S. federal inc tax purposes:

- a citizen or resident of the U.S.;
- a corporation or other entity taxable as a corporation that is organized in or und the laws of the U.S., any state thereof or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income taxation, regar of its source; or
- a trust, if a U.S. court is able to exercise primary supervision over the administr of the trust and one or more U.S. persons have the authority to control all subst decisions of the trust (or the trust was in existence on August 20, 1996, and val elected to continue to be treated as a U.S. trust).

THIS SUMMARY IS ONLY A GENERAL DISCUSSION AND IS NOT INTENDED BE, AND SHOULD NOT BE CONSTRUED TO BE, LEGAL, OR TAX ADVICE. T U.S. FEDERAL INCOME TAX TREATMENT OF THE RIGHTS IS COMPLEX AN POTENTIALLY UNFAVORABLE TO U.S. HOLDERS. ACCORDINGLY, EACH U HOLDER WHO ACQUIRES RIGHTS IS STRONGLY URGED TO CONSULT HIS HER OR ITS OWN TAX ADVISER WITH RESPECT TO THE U.S. FEDERAL, ST LOCAL AND FOREIGN INCOME, ESTATE AND OTHER TAX CONSEQUENCE THE ACQUISITION OF THE RIGHTS, WITH SPECIFIC REFERENCE TO SUCH PERSON S PARTICULAR FACTS AND CIRCUMSTANCES.

THE FEDERAL TAX DISCUSSION CONTAINED IN THIS PROSPECTUS IS I INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY ANY PERSON FOR THE PURPOSE OF AVOIDING ANY PENALTIES THAT MAY IMPOSED BY THE CODE. THE FEDERAL TAX DISCUSSION CONTAINED THIS PROSPECTUS WAS WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF THE TRANSACTION DESCRIBED IN THIS PROSPECTUS PROSPECTIVE INVESTORS SHOULD SEEK ADVICE FROM THEIR OWN INDEPENDENT TAX ADVISORS CONCERNING THE FEDERAL, STATE AN LOCAL TAX CONSEQUENCES OF AN INVESTMENT IN THE COMPANY BASED ON THEIR PARTICULAR CIRCUMSTANCES.

Table of Contents

Receipt of the Rights

The distribution of the Rights should be a non-taxable distribution under Section 305(a the Code. This position is not binding on the IRS, or the courts, however. If this positio finally determined by the IRS or a court to be incorrect, the fair market value of the Ri would be taxable to holders of our common stock as a dividend to the extent of the hol *pro rata* share of our current and accumulated earnings and profits, if any, with any ex being treated as a return of capital to the extent thereof and then as capital gain.

The distribution of the Rights would be taxable under Section 305(b) of the Code if it a distribution or part of a series of distributions, including deemed distributions, that ha the effect of the receipt of cash or other property by some of our stockholders and an increase in the proportionate interest of other stockholders in our assets or earnings and profits, if any. Distributions having this effect are referred to as disproportionate distributions. The exercise price of our 2006 Investor Warrants, by its terms, will adju a result of the rights offering unless a warrant holder elects to receive the Rights. We w also adjust the terms of our outstanding stock options (e.g., exercise price, share subjec the option) to prevent the rights offering from being part of a disproportionate distrib Neither the adjustment to the warrant price nor the adjustment to the option price shoul prevent the distribution of the Rights from being considered part of a disproportionate distribution.

We will not distribute Rights in states to U.S. Holders resident in states in which the Rights, including the underlying securities, cannot be registered or distributed pursuan registration exemption (each an, Excluded State). In a private letter ruling, the IRS determined that Section 305(b) of the Code would not result in a disproportionate distribution of cash or property in connection with a rights offering in which a small number of persons otherwise eligible to subscribe reside in an Excluded State and the g of subscription rights or offer and sale of the underlying securities to persons resident i Excluded State would require the issuer to register or otherwise qualify the offer and sa the securities in the Excluded State, and such registration or qualification is impractica for reasons of cost or otherwise. We believe that exclusion of U.S. Holders resident in Excluded States more likely than not would not result in a disproportionate distributio within the meaning of Section 305(b) of the Code.

In addition, the terms of our stock options provide for the crediting of shares underlyin such options against the holder s income tax obligations when those options are exerc While the holders of our stock options could be treated as receiving cash with respect t their shares in these transactions, the transactions are unlikely to cause the distribution the Rights to be considered part of a disproportionate distribution because of their infrequency, their resemblance to redemptions for U.S. federal income tax purposes, an their relatively small size.

The remaining description assumes that holders of our common stock or our 2006 Inve Warrants who elect to receive the Rights will not be subject to U.S. federal income tax the receipt of a Right.

Tax Basis and Holding Period of the Rights

If the aggregate fair market value of the Rights at the time they are distributed to U.S. Holders of our common stock is less than 15% of the aggregate fair market value of ou common stock at such time, the tax basis of the Rights issued to you will be zero unles you elect to allocate a portion of your tax basis of previously owned common stock to Rights issued to you in this offering. However, if the aggregate fair market value of the Rights at the time they are distributed to U.S. Holders of our common stock is 15% or of the aggregate fair market value of our common stock at such time, or if you elect to allocate a portion of your tax basis of previously owned common stock to the Rights is

to you in this offering, then your tax basis in previously owned common stock will be
allocated between such common stock and the Rights based upon the relative fair mark
value of such common stock and the Rights as of the date of the distribution of the Rig
Thus, if such an allocation is made and the Rights are later exercised, the tax basis in th
common stock you originally owned will be reduced by an amount equal to the tax bas
allocated to the Rights and the stock basis in the new common stock will be increased
the tax basis allocated to these common shares. This election is irrevocable if made and
would apply to all of the Rights received pursuant to the rights offering. The election m
be made in a statement attached to your Federal income tax return for the taxable year
which the Rights are distributed.

Table of Contents

The tax basis in the 2006 Investor Warrants shall be allocated between the 2006 Invest
Warrants and the Rights received in proportion to the fair market values of each on the
of distribution in the case of U.S. Holders of 2006 Investor Warrants who elect to rece
Rights as opposed to an adjustment of the exercise price of such warrants.

The holding period for the Rights received in the rights offering by a U.S. Holder of ou
common stock and a U.S. Holder of 2006 Investor Warrants, who elect to receive Righ
opposed to an adjustment of the exercise price of such warrants, will include the holdi
period for the common stock or the 2006 Investor Warrants with respect to which the
Rights were received.

Expiration of the Rights

If the Rights expire without exercise while you continue to hold the shares of our com
stock with respect to which the Rights are received, you will recognize no loss and you
basis in the common stock with respect to which the Rights were received will equal it
basis before receipt of the Rights. If the Rights expire without exercise after you have
disposed of the shares of our common stock with respect to which the Rights are recei
you should consult your own tax advisor regarding your ability to recognize a loss (if a
on the expiration date.

Exercise of the Rights; Tax Basis and Holding Period of the Shares

The exercise of the Rights received in this offering will not result in any gain or loss to
Generally, the tax basis of the common stock acquired through exercise of the Rights v
be equal to the sum of the subscription price and the basis, if any, in the Rights that yo
exercised, as described in Tax Basis of the Rights above.

The holding period for a share of common stock acquired upon exercise of a Right beg
with the date of exercise.

If you exercise the Rights received in this offering after disposing of the shares of our
common stock with respect to which the Rights are received, you should consult your
tax advisor regarding the potential application of the wash sale rules under Section
the Code.

Sale or Other Disposition of the Shares of Common Stock Underlying the Rights

If a U.S. Holder sells or otherwise disposes of the shares received as a result of exercis
Right, such U.S. Holder s gain or loss recognized upon that sale or other disposition w
a capital gain or loss assuming the share is held as a capital asset at the time of sale. Th
gain or loss will be long-term if the share has been held at the time of sale for more tha
one year.

Information Reporting and Backup Withholding

Payments made to you of proceeds from the sale of shares of common stock underlyin
Rights may be subject to information reporting to the IRS and possible U.S. federal ba
withholding. Backup withholding will not apply if you furnish a correct taxpayer
identification number (certified on the IRS Form W-9) or otherwise establish that you
exempt from backup withholding. Backup withholding is not an additional tax. Amour
withheld as backup withholding may be credited against your U.S. federal income tax
liability. You may obtain a refund of any excess amounts withheld under the backup
withholding rules by filing the appropriate claim for refund with the IRS and furnishin
required information.

Table of Contents

PLAN OF DISTRIBUTION

General

On or about February , 2009, we will distribute the rights, subscription rights certific and copies of this prospectus to the holders of our common stock on the record date. R holders who wish to exercise their rights and purchase shares of our common stock mu complete the rights certificate and return it with payment for the shares to the subscript agent, Continental Stock Transfer & Trust Company, at the following address:

Continental Stock Transfer & Trust Company

Attn: Reorganization Department

17 Battery Place, 8^{th} Floor

New York, NY 10004

See The Rights Offering Method of Exercising Rights. If you have any questions, should contact Continental Stock Transfer & Trust Company.

Other than as described in this prospectus, we do not know of any existing agreements between any stockholder, broker, dealer, underwriter or agent relating to the sale or distribution of the underlying common stock.

We have applied to have the rights and the common stock underlying the rights registe for sale, or we are relying on exemptions from registration, in the District of Columbia Puerto Rico all 50 states in the United States. In states that require registration, we will distribute the rights or sell the common stock underlying the rights until such registrati effective in each of these states. We may modify the transferability of the rights in ord comply with the securities laws of certain states. In order to comply with certain states securities laws, if applicable, the shares of common stock will be sold in such jurisdict only through registered or licensed brokers or dealers.

Maxim Group LLC is the dealer-manager of this rights offering. In such capacity, Max Group LLC will provide advisory and solicitation services to our company in connecti with this offering. We have agreed to pay or grant to Maxim Group LLC:

- a cash fee of 6.5% of the gross proceeds from the exercise of the rights in consideration of the advisory services provided to us,
- a cash fee (subject to certain conditions) of 1.0% of such gross proceeds in consideration of soliciting the exercise of the rights,
- a non-accountable expense allowance of 1.0% of such gross proceeds, and
- a warrant to purchase 4.0% of the shares of common stock sold pursuant to the exercise of the rights, with such warrant having a exercise price equal to $ 125% of the subscription price).

Maxim Group LLC will not participate in the offering nor receive any commissions or
compensation in certain states where we are relying on an exemption from registration
under such state s securities laws.

In addition, we have agreed to reimburse Maxim Group LLC for its reasonable offerin
related expenses (other than legal fees and expenses) and to indemnify Maxim Group
and their respective affiliates against certain liabilities arising under the Securities Act
1933. Maxim Group LLC is not underwriting or placing any of the rights or the shares
our common stock being sold in this offering and does not make any recommendation
respect to such rights or shares (including with respect to the exercise of such rights).
Maxim Group LLC s participation in this offering is subject to customary conditions
contained in the dealer-manager agreement, including the receipt by Maxim Group LL
opinions of our counsel. Maxim Group LLC and its affiliates have provided in the past
may provide to us from time to time in the future in the ordinary course of their busine
certain financial advisory, investment banking and other services for which they will b
entitled to receive fees.

79

Table of Contents

The warrant being granted to Maxim Group LLC will expire on the fifth anniversary o
closing of this offering and provides for cashless exercise. The shares of common st
issued or issuable upon exercise of the dealer-manager warrant are restricted from sale
transfer, assignment, pledge or hypothecation or from being the subject of any hedging
short sale, derivative, put, or call transaction that would result in the effective economi
disposition of the securities by any person for a period of 180 days immediately follow
the effective date of the registration statement of which this prospectus forms a part, ex
transfers of the warrants to officers or partners of Maxim Group LLC as allowed under
FINRA Rules 5110 (g)(1) and (2).

Information Regarding Resales of Securities

We file periodic and annual reports under the Securities Exchange Act of 1934, as
amended. Therefore, under the National Securities Markets Improvement Act of 1996
(NSMIA), the states and territories of the United States are preempted from regulati
resale by our shareholders of our common stock because such securities will be covere
securities for resale purposes so long as we maintain our filings under the Securities
Exchange Act of 1934. However, NSMIA does allow states and territories of the Unite
States to require notice filings and collect fees with regard to these transactions and a s
may suspend the offer and sale of securities within such state if any such required filin
not made or fee is not paid.

As of the date of this prospectus, the following states do not require any notice filings o
fee payments and shareholders may resell our common stock: Alabama, Alaska, Arizo
Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Guam, Haw
Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Minnesota
Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North
Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Utah, Virginia, Vir
Islands, Washington, West Virginia, Wisconsin and Wyoming.

The following states require a notice filing for covered securities; however, we believe
alternative self-executing exemption from the states registration requirements may be
upon for resale in the secondary market: District of Columbia, Illinois, North Dakota, O
Rhode Island, Tennessee, and Vermont. Residents of Ohio should confirm with their
broker-dealer the availability of an exemption for the sale of securities by a bona fide
owner.

Additionally, shareholders may resell our common stock as the proper notice filings ha
been made and fees paid in the following states: Maryland, Michigan, Montana, New
Hampshire, Oregon, Puerto Rico, and Texas.

If any of the states that have not yet adopted a statute, rule or regulation relating to NS
adopts such a statute in the future requiring a filing or fee or if any state amends its exi
statutes, rules or regulations with respect to its requirements, we would need to comply
with those new requirements in order for our common stock to continue to be eligible f
resale in those jurisdictions.

Table of Contents

LEGAL MATTERS

The validity of the rights and the shares of common stock being offered by this prospe has been passed upon for Pro-Pharmaceuticals, Inc. by Greenberg Traurig, LLP, Bosto Massachusetts. Ellenoff Grossman & Schole LLP, New York, New York, has acted as counsel to the dealer-manager.

EXPERTS

The consolidated financial statements included in this prospectus for the years ended December 31, 2007 and 2006, and for each of the three years in the period ended December 31, 2007, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report appearing herein (which rep expresses an unqualified opinion on the financial statements and includes explanatory paragraphs relating to Pro-Pharmaceuticals adoption of Statement of Financial Accou Standards (SFAS) No. 123(R), Share-Based Payment effective January 1, 2006, adoption of Financial Accounting Standards Board (FASB) Interpretation (FIN) Accounting For Uncertainty in Income Taxes on January 1, 2007, and to the substa doubt about our ability to continue as a going concern). Such consolidated financial statements have been so included in reliance upon the report of such firm given upon t authority as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We are a reporting company and file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document file with the SEC at the Public Reference Room (Room 1580), 100 F Street, N.E., Washington, D.C. 20549. You may also obtain information on the operations of the Pu Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains a websit (www.sec.gov) that contains the reports, proxy and information statements, and other information that we file electronically with the SEC.

This prospectus is part of a registration statement that we filed with the SEC. The registration statement contains more information than this prospectus regarding us and securities, including exhibits and schedules. You can obtain a copy of the registration statement from the SEC at the above address or from the SEC s Internet site.

Our internet address is www.pro-pharmaceuticals.com. We have not incorporated by reference into this prospectus the information on our website, and you should not cons it to be a part of this document. Our web address is included in this document as an ina textual reference only.

Table of Contents

INDEX TO FINANCIAL STATEMENTS

Pro-Pharmaceuticals, Inc.

(A Development Stage Company)

Table of Contents

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIR

To the Board of Directors and Stockholders of Pro-Pharmaceuticals, Inc.

Newton, Massachusetts

We have audited the accompanying consolidated balance sheets of Pro-Pharmaceutical Inc. and subsidiary (a development stage company) (the Company) as of December 2007 and 2006, and the related consolidated statements of operations, stockholders (c equity, and cash flows for each of the three years in the period ended December 31, 20 and for the period from inception (July 10, 2000) to December 31, 2007. These financi statements are the responsibility of the Company s management. Our responsibility is express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement free of material misstatement. The Company is not required to have, nor were we enga to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of express an opinion on the effectiveness of the Company s internal control over financial repor Accordingly, we express no such opinion. An audit also includes examining, on a test l evidence supporting the amounts and disclosures in the financial statements, assessing accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits prov reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2007 and 2006, an consolidated results of their operations and their cash flows for each of the three years the period ended December 31, 2007, and for the period from inception (July 10, 2000 December 31, 2007 in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 2 to the consolidated financial statements, the Company adopted Statement of Financial Accounting Standards (SFAS) No. 123(R), Share-Based Pa on January 1, 2006 based on the modified prospective application transition method an Company adopted Financial Accounting Standards Board (FASB) Interpretation (No. 48 Accounting For Uncertainty in Income Taxes on January 1, 2007.

The accompanying financial statements have been prepared assuming that the Compar will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company s recurring losses from operations and stockholders deficit substantial doubt about its ability to continue as a going concern. Management s plans concerning these matters are also discussed in Note 1 to the consolidated financial statements. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ Deloitte & Touche LLP

Boston, Massachusetts

March 28, 2008

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A Development-Stage Company)

CONSOLIDATED BALANCE SHEETS

DECEMBER 31, 2007 AND 2006

(dollars in thousands except share and per share data)

	2007	200
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$ 1,319	$
Prepaid expenses and other current assets	70	
Certificate of deposit		5
Total current assets	1,389	5
PROPERTY AND EQUIPMENT NET	73	
RESTRICTED CASH	70	
INTANGIBLE ASSETS NET	250	
TOTAL ASSETS	$ 1,782	$ 6
LIABILITIES AND STOCKHOLDERS DEFICIT		
CURRENT LIABILITIES:		
Accounts payable	$ 601	$
Accrued expenses	362	
Convertible debt instrument		5
Advances received from subscribers for Series A 12% Convertible Preferred Stock and related warrants	1,637	
Total current liabilities	2,600	5
WARRANT LIABILITIES	2,069	
OTHER LONG TERM LIABILITIES	37	
Total liabilities	$ 4,706	$ 6
COMMITMENTS AND CONTINGENCIES (Note 10)		
STOCKHOLDERS DEFICIT:		
Undesignated shares, $0.01 par value; 10,000,000 shares authorized; 5,000,000 shares designated Series A 12% Convertible Preferred Stock and 10,000,000 shares undesignated at December 31, 2007 and 2006 respectively; 1,667,500 shares of Series A 12% Convertible Preferred Stock subscribed, none issued and outstanding at December 31, 2007 and 2006		
Common stock, $0.001 par value; 100,000,000 shares authorized; 40,364,792 and 32,518,643 shares of common stock issued and outstanding at December 31, 2007 and 2006, respectively; Undesignated shares, $.01 par value; 10,000,000 shares authorized; 5,000,000 and 10,000,000 undesignated at December 31, 2007 and 2006, respectively	40	

Additional paid-in capital	32,196	25
Deficit accumulated during the development stage	(35,160)	(25
Total stockholders deficit	(2,924)	
TOTAL LIABILITIES AND STOCKHOLDERS DEFICIT	$ 1,782	$ 6

See notes to consolidated financial statements.

F-2

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A Development-Stage Company)

CONSOLIDATED STATEMENTS OF OPERATIONS

YEARS ENDED DECEMBER 31, 2007, 2006 AND 2005, AND CUMULATIV PERIOD

FROM INCEPTION (JULY 10, 2000) TO DECEMBER 31, 2007

(dollars in thousands except per share data)

	Years Ended December 31,			Cumul Period Incep (July 2000 Decemb
	2007	2006	2005	200
OPERATING EXPENSES:				
Research and development	$ 2,053	$ 3,019	$ 3,040	$ 15
General and administrative	4,402	4,029	3,615	22
Operating loss	(6,455)	(7,048)	(6,655)	(38
OTHER INCOME AND (EXPENSE):				
Interest income	102	281	111	
Interest expense	(350)	(1,850)		(4
Change in fair value of convertible debt instrument	(1,032)	(2,394)		(3
Change in fair value of warrant liabilities	(1,698)	7,818	(311)	10
Total other income (expense)	$ (2,978)	$ 3,855	$ (200)	$ 2
NET LOSS	$ (9,433)	$ (3,193)	$ (6,855)	$ (35
NET LOSS PER SHARE BASIC AND DILUTED	$ (0.24)	$ (0.11)	$ (0.25)	
WEIGHTED AVERAGE COMMON SHARES OUTSTANDING BASIC AND DILUTED	38,980,548	28,472,898	27,315,411	

See notes to consolidated financial statements.

F-3

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A Development-Stage Company)

CONSOLIDATED STATEMENTS OF STOCKHOLDERS (DEFICIT) EQU

YEARS ENDED DECEMBER 31, 2007, 2006 AND 2005, AND CUMULATIV PERIOD

FROM INCEPTION (JULY 10, 2000) TO DECEMBER 31, 2007

(dollars in thousands)

	Common Stock Number of Shares	$0.001 Par Value	Additional Paid-in Capital	Deferred Compensation	Deficit Accumulated During the Development Stage	Tot Stockh (Def Equ
Issuance of founders shares in 2000	12,354,670	$ 12	$ (3)	$	$	$
Beneficial conversion feature and rights to common stock embedded in convertible note in 2000			222			
Issuance of common stock and beneficial conversion feature related to convertible note in 2001	660,321	1	1,035			1
Issuance of common stock in connection with reverse merger of Pro-Pharmaceuticals-NV in 2001	1,221,890	1	106			
Conversion of notes payable and accrued interest to common stock in 2001	598,229	1	1,125			1
Issuance of warrants to induce conversion of notes payable in 2001			503			
Issuance of common stock and warrants (net of issuance costs of $17) in 2001	689,300	1	2,220			2
Issuance of common stock (net of issuance costs of $49) in 2002	185,999		602			
Issuance of common stock related to 2002 private placement (net of issuance costs of $212)	3,223,360	3	2,858			2
Conversion of notes payable and accrued interest to common stock	105,877		290			
Issuance of warrants to purchase common stock in consideration for placement of convertible notes payable in 2002			236			
Issuance of common stock to investors in 2002 private placement (net of issuance costs	1,088,000	1	1,069			1

of $18)						
Issuance of common stock to consultants for services related to 2002 private placement	12,250		12			
Receipt of subscription receivable			150			
Conversion of accrued expenses to common stock and options	201,704		302			
Issuance of common stock to investors in May, 2003 private placement (net of issuance costs of $128)	2,399,500	3	4,407			4
Fair value of common stock warrants issued to placement agents in May, 2003 private placement			261			
Issuance of common stock to investors in October, 2003 private placement (net of issuance costs of $559)	1,314,571	1	1,318			1
Cashless exercise of employee stock options	16,629		74			
Issuance of common stock to investors in April, 2004 private placement (net of issuance costs of $466))	1,236,111	1	1,897			1
Issuance of common stock to investors in August, 2004 private placement (net of issuance costs of $485)	2,000,000	2	488			
Common stock issued in 2006 related to convertible debenture conversions	476,202	1	1,744			1
Common stock issued in 2006 and 2007 related to convertible debenture redemptions	7,367,831	7	3,941			3
Common stock issued in 2007 related to convertible debenture waiver and exchange agreement	5,205,348	5	5,325			5
Deferred compensation relating to issuance of stock options			455	(455)		
Amortization of deferred compensation				612		
Stock compensation expense related to fair market revaluation			157	(157)		
Stock based compensation expense			1,375			1
Stock compensation related to the issuance of common shares	7,000		27			
Net loss since inception					(35,160)	(35
BALANCE, DECEMBER 31, 2007	40,364,792	$ 40	$ 32,196	$	$ (35,160)	$ (2

See notes to consolidated financial statements.

F-4

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A Development-Stage Company)

CONSOLIDATED STATEMENTS OF STOCKHOLDERS (DEFICIT) EQU

YEARS ENDED DECEMBER 31, 2007, 2006 AND 2005, AND CUMULATIV PERIOD

FROM INCEPTION (JULY 10, 2000) TO DECEMBER 31, 2007

(dollars in thousands)

	Common Stock Number of Shares	Common Stock $0.001 Par Value	Additional Paid-in Capital	Deferred Compensation	Deficit Accumulated During the Development Stage	Tot Stockh (Defi Equ
BALANCE, JANUARY 1, 2005	27,315,411	$ 27	$ 20,133	$ (1)	$ (15,679)	$ 4
Issuance of common stock options in consideration for investor relations and other services			21			
Amortization of deferred compensation				1		
Net loss					(6,855)	(6
BALANCE, DECEMBER 31, 2005	27,315,411	$ 27	$ 20,154	$	$ (22,534)	$ (2
Common stock issued related to convertible debenture conversions	476,202	1	1,744			1
Common stock issued related to convertible debenture redemptions	4,727,030	4	3,359			3
Stock based compensation expense			416			
Net loss					(3,193)	(3
BALANCE DECEMBER 31, 2006	32,518,643	$ 32	$ 25,673		$ (25,727)	$

Common stock issued related to convertible debenture redemptions	2,640,801	3	582		
Common Stock issued related to waiver and exchange agreement	5,205,348	5	5,325		5
Stock based compensation expense			616		
Net loss				(9,433)	(9
BALANCE DECEMBER 31, 2007	40,364,792	$ 40	32,196	$ (35,160)	$ (2

(Concl

See notes to consolidated financial statements.

F-5

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A Development-Stage Company)

CONSOLIDATED STATEMENTS OF CASH FLOWS

YEARS ENDED DECEMBER 31, 2007, 2006 AND 2005, AND CUMULATIV PERIOD

FROM INCEPTION (JULY 10, 2000) TO DECEMBER 31, 2007

(dollars in thousands)

	Years Ended December 31,			Cumula Period f Incepti (July 10, 2 Decembe
	2007	**2006**	**2005**	**2007**
CASH FLOWS FROM OPERATING ACTIVITIES:				
Net loss	$ (9,433)	$ (3,193)	$ (6,855)	$ (35
Adjustments to reconcile net loss to net cash used in operating activities:				
Depreciation and amortization	64	67	82	
Stock-based compensation expense	616	416	22	2
Non-cash interest expense	333	1,772		4
Change in fair value of convertible debt instrument	1,032	2,394		3
Change in fair value of warrant liabilities	1,698	(7,818)	311	(10
Write-off of intangible assets	23	11	20	
Changes in other assets and liabilities:				
Prepaid expenses and other current assets	61	97	(81)	
Accounts payable and accrued expenses	111	(528)	374	1
Changes in long term liabilities	12	25		
Net cash used in operating activities	(5,483)	(6,757)	(6,127)	(33
CASH FLOWS FROM INVESTING ACTIVITIES:				
Maturity/(Purchase) of certificate of deposit	5,000	(5,000)		
Purchases of property and equipment	(5)	(98)	(21)	
Increase in restricted cash	(11)	(59)		
Increase in patents costs and other assets	(37)	(79)	(90)	
Net cash provided by/ (used in) investing activities	4,947	(5,236)	(111)	
CASH FLOWS FROM FINANCING ACTIVITIES:				
Net proceeds from issuance of common stock and warrants				25
Net proceeds form issuance of convertible debt instrument		9,300		10
Repayment of convertible debt instrument	(555)	(1,000)		(1
Advances received from stock subscriptions for series A convertible Preferred Stock and Warrants	1,637			1

Proceeds from shareholder advances				
Net cash provided by financing activities	1,082	8,300		35
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	546	(3,693)	(6,238)	1
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD	773	4,466	10,704	
CASH AND CASH EQUIVALENTS, END OF PERIOD	$ 1,319	$ 773	$ 4,466	$ 1
SUPPLEMENTAL DISCLOSURE Cash paid for interest	$ 17	$ 78	$	$
NONCASH FINANCING ACTIVITIES				
Issuance of equity warrants in connection with equity offerings				1
Conversion of accrued expenses into common stock				
Cashless exercise of employee stock options				
Conversion and redemptions of convertible notes and accrued interest into common stock	5,915	5,108		12
Conversion of extension costs related to convertible notes into common stock				
Conversion of Prepaid Interest into common stock	(32)	(49)		
Issuance of warrants to induce conversion of notes payable				
Issuance of stock to acquire Pro-Pharmaceuticals-NV				

See notes to consolidated financial statements.

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A DEVELOPMENT-STAGE COMPANY)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(dollar amounts in thousands)

1. NATURE OF BUSINESS AND BASIS OF PRESENTATION AND SUBSEQU EVENTS

Pro-Pharmaceuticals, Inc. (the Company) is a development stage life sciences comp established in July 2000. The Company is developing technologies that are intended to reduce toxicity and improve the efficacy of chemotherapy drugs by combining the drug with proprietary carbohydrate compounds. The carbohydrate-based drug delivery compounds may also have application for drugs to treat other diseases and chronic hea conditions.

The Company is devoting substantially all of its efforts toward product research and development, and raising capital. Its first product candidate began a Phase I clinical tri end stage patients in February 2003. Patient dosing in this trial was completed in Marc 2005. This same product candidate began a concurrent Phase II clinical trial in end stag patients in January 2004. Patient dosing in this trial commenced in May of 2005 and w completed in May 2006. The Company has initiated two additional Phase II trials in ea stage patients to test the safety and efficacy of the product.

The Company incurred net losses of $35,160 for the cumulative period from inception 10, 2000) through December 31, 2007. The Company expects to incur additional losse use additional cash in its operations in the near future. Through December 31, 2007, th Company had raised $37,567 in capital through the issue and sale in private placement convertible notes, advance preferred stock subscriptions, common stock and warrants. From inception (July 10, 2000) through December 31, 2007, the Company used cash o $33,723 in its operations.

In July 2007, in order to conserve cash, employees took an approximate 50% pay redu and reduced other expenses thereby extending the Company s cash runway. In Octobe 2007, the Company commenced a private placement of units Company s Series A 12% Convertible Preferred Stock and warrants which was offered to accredited investors. A December 31, 2007, the Company held net proceeds, which represent advances for sto subscriptions, from the transaction of approximately $1,637. In 2008, the Company rai an additional $75 through this private placement. The stock subscriptions were accepte and the Private Placement was closed on February 4, 2008. This transaction is further discussed in Note 7. At December 31, 2007, the Company had $1,319 of cash and cash equivalents available to fund future operations, which when combined with the net proceeds of approximately $3,400 from its February 25, 2008 registered direct share issuance as further discussed in Note 12, management believes is sufficient cash to fun operations into October 2008. The Company is actively pursuing additional sources of financing and other strategic alternatives.

In June 2007, the Company received a notice from the American Stock Exchange that reviewing the Company s eligibility for continued listing of it s common stock. In pa the exchange noted that the Company is not in compliance with its minimum stockhold equity requirement in two of the last three years. In response to the Company s plan to achieve and sustain compliance with the listing requirements, the exchange granted the Company an extension until October 13, 2008 to regain compliance with the standards Failure to make progress consistent with the plan or to regain compliance with the continued listing standards by such date could result in the Company s stock being de from the exchange.

The Company is subject to a number of risks similar to those of other development-sta companies, including dependence on key individuals, uncertainty of product developm and generation of revenues, dependence on outside sources of capital, risks associated clinical trials of products, dependence on third-party collaborators for research operati need for regulatory approval of products, risks associated with protection of intellectua property, and competition with larger, better-capitalized companies. Successful

F-7

Table of Contents

completion of the Company s development program and, ultimately, the attainment of profitable operations is dependent upon future events, including obtaining adequate financing to fulfill its development activities and achieving a level of revenues adequat support the Company s cost structure. There are no assurances that the Company will able to obtain additional financing on favorable terms, or at all, or successfully market products.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The accompanying consolidated financial statements reflect the application of certain accounting policies, as described in this note and elsewhere in the accompanying notes financial statements.

Basis of Consolidation The consolidated financial statements include the accounts of Company and Pro-Pharmaceuticals Securities Corp., its wholly owned subsidiary, whi was incorporated in Delaware on December 23, 2003. Pro-Pharmaceuticals Securities Corp. holds the cash and cash equivalents that are not required to fund current operatin needs. All intercompany transactions have been eliminated.

Use of Estimates The preparation of financial statements in conformity with account principles generally accepted in the United States of America requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue, expenses and disclosure of contingent assets and liabilities. Management s estimates are based primarily on historical experience and on various other assumption that are believed to be reasonable under the circumstances. Actual results could differ f those estimates.

Cash and Cash Equivalents The Company considers all highly liquid investments w original maturities of 90 days or less at the time of acquisition to be cash equivalents.

Prepaid and Other Current Assets Deposits and other assets consist principally of le deposits on the Company s leased executive office space.

Property and Equipment Property and equipment, including leasehold improvements stated at cost, net of accumulated depreciation, and are depreciated using the straight-li method over the lesser of the estimated useful lives of the assets or the related lease ter

The estimated useful lives of property and equipment are as follows:

Asset Classification	**Estimated Useful Li**
Computers and office equipment	Three years
Furniture and fixtures	Five years
Leasehold improvements	Life of lease

Intangible Assets Intangible assets include patent costs, consisting primarily of relate legal fees, which are capitalized as incurred and amortized over an estimated useful lif five years from issuance. Amortization expense in 2007, 2006 and 2005 was, $20, $21 $17 respectively and accumulated amortization at December 31, 2007 and 2006 totaled and $70, respectively.

Long-Lived Assets In accordance with Statement of Financial Accounting Standards (SFAS) No. 144, Accounting for the Impairment or Disposal of Long-Lived Asset Company reviews all long-lived assets for impairment whenever events or circumstanc indicate the carrying amount of such assets may not be recoverable. Recoverability of assets to be held or used is measured by comparison of the carrying value of the asset t future undiscounted net cash flows expected to be generated by the asset. If such asset considered to be impaired, the impairment recognized is measured by the amount by w the carrying value of the asset exceeds the discounted future cash flows expected to be generated by the asset.

Table of Contents

The Company wrote off capitalized patent costs of $23, $11, and $20 in 2007, 2006, ar 2005, respectively, when it was determined that the underlying intellectual property wo have no future benefit to the Company.

Convertible Debt Instrument The Company s 7% Convertible Debt instrument issue 2006 (the Debentures) constitutes a hybrid instrument that has the characteristics of host contract containing several embedded derivative features that would require bifurcation and separate accounting as a derivative instrument pursuant to the provision SFAS No. 133, Accounting for Derivative Instruments and Hedging Activities (SI As permitted by SFAS No. 155, Accounting for Certain Hybrid Financial Instrument amendment of FASB Statements No. 133 and 140, the Company irrevocably elected initially and subsequently measure the Debentures in their entirety at fair value with changes in fair value recorded as either a gain or loss in the consolidated statement of operations under the caption Change in fair value of convertible debt instrument. Fa of the Debentures is determined using a financial valuation model that requires assump that subject to significant management judgment.

Warrants The Company has issued common stock warrants in connection with the execution of certain equity and debt financings. Certain warrants are accounted for as derivative liabilities at fair value in accordance with SFAS 133. Such warrants do not r the criteria in paragraph 11(a) of SFAS 133 that a contract should not be considered a derivative instrument if it is (1) indexed to its own stock and (2) classified in stockholc equity. Changes in fair value of derivative liabilities are recorded in the consolidated statement of operations under the caption Change in fair value of warrant liabilities. Warrants that are not considered derivative liabilities as defined in SFAS 133 are accou for at fair value at the date of issuance in additional paid-in capital. The fair value of warrants is determined using the Black-Scholes option-pricing model.

Research and Development Expenses Costs associated with research and developme expensed as incurred. Research and development expenses include, among other costs, salaries and other personnel-related costs, and costs incurred by outside laboratories ar other accredited facilities in connection with clinical trials and preclinical studies.

Income Taxes The Company accounts for income taxes in accordance with SFAS No Accounting for Income Taxes (SFAS No. 109). This statement requires an asset liability approach to accounting for income taxes based upon the future expected value the related assets and liabilities. Deferred income tax assets and liabilities are determin based on the differences between the financial reporting and tax bases of assets and liabilities and for tax loss and credit carry forwards, and are measured using the expect tax rates estimated to be in effect when such basis differences reverse. Valuation allowances are established, if necessary, to reduce the deferred tax asset to the amount will, more likely than not, be realized. In June 2006, the Financial Accounting Standar Board issued FASB Interpretation No. 48, Accounting for Uncertainty in Income Tax (FIN 48 or the Interpretation). This Interpretation clarifies the accounting for unc income taxes recognized in accordance with SFAS No. 109, Accounting for Income T This Interpretation prescribes a more-likely-than not recognition threshold that a tax position will be sustained upon examination and a measurement attribute for the financ statement recognition of a tax position taken or expected to be taken in a tax return. Th Interpretation also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition. The Company adopt the provisions of FIN 48 on January 1, 2007. As of the date of adoption, the total amou unrecognized tax benefits was $1,031 of which $880, if recognized, would affect the effective tax. As a result of the implementation of FIN 48, the Company did not recogn an adjustment to the deficit accumulated during the development stage for the unrecog tax benefits because the Company has recorded a full valuation allowance against net operating loss carry forwards. There have been no changes in unrecognized tax benefit a result of the tax positions taken during the current period (See Note 11 for further det

Comprehensive Income (Loss) Comprehensive income (loss) is defined as the chang equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. The Company does not have any items of comprehensive income (loss) other than net losses as reported.

Table of Contents

Fair Value of Financial Instruments SFAS No. 107, Disclosures About Fair Value Financial Instruments, requires disclosure of the fair value of certain financial instrum The Company s financial instruments consist of cash equivalents, accounts payable an accrued expenses. The estimated fair value of these financial instruments approximates their carrying value due to their short-term nature. Additionally, certain common stock warrants and the Convertible Debentures are recorded as liabilities at fair value as discussed in Note 6.

Concentration of Credit Risk Financial instruments that subject the Company to cred consist of cash and cash equivalents and certificates of deposit. The Company maintain cash and cash equivalents and certificates of deposit with well-capitalized financial institutions. The Company has no significant concentrations of credit risk.

Segment Information SFAS No. 131, Disclosures about Segments of an Enterprise Related Information, requires companies to report selected information about operati segments, as well as enterprise-wide disclosures about products, services, geographic a and major customers. Operating segments are determined based on the way manageme organizes its business for making operating decisions and assessing performance. The Company has concluded that it operates in one operating segment.

Stock-Based Compensation Through December 31, 2005, the Company accounted fo stock-based compensation to employees and non-employee directors under the intrinsi value method in accordance with Accounting Principles Board (APB) Opinion No. Accounting for Stock Issued to Employees, (APB No. 25) and the related interpr Under APB No. 25, no compensation expense is recognized for stock options granted a fair market value and with fixed terms. On January 1, 2006, the Company adopted SFAS 123(R), Share-Based Payment, (SFAS 123(R)) using the modified prospe method, which results in the provisions of SFAS 123(R) being applied to the consolida financial statements on a going-forward basis. Prior periods have not been restated. SF 123(R) requires companies to recognize stock-based compensation awards as compens expense on a fair value method. Under the fair value recognition provisions of SFAS 123(R), stock-based compensation cost is measured at the grant date based on the fair of the award and is recognized as expense over the service period, which generally represents the vesting period. The Company uses the Black-Scholes option-pricing mo to calculate the grant date fair value of stock options. The expense recognized over the service period is required to include an estimate of the awards that will be forfeited. Previously, the Company recorded the impact of forfeitures as they occurred. FASB St Position (FSP) No. 123(R)-3, Transition Election Related to Accounting for the Ta Effects of Share-Based Payment Awards required an entity to follow either the transi guidance for the additional-paid-in-capital pool as prescribed in SFAS No. 123(R) or t alternative transition method described in FSP No. 123(R)-3. An entity that adopted SF No. 123(R) using the modified prospective application method may make a one-time election to adopt the transition method described in the FSP No. 123(R)-3, and may ta to one year from the latter of its initial adoption of SFAS No. 123(R) or the effective d of the FSP No. 123(R)-3 to evaluate the available transition alternatives and make its one-time election. The Company adopted the alternative transition method provided in FSP No. 123(R)-3 for calculating the tax effects of stock-based compensation under SF No. 123(R). Stock-based compensation is more fully described in Note 8.

Impact of New Accounting Standards In September 2006, the FASB issued SFAS No Fair Value Measurements (SFAS No. 157). SFAS 157 clarifies the principle that value should be based on the assumptions market participants would use when pricing asset or liability and establishes a fair value hierarchy that prioritizes the information u to develop those assumptions. Under the standard, fair value measurements would be separately disclosed by level within the fair value hierarchy. In February 2008 the FAS decided that an entity need not apply this standard to nonfinancial assets and liabilities are recognized or disclosed at fair value in the financial statements on a nonrecurring b until the subsequent year. The Company will be required to adopt SFAS No. 157 in the

quarter of fiscal year 2008. The Company is currently evaluating the requirements of S
No. 157 and has not yet determined the impact, if any, on the Company s consolidated
financial statements.

Table of Contents

In February 2007, the FASB issued SFAS No. 159, The Fair Value Option for Financ
Assets and Financial Liabilities (SFAS No. 159). SFAS No. 159 provides entities
option to report selected financial assets and liabilities at fair value, with the objective
reduce both the complexity in accounting for financial instruments and the volatility in
earnings caused by measuring related assets and liabilities differently. The Company w
be required to adopt SFAS No. 159 in the first quarter of fiscal year 2008. The Compar
currently evaluating the requirements of SFAS No. 159 and has not yet determined the
impact, if any, of its adoption on its consolidated financial statements.

In June 2007, the FASB issued Emerging Issues Task Force, Accounting for
Nonrefundable Advance Payments for Goods or Services Received for Use in Future
Research and Development Activities (EITF 07-3). EITF 07-3 provides that nonre
advance payments for goods or services that will be used or renders for future research
development activities should be deferred and capitalized. The Company has historical
expensed such payments and will begin capitalizing such payments in the first quarter
2008. As of December 31, 2007 there are no such payments currently recorded as expe

3. PROPERTY AND EQUIPMENT

Property and equipment consists of the following at December 31:

	2007	2006
Leasehold improvements	$ 15	$ 119
Computer and office equipment	192	189
Furniture and fixtures	107	107
Total	314	415
Less accumulated depreciation	(241)	(303
Property and equipment net	$ 73	$ 112

4. ACCRUED EXPENSES

Accrued expenses consist of the following at December 31:

	2007	200
Legal and accounting fees	$ 14	$ 21
Scientific and clinical fees	214	19
Accrued payroll	97	8
Other	37	1
Total	$ 362	$ 51

5. RELATED PARTY TRANSACTIONS

In 2002, a stockholder and director of the Company agreed to receive compensation fo
certain 2002 scientific advisory services in the form of 25,354 shares of common stock
25,354 options at an exercise price of $2.96 to purchase common stock of the Compan
of December 31, 2002, the Company recorded the deemed fair value of such compensa
of approximately $122 as an accrued liability. The common stock was valued at $76, b
on the closing price of the publicly traded shares of common stock on the date of grant

options were valued at $46 using the Black-Scholes option-pricing model, based on a deemed fair value of the Company s common stock of $3.00 per share. The accrued li at December 31, 2002 was converted to equity in 2003 when the 25,354 shares of com stock and 25,354 options were issued to this individual. There are no other related part transactions.

F-11

Table of Contents

6. CONVERTIBLE DEBT AND WARRANT LIABILITIES

The Company has raised capital through a number of debt and equity financing transactions. The following provides a chronological description of the Company s de financings and certain warrants issued in connection with debt and equity financings.

2000 and 2001 Convertible Notes During 2001 and 2000, the Company issued $1,03 $285 of convertible notes, respectively. In August 2001, the Company offered warrant holders of its outstanding convertible notes as an inducement to convert the notes prior the maturity. Holders representing $1,126 of the outstanding principal and accrued inte chose to convert at a conversion price of $2.00 per share and received 598,229 commo shares and 562,801 warrants. The unexercised warrants expired in 2005. As described Note 7, the Company valued the warrants at $503 using the Black-Scholes option-prici model, and recorded such value as a debt conversion in 2001.

In May 2002, the Company extended the maturity date on the $195 of convertible note payable at December 31, 2001. In consideration for the extension, the holders received one-quarter of one share of the Company s common stock for each whole dollar amou principal outstanding, or 48,750 shares of common stock. The Company deferred $171 costs associated with the extension, based on the fair value of the Company s commo of $3.50 at the time of the extension. These deferred convertible notes payable costs w amortized ratably over the twelve-month extended term of the notes, or until conversio

In June 2002, $80 in convertible notes payable and $10 in related accrued interest was converted into 45,128 shares of common stock. In October 2002, the Company settled convertible notes payable of $100 through a cash payment of $86 and conversion of $1 principal into 7,000 shares of common stock pursuant to the original terms of the note. addition, $17 of related accrued interest was repaid in cash. In 2003 the remaining $15 convertible note payable was converted into common stock.

During 2002, the remaining $167 of the deferred convertible notes payable extension c was amortized to interest expense.

*October 2003, April 2004 and August 2004 PIPE Transaction*s In connection wit October 2003 PIPE transaction, as described in Note 7, the Company issued 657,293 warrants (the 2003 Investor Warrants) with an initial exercise price of $5.29 per sha the investors and 65,729 warrants (the 2003 Placement Agent Warrants) with an ini exercise price of $6.86 per share to its placement agent. The exercise price of the warra is subject to adjustment pursuant to anti-dilution and other provisions. The fair value o 2003 Investor Warrants and the 2003 Placement Agent Warrants was determined base a fair market value of the Company s common stock of $5.29 per share. The 2003 Inv Warrants and 2003 Placement Agent Warrants were valued at $2,531 and $191, respectively. The Company uses the Black-Scholes pricing model to value these warra The 2003 Investor Warrants and the 2003 Placement Agent Warrants were accounted f freestanding derivative instruments in the consolidated balance sheet under the caption Warrant Liabilities . Changes in fair value are recognized as either a gain or loss in t consolidated statement of operations under the caption Change in fair value of warra liabilities .

In connection with the April 2004 PIPE transaction, as described in Note 7, the Compa issued 618,056 warrants (the April 2004 Investor Warrants) and 61,806 warrants (th 2004 Placement Agent Warrants) with an initial exercise price of $5.30 per share to t investors and to the placement agent, respectively. The exercise price of the warrants i subject to adjustment pursuant to anti-dilution and other provisions. The fair value of t April 2004 Investor Warrants and the April 2004 Placement Agent Warrants was determined based on a fair market value of the Company s common stock of $4.41 pe share. The April 2004 Investor Warrants and April 2004 Placement Agent Warrants w valued at $1,931 and $154, respectively. The Company uses the Black-Scholes pricing model to value these warrants. The April 2004 Investor Warrants and April 2004 Place Agent Warrants were accounted for as freestanding derivative instruments in the consolidated balance sheet under the caption

Table of Contents

Warrant Liabilities . Changes in fair value are recognized as either a gain or loss in t consolidated statement of operations under the caption Change in fair value of warrar liabilities .

In connection with the August 2004 PIPE transaction, as described in Note 7, the Com issued 2,000,000 warrants (the August 2004 Investor Warrants) and 100,000 warrar August 2004 Placement Agent Warrants) with an exercise price of $4.20 per share t investors and to the placement agent, respectively. The exercise price of the warrants is subject to adjustment solely as a result of stock splits, recapitalizations and similar eve The fair value of the August 2004 Investor Warrants and the August 2004 Placement A Warrants was determined based on a fair market value of the Company s common sto $3.39 per share. The August 2004 Investor Warrants and August 2004 Placement Agen Warrants were valued at $4,786 and $239, respectively. The Company uses the Black-Scholes pricing model to value these warrants. The August 2004 Investor Warra and August 2004 Placement Agent Warrants were accounted for as freestanding deriva instruments in the consolidated balance sheet under the caption Warrant Liabilities . Changes in fair value are recognized as either a gain or loss in the consolidated statem operations under the caption Change in fair value of warrant liabilities .

February 2006 PIPE Transaction In February 2006, the Company issued $10,000 aggregate principal amount of convertible debentures (the Debentures) together wit warrants to purchase approximately 1,490,313 shares of the Company s common stoc 2006 Investor Warrants). Additionally, in connection with issuance of the Debentur Warrants, the placement agent received a fee of $550 and approximately 149,031 fully vested warrants (the 2006 Placement Agent Warrants) to purchase shares of the Cor common stock. Net proceeds were approximately $9,300, net of approximately $700 in direct transaction costs, including the placement agent fee. Redemptions and conversio the Debentures are described in the table below.

The Debentures bear interest at 7% and are required to be redeemed in eighteen equal monthly installments beginning in August 2006 and continuing through January 2008. Interest is payable monthly beginning in July 2006. Each redemption installment and accrued interest may be settled in cash or in shares of common stock at the option of th Company. The number of shares deliverable under the share-settlement option is determined based on the lower of (a) $3.35 per share, as adjusted pursuant to the terms the Debentures or (b) 90% applied to the average of the lowest five volume-weighted-average trading prices in a twenty day period immediately preceding each share settlement. If the share-settlement option is elected by the Company, the Company is required to make an estimated payment in shares approximately 30 days p to the scheduled maturity date.

On March 20, 2007, the Company entered into a Waiver and Exchange Agreement (the Agreement) with six of seven remaining holders of the Debentures, representing $3 the $4,444 outstanding principal. Pursuant to the Agreement, on March 21, 2007, the Company issued approximately 5.2 million shares of its common stock at $0.75 per sh to discharge the principal, accrued and unpaid interest and any other obligations under Debentures subject to the Agreement. The Agreement also provided that the exercise p of the common stock purchase warrants issued by the Company contemporaneously w the Debentures, would be reduced to $1.00 (and the number of shares issuable on exer proportionately increased) to take into account the dilutive effect of this transaction.

On December 14, 2007 the Company made its last scheduled payment of principal and interest of the remaining outstanding Debentures. At December 31, 2007, the Converti Debenture has been repaid in full.

The exercise price of the 2006 Investor and Placement Agent Warrants are subject to certain anti-dilution protections, including for stock splits, stock dividends, change in

control events and dilutive issuances of common stock or common stock equivalents, s
as stock options, at an effective price per share that is lower than the then conversion p
In the event of a dilutive issuance of common stock or common stock equivalents, the
exercise price would be reduced to equal the lower price per share of the subsequent
transaction together with a corresponding increase in the number of warrants.

Table of Contents

As described in Note 2, the Company has irrevocably elected to initially and subsequer measure the Debentures in their entirety at fair value with changes in fair value recogn as either a gain or loss in the consolidated statement of operations. Upon issuance of th Debentures, the Company allocated proceeds received to the Debentures and the 2006 Investor Warrants on a relative fair value basis. As a result of such allocation, the Com determined the initial carrying value of the Debentures to be $7,747. The Debentures v immediately marked to fair value, resulting in a liability in the amount of $9,126 and a charge to Change in fair value of convertible debt instrument of $1,379.

Upon issuance, the Company allocated $2,253 of the initial proceeds to the 2006 Inves Warrants and immediately marked them to fair value resulting in a derivative liability $2,654 and a charge to change in fair value of warrant liabilities of $401. The Comp paid approximately $700 in cash transaction costs and incurred another $266 in costs b upon the fair value of the 2006 Placement Agent Warrants. Such costs were expensed immediately as part of fair value adjustments required in connection with the Debentur and the Company s irrevocable election to initially and subsequently measure the Debentures at fair value with changes in fair value recognized in earnings.

The debt discount in the amount of $2,253 (resulting from the allocation of proceeds) v amortized to interest expense using the effective interest method over the expected ter the Debentures. The Company amortized $559 and $1,694 of this amount in 2007 and respectively with a corresponding increase in the carrying value of the Debentures. Of amount $257 and $1,358 was charged to interest expense and $302 and $336 was reco in additional paid-in capital as a result of redemptions and conversions during 2007 an 2006 respectively. An additional $93 and $492 in interest expense was recorded durin 2007 and 2006 respectively based upon the 7% coupon rate.

A summary of changes in the Debentures and Warrant Liabilities is as follows:

	Fair Value of Debentures	Fair Value of Warrant Liabilities	To
Balance January 1, 2004	$	$ 1,925	$ 1
April 2004 Investor Warrants, April 2004 Placement Agent Warrants, August 2004 Investor Warrants and August 2004 Placement Agent Warrants issuance		7,110	7
Fair value adjustment		(3,410)	(3
Balance December 31, 2004		5,625	5
Fair value adjustment		311	
Balance December 31, 2005		5,936	5
February 2006 PIPE Transaction allocation of initial proceeds	7,747	2,253	10
Cash transaction costs	(700)		
Conversions, at net carrying amount (1)	(1,726)		(1
Redemptions, at net carrying amount (2)	(2,936)		(2
Redemptions paid in cash	(1,000)		(1
Amortization of debt discount	1,358		1
Fair value adjustment	2,394	(7,818)	(5
Balance December 31, 2006	$ 5,137	$ 371	$ 5
Redemptions, at net carrying amount (3)	(556)		
Conversions, related to waiver and exchange agreement dated March 20, 2007 at net carrying amount (4)	(5,315)		(5

Redemptions paid in cash	(555)		
Amortization of debt discount	257		
Fair value adjustment	1,032	1,698	2
Balance December 31, 2007	$	$ 2,069	$ 2

(1) Represents conversions of principal value of $1,575, debt discount charge of $336 and a fair v adjustment credit of $487. These amounts plus $19 of accrued interest were credited to comm stock and additional paid in capital.

(2) Represents payments in common stock of principal value of $2,500 prepayment of January 1 a February 1, 2007 scheduled maturity of principal value of $500 each and a fair value adjustme credit of $436. These amounts plus $427 of accrued interest were credited to common stock a additional paid in capital.

(3) Represents payments in common stock of principal value of $481 and a fair value adjustment of $75. These amounts plus $29 of accrued interest were credited to common stock and additi paid in capital.

Table of Contents

(4) Represents payments in common stock of principal value of $3,889, debt discount charge of $
and a fair value adjustment credit of $1,728. These amounts plus $15 of accrued interest were
credited to common stock and additional paid in capital.

The following table summarizes information with regard to outstanding warrants issue
connection with equity and debt financings as of December 31, 2007. These warrants a
classified as warrant liabilities with the exception of the 2001 Placement Agent Warrar
which expire on February 1, 2012 and are classified in additional paid-in capital:

Issued in Connection With	Number Issued	Exercise Price	Exercisable Date	Expiration
2001 Placement Agents	110,000	$ 3.50	February 1, 2002	February 1,
October 2003 PIPE Transaction (1)				
2003 Investor Warrants	657,293	4.75	October 2, 2003	October 2, 2
April 2004 PIPE Transaction (2)				
April 2004 Investor Warrants	618,056	4.82	April 7, 2004	April 7, 200
August 2004 PIPE Transaction				
August 2004 Investor Warrants	2,000,000	4.20	February 13, 2005	August 12, 2
August 2004 Placement Agent Warrants	100,000	4.20	February 13, 2005	August 12, 2
February 2006 PIPE Transaction				
2006 Investor Warrants (3)	4,493,295	1.00	August 15, 2006	August 14, 2
2006 Investor Warrants (4)	149,031	3.35	August 15, 2006	August 14, 2
2006 Placement Agent Warrants	149,031	3.35	August 15, 2006	August 14, 2
Total	8,276,706			

(1) The exercise price of the warrants have been adjusted from $5.29 per share to $4.7
share due to the subsequent issuance of equity related instruments.

(2) The exercise price of the warrants have been adjusted from $5.30 per share to $4.8
share due to the subsequent issuance of equity related instruments.

(3) The exercise price of the warrants has been adjusted from $3.35 per share to $1.00
share and an additional 3,152,014 warrants were issued in connection with the Wai
and Exchange Agreement dated March 20, 2007, entered into with certain holders
the 7% Convertible Debentures.

(4) Original investor warrants not subject to the Waiver and Exchange Agreement date
March 20, 2007.

The Company used a binomial financial model to calculate the fair value of the Deben
The Company uses the Black-Scholes pricing model to calculate fair value of the 2006
Investor Warrants, 2006 Placement Agent Warrants, August 2004 Investor Warrants,
August 2004 Placement Agent Warrants, April 2004 Investor Warrants, April 2004
Placement Agent Warrants (expired unexercised in 2007) and the 2003 Investor Warra

Key assumptions used to apply these models as of December 31, 2007 and 2006 are as
follows:

Warrants

	2007	2006	Debent 200
Risk free interest rate	3.16% -3.34%	4.71% - 5.00%	5
Expected life	0.75 years -3.62 years	0.25 years - 5.08 years	1 y
Expected volatility of common share price	95%	65% - 80%	1
Common share price	$ 0.70	$ 0.45	$ 0

As noted above, the Debentures were repaid in full on December 14, 2007. During 200 Company used the same binomial financial model as in 2006 to calculate the fair value the Debentures. The last fair value calculation was performed as of September 30, 2007. The key assumptions used to apply this model on September 30, 2007 were as follows: risk free interest rate 4.12%, expected life 0.25 years, expected volatility of common share price 100% and common price per share $0.67. When the Company rep the Debentures, the difference between the fair value of the Debenture, the final cash payment and the remaining debt discount were recorded in the consolidated statement operations under the caption Change in fair value of the convertible debt instrument.

F-15

Table of Contents

7. STOCKHOLDERS (DEFICIT) EQUITY

The Company has raised capital through a number of debt and equity financing transactions. The following provides a chronological description of the Company s eq financings and certain warrants issued in connection with such equity financings.

2001 Private Placement From May 25, 2001 through December 3, 2001, the Compa sold a total of 689,300 shares of common stock for proceeds of $2,221, net of $17 of issuance costs through a private placement of securities (the 2001 Private Placement

In connection with the 2001 Private Placement, the Company issued 339,200 and 350, warrants to purchase common stock at $6.50 and $5.00 per share, respectively. The Company valued the warrants at $886, based on a deemed fair market value of the Company s common stock of $2.28 per share. These warrants expired unexercised in

As described in Note 6, in August 2001, the Company offered warrants to holders of it outstanding convertible notes as an inducement to convert prior to the maturity of the r Holders representing $1,126 of the outstanding principal and accrued interest chose to convert at a conversion price of $2.00 per share and received 598,229 common shares 562,801 warrants. These warrants have an exercise price of $6.50 per share and are immediately exercisable. The Company valued the warrants at $503 based on a deeme market value of the Company s common stock of $2.28 per share. The value of the wa has been recorded as a debt conversion expense. These warrants expired unexercised in 2005.

In 2002, the Company issued 110,000 warrants to the agents in connection with the 20 debt offering. The warrants are exercisable immediately at an exercise price of $3.50 p share and have a 10 year life. The Company valued these warrants at $236 based on a deemed fair value of the Company s common stock of $3.50 per share and recorded su value as interest expense in the statement of operations for the year ended December 3 2002.

Public Offering On December 13, 2001, the Company commenced a public offering 1,428,572 shares of common stock, at a price to the public of $3.50 per share. The Company concluded the offering on June 30, 2002. The Company sold 185,999 shares common stock in this offering for proceeds of $602, net of $49 of issuance costs, all in 2002.

2002 Private Placement In September 2002, the Company began a private placemen 2002 Private Placement) of up to 10,000,000 shares of common stock at $1.00 per s As of December 31, 2002, the Company had sold 3,223,360 shares for proceeds of $2, net of issuance costs of $212 and stock subscription receivable of $150, which related shares purchased but for which payment had not been received as of December 31, 200 This offering was closed on January 14, 2003, although subsequent to year end the Company sold an additional 1,088,000 shares for additional proceeds of $1,070, net of of offering costs.

The Company compensated a registered investment adviser with respect to shares purchased by its clients. As of December 31, 2002, the adviser was entitled to receive 173,500 shares of common stock. The Company also agreed to compensate a finder registered under applicable law, and such finder s agents, for identifying qualified inv As of December 31, 2002, one of the finder s agents was entitled to receive 750 share common stock. On January 14, 2003, the Company closed the 2002 Private Placement which point the Company agreed to issue the adviser an additional 2,500 shares, and th finder and its other agent an aggregate of 9,750 additional shares and $3 in cash in connection with the shares sold subsequent to December 31, 2002 and through the clos date.

Shares placed by such registered adviser, finder and finder s agent were accounted for
offering costs and valued at $1.00 per share, consistent with the price paid for the share
placed in the offering. Such offering costs were netted against the proceeds of the 2002
Private Placement. Since none of the 174,250 shares had been

F-16

Table of Contents

issued as of December 31, 2002, the Company recorded the obligation to issue such sh as offering costs payable. The additional 12,250 shares issued in January 2003 were al valued at $1.00 per share and included in the $18 offering costs recorded at the closing These shares were subsequently issued in 2003.

During 2002, the Company also agreed to issue 2,100 shares of common stock to an employee for finding investors in connection with the 2002 Private Placement. None o shares had been issued as of December 31, 2002. These shares were subsequently issu 2003. Accordingly, the Company recorded the obligation to general and administrative expenses in the statement of operations in the amount of $6. On January 14, 2003, the Company closed the 2002 Private Placement, at which point the Company agreed to is such employee an additional 7,000 shares in connection with shares sold subsequent to December 31, 2002 and through the closing date. The Company recorded an additiona obligation of $27 to general and administrative expenses in 2003 representing the fair of the additional 7,000 shares.

2002 Related Party Transaction As discussed in Note 5, the Company agreed to issu 25,354 shares of common stock as payment for 2002 scientific advisory services. Thes shares were subsequently issued in 2003.

May 2003 Private Placement In May 2003, the Company began a private placement to 2.5 million shares of common stock at $2.00 per share. As of the closing on July 15, 2003, the Company had sold 2,399,500 shares of common stock for proceeds of $4,67 of issuance costs of $128. In connection with this offering the Company issued 109,61 common stock warrants (exercisable at $5.40 per share) to its placement agents.

The Company valued the warrants at $261 using the Black-Scholes pricing model and recorded the warrant value as offering costs with a corresponding increase to additiona paid-in capital. These warrants expired unexercised in 2006.

October 2003 PIPE Transaction On October 2, 2003 the Company closed a priva offering, structured as a Private Investment, Public Equity (PIPE), exempt from reg under Section 4(2) of the Securities Act of 1933, in which it sold to institutional invest 1,314,571 of the 1,428,571 offered shares of common stock at $3.50 per share for proc of $4,041, net of issuance costs of $559. In connection with this offering, the Company issued warrants (defined in Note 6 as the 2003 Investor Warrants and the 2003 Placem Agent Warrants). The Company allocated proceeds from this offering in the amounts o $2,531 and $191 representing the fair value of the 2003 Investor Warrants and the 200 Placement Agent Warrants, respectively. See Note 6 for additional description of these warrants which are recorded as derivative liabilities.

April 2004 PIPE Transaction On April 7, 2004, the Company closed a private eq offering, structured as a PIPE in which it sold to certain institutional investors 1,236 shares of common stock at $3.60 per share for proceeds of approximately $3,983, net o cash issuance costs of approximately $466. In connection with this offering, the Comp issued warrants (defined in Note 6 as the April 2004 Investor Warrants and the April 2 Placement Agent Warrants). The Company allocated proceeds from this offering in the amounts $1,931, and $154 representing the fair value of the April 2004 Investor Warra and the April 2004 Placement Agent Warrants, respectively. See Note 6 for additional description of these warrants which are recorded as derivative liabilities. The placeme agent warrants expired unexercised in 2007.

August 2004 PIPE Transaction On August 12, 2004, the Company closed a priva offering, structured as a PIPE in which it sold to certain institutional investors 2,000, shares of common stock at $3.00 per share for proceeds of approximately $5,515, net o cash issuance costs of approximately $485. In connection with this offering the Compa issued warrants (defined in Note 6 as the August 2004 Investor Warrants and the Augu

2004 Placement Agent Warrants). The Company allocates proceeds from this offering
the amounts of $4,786 and $239 representing the fair value of the August 2004 Investo
Warrants and the August 2004 Placement Agent Warrants, respectively. See Note 6 fo
additional description of these warrants, which are recorded as derivative liabilities.

Table of Contents

In 2004, the stockholders approved an increase in the number of undesignated share the Company is authorized to issue by 5,000,000 such that the total number of authoriz undesignated shares following the effectiveness of such increase is 10,000,000 at December 31, 2006.

2008 Private Placement. On February 4, 2008, the Company closed a private placem begun in October 2007 of its Series A 12% Convertible Preferred Stock (the Series A Preferred) and related warrants to accredited investors (the 2008 Private Placement 2008 Private Placement, the Company offered to sell, for $1.00 per unit, a unit compris of (i) one share of Series A 12% Convertible Preferred Stock, (ii) a warrant to purchase share of common stock for $1.50, and (iii) a warrant to purchase one share of common stock for $2.00. The Series A Preferred accrues interest at 12% per annum payable at t Company s option in cash or shares of common stock valued per share at the higher o $1.00 or 100% of the value weighted average price of the Company s share price for t consecutive trading days prior to the applicable dividend payment date. Each share of Series A Preferred is entitled to one vote on matters presented to stockholders for actio and is convertible at any time by the holder to one share of common stock, subject to adjustment in the event of a stock dividend, stock split or combination, reclassification similar event. The Company has the right to require conversion if the closing price of t Common Stock exceeds $3.00 for 15 consecutive trading days and a registration statem covering the resale of the shares of common stock issuable upon conversion of the Ser Preferred is then in effect. Each warrant is exercisable at the option of the holder solely cash beginning August 13, 2008 and expires on February 4, 2012. The exercise price o each warrant is adjustable in the event of a stock split or stock combination, capital reorganization, merger or similar event.

As of December 31, 2007, the Company had received subscription advances of $1,637 of transaction expenses of $31. In 2008, the Company received additional subscription proceeds of $75. The subscriptions for the securities offered in the 2008 Private Placem were accepted by the Company and the 2008 Private Placement was closed on Februar 2008. As of December 31, 2007, the Company had not accepted the subscriptions or is securities to investors whose subscription advances had been received prior to year end. The advanced proceeds received in 2007 from subscribers are recorded on the consolidated balance sheet as "Advances received from subscribers for Series A 12% Convertible Preferred Stock and related warrants.

8. STOCK BASED COMPENSATION

Summary of Stock-Based Compensation Plans In October 2001, the Company s Bo Directors adopted the Pro-Pharmaceuticals, Inc. 2001 Stock Incentive Plan (the Incen Plan), which permits awards of incentive and nonqualified stock options and other fo incentive compensation to employees and non-employees such as directors and consul The Board has 5,000,000 shares of common stock for issuance upon exercise of grants made under the Incentive Plan. Options granted under the Incentive Plan vest either immediately or over a period of up to three years, and expire 3 years to 10 years from t grant date. At December 31, 2007, 1,907,000 shares were available for future grant un the Incentive Plan.

In 2003, the stockholders approved the Pro-Pharmaceuticals, Inc. 2003 Non-Employee Director Stock Option Plan (the Director Plan), which permits awards of stock optio non-employee directors. The stockholders reserved 1,000,000 shares of common stock issuance upon exercise of grants made under the Director Plan. At December 31, 2007 829,750 shares were available for future grant under the Director Plan.

In addition, the Company has awarded 464,604 non-plan stock option grants to non-employees. The non-plan grants have vesting periods and expiration dates similar those options granted under the Incentive Plan. All 464,604 non-plan grants are outstan at December 31, 2007.

Change in Accounting for Stock-Based Compensation As disclosed in Note 2, on January 1, 2006, the Company adopted SFAS No. 123(R). Due to the adoption of SFA No. 123(R), the Company s results for the years ended December 31, 2007 and December 31, 2006 include incremental compensation related to stock options totaling $616 and $416 respectively.

Table of Contents

Stock-based compensation expense for both employees and non-employees totaled $61 $416 and $22 in 2007, 2006 and 2005 respectively. Members of the Board of Directors receive stock options for each Board and Committee meeting attended. The options are typically granted in the year following service. The Company expenses the value of sto options as earned. In 2007 and 2006, Board members earned approximately 67,000 and 42,000 stock options respectively.

Prior to January 1, 2006, the Company accounted for stock-based compensation plans accordance with the provisions of APB Opinion No. 25, as permitted by SFAS No. 12 Under APB Opinion No. 25, the Company was not required to recognize compensation expense for the cost of stock options, when such options had an exercise price equal to market price at the date of grant. If the employee fair value based method as prescribed SFAS No. 123 had been applied by the Company, the effect on net loss and loss per sh for 2005 and net loss for the cumulative period from inception to December 31, 2007 would have been as follows:

	2005
Net loss	$ (6,85
Deduct stock-based compensation determined under the fair-value method	(287
Net loss pro forma	$ (7,142
Basic and diluted loss per share:	
As reported	$ (0.25
Pro forma	$ (0.26

The fair value of the equity instruments granted to employees and non-employees, including options and, is determined using the Black-Scholes option-pricing model. Ke assumptions used to apply this option-pricing model are as follows:

	2007	2006	2005	Cumul Period Incep (July 10, Decemb 200
Risk-free interest rate	3.41% 4.45%	4.75%	3.48%	
Expected life of the options	5 years	5 years	3 years	3.7
Expected volatility of the underlying stock	95%	65%	75%	
Expected dividend rate	None	None	None	

As noted above, the fair value of stock options is determined by using the Black-Schol option pricing model. In general employee options vest over a period of three years. Bo of Director and other options vest upon grant. For all options granted since January 1, the Company has used five years as the option term which represents the estimated life options granted. Prior to January 1, 2006 the Company used three years as the option t

The volatility of the common stock is estimated using a combination of historical and implied volatility, as discussed in SEC Staff Accounting Bulletin No. 107. By using th combination, the Company is taking into consideration the historical realized volatility well as factoring in estimates of future volatility that the Company believes will differ historical volatility as a result of the market performance of the common stock, the vol of activity of the underlying shares, the availability of actively traded common stock options, and overall market conditions.

The risk-free interest rate used in the Black-Scholes option pricing model is determine
reference to historical U.S. Treasury zero-coupon bond issues with terms equal to the expected terms of the equity awards. In addition, an expected dividend yield of zero is in the option valuation model, because the Company does not expect to pay any cash dividends in the foreseeable future. Lastly, in accordance with SFAS No. 123(R), the Company is required to estimate forfeitures at the time of grant and revise those estima in subsequent periods if

Table of Contents

actual forfeitures differ from those estimates. In order to determine an estimated pre-vesting option forfeiture rate, the Company used historical forfeiture data. This estimated forfeiture rate has been applied to all unvested options outstanding as of January 1, 2006 and to all options granted since January 1, 2006. Therefore, stock-base compensation expense is recorded only for those options that are expected to vest. At December 31, 2007, the Company does not anticipate any awards will be forfeited in th calculation of compensation expense due to the limited number of employees that rece stock option grants and the Company s historical employee turnover.

The following table summarizes the stock option activity in the stock based compensat plans from January 1, 2005 through December 31, 2007:

	Shares	Exercise Price Per Share		Weighted Aver Exercise Price	
Outstanding, January 1, 2005	2,403,354	$ 1.90	5.80	$	3.6
Granted	272,000	2.61	5.16		3.3
Outstanding, December 31, 2005	2,675,354	$ 1.90	5.80	$	3.5
Granted	399,000	3.75			3.7
Forfeited	(15,000)	3.75			3.7
Outstanding, December 31, 2006	3,059,354	$ 1.90	5.80	$	3.6
Granted	1,048,500	0.63	1.01		0.9
Forfeited	(430,000)	1.01	5.80		2.8
Outstanding, December 31, 2007	3,677,854	$ 0.63	4.05	$	2.9

The following tables summarize information about stock options outstanding at December 31, 2007:

		Options Outstanding			Options Exercisabl	
Exercise Price		Number of Shares	Weighted Average Remaining Contractual Life (Years)	Weighted Average Exercise Price	Number of Shares	Weight Avera Exerci Price
$0.63	$0.70	225,000	4.97	$ 0.69	205,000	$ 0.7
$1.01	$2.70	955,500	4.69	$ 1.32	385,500	$ 1.7
$2.92	$4.05	2,497,354	4.63	$ 3.75	2,302,356	$ 3.7
		3,677,854	4.66	$ 2.93	2,892,856	$ 3.2

The weighted-average grant-date fair values of options granted during 2007, 2006 and were $0.70, $2.20 and $1.41, respectively. As of December 31, 2007 there were 784,99 unvested options which will vest as follows: 296,671 in 2008, 291,663 in 2009 and 196 in 2010. Total expected unrecognized compensation cost related to such unvested optio $570, which is expected to be recognized over a weighted average period of 1.0 years December 31, 2007, the aggregate intrinsic value of outstanding options is $18 based o Company s closing common stock price of $0.70 as of December 31, 2007. The aggre intrinsic value of outstanding fully vested options and exercisable options is $4, based the Company s closing common stock price of $0.70 as of December 31, 2007.

No options were exercised during the years ended December 31, 2007, 2006 and 2005. cash has been received from the exercise of employee stock options during the cumula period from inception to December 31, 2007. The intrinsic value of options exercised f the cumulative period from inception was $74 resulting from the cashless exercise of options in October 2003.

During the years ended December 31, 2007, 2006, 2005 and the cumulative period fro inception to December 31, 2007, 485,169, 160,667, 193,667 and 2,892,856 stock optio net of forfeitures vested respectively. The total fair value of options vested during the y ended December 31, 2007, 2006, 2005 and the cumulative period from inception to December 31, 2007 was $491, $241, $250 and $5,568, respectively.

Table of Contents

Other Stock Based Compensation Transactions During 2001, the Company entered i consulting agreement with a non-employee, who was also a Board member and forme member of the Audit Committee, pursuant to which the Company granted 200,000 opt to purchase common stock at an exercise price of $3.50 in consideration for services to performed. At the time of issuance, these options were valued at $239 based on a deem fair market value of the Company s common stock of $2.28 per share. A portion of th options vested during fiscal years 2001 and 2002, and the remainder vested in 2003. Th Company recorded fair value adjustments of $28 and $16 related to the unvested consu options during 2003 and 2002, respectively. Total expense for the years ended December 31, 2003, 2002 and 2001 related to these options was $71, $64 and $147, respectively.

In March 2002, the Company entered into a second agreement with the same non-employee, by which the Company granted 2,000 options a month to purchase com stock at an exercise price of $3.50 in consideration for monthly consulting services. On November 11, 2002 such agreement was superseded by an amendment, which was effective retroactively to the date of the original agreement, March 1, 2002. Under the amended agreement, the Company granted 24,000 options on March 1, 2002, which ve a rate of 2,000 options per month, as services are performed. These options were value $11 using the Black-Scholes option-pricing model, based on a grant date fair value of t Company s common stock of $2.16 per share. During 2002, the Company recorded a charge to stock compensation expense related to the 20,000 options that vested during year. As of December 31, 2002, the Company had deferred compensation of $11 that related to the remaining unvested options, which was recognized in 2003.

In June 2003, the Company entered into a third agreement with the same non-employe which the Company granted 24,000 options effective retroactively to March 1, 2003, w vest at a rate of 2,000 options per month as services are performed. These options were valued at $33 using the Black-Scholes option-pricing model, based on a fair market va of the Company s common stock of $3.50 per share. The consulting arrangement was concluded on March 1, 2004. The Company recorded fair value adjustments of ($2) an $21 related to the unvested consultant options during 2004 and 2003, respectively. Tot expense for the years ended December 31, 2004 and 2003 related to these options was and $40, respectively.

In January 2003, the Company granted 100,000 options at an exercise price of $3.50 to Board member for consulting services unrelated to services performed as a director. One-third of the options vested immediately and the balance vests in equal amounts on first and second anniversaries of the award. The options were valued at $156 using the Black-Scholes option-pricing model, based on a fair market value of the Company s common stock of $2.80 per share. The consulting services were completed and the consulting arrangement was concluded as of March 31, 2004. The Company recorded value adjustments of $4 and $82 related to the unvested consultant options during 2004 2003, respectively. Total expense for the years ended December 31, 2004 and 2003 rel to these options was $51 and $193, respectively.

In May 2003, the Company granted 10,000 options at an exercise price of $3.50 to a no member of the Scientific Advisory Board. One-half of the options vested immediately the balance vests on the second anniversary. These options were valued at $16 using th Black-Scholes option-pricing model based on a fair market value of the Company s common stock of $2.80 per share. The Company recorded fair value adjustments of $2 $6 related to the unvested consultant options during 2004 and 2003, respectively. Total expense for the years ended December 31, 2004 and 2003 related to these options was and $13, respectively.

In September 2003, the Company granted 25,000 options each to a Board member and member of the Scientific Advisory Board for consulting services. The options were exercisable immediately at $4.05 per share. These options were valued using the Black-Scholes option-pricing model based on a grant date fair value of the Company's common stock of $2.44 per share. The Company recorded a $122 charge to stock compensation expense in 2003 related to these awards.

Table of Contents

In October 2003, in connection with the resignation of its former Chief Financial Offic
the Company accelerated the vesting on 100,000 options granted to such officer in September 2003 at an exercise price of $4.05, which was equal to the fair market value
the common stock on the date of grant. As the fair market value of the common stock
$4.45 per share at the time the vesting was accelerated, the Company recorded a $40 c
to stock compensation expense as required under APB No. 25 and related interpretatio
Also, in October 2003, such officer exercised on a cashless basis 50,000 options at an exercise price of $2.97 per share resulting in the issuance of 16,629 shares. As the fair market value of the Company s common stock on the date of exercise was $4.45 per s
the Company recorded a charge of $74 to stock compensation expense in 2003 related
the exercise of these options.

In March 2004, the Company issued 25,000 options in fulfillment of a September 200
agreement with an investor relations firm. The agreement obligated the Company to pa
monthly retainer and issue options at a rate of 5,000 options per month, up to a maxim
of 100,000 options, exercisable at $5.80 per share as services are performed. The Com
concluded the engagement in February 2004. The options were exercisable immediate
and expired on March 26, 2007. Accordingly, the Company recorded $29 as stock compensation expense in 2003 on the 15,000 options that vested as of December 31, 2
and an additional stock compensation expense of $23 in 2004 on the 10,000 options th
vested in January and February 2004. The stock compensation expense was determine
based on a fair market value of the options when the options were earned. These optio
expired unexercised in 2007.

In April 2004, the Company entered into an agreement with an investor relations firm.
agreement obligated the Company to pay a monthly retainer and issue options at a rate
5,000 per month up to a maximum of 60,000 options exercisable at $5.16 per share as services are performed. During 2004, 45,000 options were earned but not issued. Duri
2005 15,000 options were earned and the full 60,000 options were issued. The Compa
recorded $67 in 2004 and $14 in 2005 as stock compensation expense related to this agreement. The stock compensation expense was determined based on the fair market
of the options when the options were earned. The options were exercisable immediate
and expired three years from the agreement date. These options expired unexercised i
2007.

In November 2005, the Company issued 5,000 options to a member of the Scientific Advisory Board for consulting services. The options were exercisable immediately at
per share. These options were valued using the Black-Scholes option-pricing model ba
on a grant date fair value of the Company s common stock of $1.35 per share which
fair market value at the date of the grant. The Company recorded a $7 charge to stock compensation expense in 2005 related to this award.

In March 2006 the Company issued 15,000 options to a consultant for consulting servi
5,000 of the options were exercisable immediately, 5,000 options vest in March 2008
5,000 options vest in March 2009. The options are exercisable at $3.75 per share. Thes
options were valued using the Black-Scholes option-pricing model based on a grant da
fair value of the Company s common stock of $2.20 per share which was the fair mar
value at the date of the grant. The Company is recording a $33 charge to stock compensation expense over the vesting period of the options.

In December 2007, the Company issued 5,000 options to a consultant for consulting services. The options were exercisable immediately at $0.63 per share. These options
valued using the Black-Scholes option-pricing model based on a grant date fair value
Company s common stock of $0.46 per share which was the fair market value at the d
the grant. The Company recorded a $2 charge to stock compensation expense in 2007 related to this award.

Table of Contents

9. EARNINGS PER SHARE

Basic loss per share is based on the weighted-average number of common shares outstanding during each period. Diluted loss per share is based on basic shares as determined above plus the incremental shares that would be issued upon the assumed exercise of in-the-money stock options and warrants using the treasury stock method a convertible debenture using the if-converted method. The computation of diluted net lo per share does not assume the issuance of common shares that have an anti-dilutive eff on net loss per share. For the years ended December 31, 2007, 2006 and 2005, all stock options and warrants were excluded from the computation of diluted net income (loss) share. For the year ended December 31, 2006 all potential shares related to conversion the convertible debentures were excluded from the computation of diluted net income per share as the effect would be anti-dilutive. During the year ended December 31, 200 potential shares related to the conversion of the convertible debenture were excluded fr the computation of diluted net income (loss) per share since to include them would be anti-dilutive and as of December 31, 2007 the convertible debenture has been repaid in Dilutive shares which could exist pursuant to the exercise of outstanding stock options warrants at December 31, 2007, 2006 and 2005 totaled approximately 11,954,561, 8,245,853, and 6,397,851 respectively. These amounts were not included in the calcula because their affect would have been anti-dilutive.

	2007	2006	2005
Net Loss-basic and diluted	$ (9,433)	$ (3,193)	$ (6,85

	2007	2006	2005
Weighted average common shares outstanding-basic and diluted	38,980,548	28,472,898	27,315,41
Net Loss Per Share-basic and diluted	$ (0.24)	$ (0.11)	$ (0.2

10. COMMITMENTS AND CONTINGENCIES

Lease Commitments The Company leases its facility under a non-cancelable operatin lease that expires in August 2011. In connection with the operating lease, the Company issued a letter of credit which is secured by restricted cash on deposit with the bank as security deposit of approximately $59. Prior to this lease, the Company leased its facili under a non-cancelable operating lease that expired in May of 2006. Rent expense und these operating leases was $259, $170, and $111 for the years ended December 2007, 2 2005 and the cumulative period from inception (July 10, 2000) to December 31, 2007, respectively.

Future minimum payments under this lease as of December 31, 2007 are approximatel follows:

Year ended December 31,	
2008	$ 289
2009	267
2010	276
2011	167
2012	

Total lease payments	$ 999

Contingency In January 2004, David Platt, Ph.D., the Company s Chairman and Ch Executive Officer, filed a lawsuit in Massachusetts Superior Court against GlycoGenes Inc. for various claims including breach of contract. GlycoGenesys asserted countercla against us and Dr. Platt alleging tortious interference, misappropriation of proprietary rights, defamation and unfair competition, and seeks monetary damages and injunctive relief related to our intellectual property. The Company and Dr. Platt have denied any liability for the counterclaims. Prospect Therapeutics, Inc. (formerly known as Marlborough Research and Development, Inc.)

purchased certain assets including this lawsuit from the GlycoGenesys bankruptcy esta and continues prosecuting the counterclaims against the Company and Dr. Platt. The Company filed a motion for summary judgment relative to the counterclaims on November 8, 2007. Limited discovery may still be taken. The Company believes these claims are without merit and intends to contest them vigorously. Additionally, the Company believes that any impact on the financial statements is neither probable or reasonably estimable and therefore no amounts have been recorded as of December 31 2007.

The Company s Board of directors authorized the indemnification of Platt for the exp of his defense of the counterclaims. In 2007 the Company incurred no expenses in connection with this defense. Through December 31, 2007 the Company has incurred cumulative expenses of approximately $438 in connection with this defense.

In January 2005, the Company filed a request with the U.S. Patent and Trademark Offi for an inter partes re-examination of U.S. Patent No. 6,680,306 owned by GlycoGenes Inc. because the Company believes that the invention claimed in this patent is anticipat by other inventions (technically, prior art), including the Company s U.S. Patent No. 6,645,946 for DAVANAT®. The Patent Office agreed with the Company s argum that all claims stated in the 306 patent are anticipated by prior art. The matter is now the Patent Office for a final decision. The Company believes that the actions of the Pat Office support the Company s belief that the invention claimed in the Company s DAVANAT® patent is prior art relative to the GlycoGenesys patent. Additionally, the Company believes that any impact on the financial statements is neither probable nor reasonably estimable and therefore no amounts have been recorded as of December 31 2007.

On January 30, 2008, Custom Equity Research, Incorporated (d/b/a Summer Street Research Partners) (Summer Street) filed a lawsuit against the Company in the Sup Court of the Commonwealth of Massachusetts, alleging claims for breach of contract, declaratory judgment and unjust enrichment arising out of an engagement letter under which Summer Street agreed to provide institutional investment placement services to Company. Summer Street claims it is entitled to a placement fee for each placement m during the term of the agreement and for each issuance of securities made or agreed to made by the Company from October 17, 2007 through November 16, 2008. On February 20, 2008, the Company filed a Motion to Dismiss. The Company believes th lawsuit is without merit and intend to contest it vigorously. Additionally, the Company believes that any impact on the financial statements is neither probable or reasonably estimable and therefore no amounts have been recorded as of December 31, 2007.

In the ordinary course of business, the Company may from time to time be involved in other legal matters that in the Company s estimation will not have a material adverse i on it. The Company records accruals for such contingencies to the extent that the Com concludes that their occurrence is probable and the related damages are estimable.

11. INCOME TAXES

The Company adopted the provisions of FIN 48 on January 1, 2007. As a result of the implementation of FIN 48, the Company recognized approximately a $1,031 increase i liability for unrecognized tax benefits, which was accounted for as a reduction to the January 1, 2007, related deferred tax asset and the corresponding valuation allowance.

Table of Contents

The components of the net deferred tax assets are as follows at December 31:

	2007	2006
Operating loss carryforwards	14,187	$ 11,901
Tax credit carryforwards	82	1,035
Other temporary differences	19	(85
	14,288	12,851
Less valuation allowance	(14,288)	(12,851
Net deferred tax asset	$	$

The primary factors affecting the Company s income tax rates were as follows:

	2007	2006	2005
Tax benefit at U.S. statutory rates	(34.0)%	(34.0)%	(34.0)%
State tax benefit	(6.2)%	(10.9)%	(6.2)%
Permanent differences	12.1%	(38.8)%	.2%
Research and development credits	(0.8)%	(12.2)%	(2.3)%
Valuation allowance	28.9%	95.9%	42.3%
	0%	0%	0%

As of December 31, 2007, the Company has federal and state net operating loss carryforwards totaling $36,012 and $30,993, respectively, which expire through 2027. addition, the Company has federal and state research and development credits of $49 a $29 and investment tax credits of approximately $4, which expire through 2027. Chang in the Company s ownership, as defined by Section 382 of the Internal Revenue Code limit the amount of carryforwards which may be realized in future periods. Because of Company s limited operating history and its recorded losses, management has provide each of the last two years, a 100% allowance against the Company s net deferred tax a

The following is a tabular reconciliation of the total amounts of unrecognized tax bene for the year:

Beginning Uncertain Tax Benefits	$ 1,03
Current Year Increase	5
Current Year Decrease	Nor
Current Year Interest/Penalties	Nor
Settlements	Nor
Expire Statutes	Nor
Ending Uncertain Tax Benefits	$ 1,08

Included in the balance of unrecognized tax benefits at December 31, 2007, are $1,082 tax benefits $890 of which, would affect the effective tax rate. We have not recognized adjustment to the deficit accumulated during the development stage for unrecognized t benefits because we have recorded a full valuation allowance against net operating loss carry forwards.

Since the Company s net deferred tax assets and the unrecognized tax benefits determ under FIN 48 would not result in a cash payment, the Company has not accrued for an interest and penalties relating to these unrecognized tax benefits. Should the Company incur interest and penalties related to income taxes, those amounts would be included i income tax expense.

Total amounts of unrecognized tax benefits are not expected to significantly increase o decrease within 12 months of the reporting date.

Table of Contents

The Company is subject to taxation in the U.S. and various states. Based on the history net operating losses all jurisdictions and tax years are open for examination until the operating losses are utilized or the statute of limitations expires.

12. SUBSEQUENT EVENTS

On January 29, 2008 the Company filed registration statement on Form S-3 with the Securities and Exchange Commission (SEC), under which the Company may offer of its common stock, preferred stock, common stock, warrants and units in one or more offerings with a total value of up to $10 million. Unless otherwise stated in a prospectu supplement, net proceeds of securities issued and sold may include working capital, ca expenditures, research and development expenditures and other matters stated in the prospectus contained in the registration statement. The staff of the SEC declared the registration statement effective on February 5, 2008. On February 15, 2008, the Compa filed a prospectus supplement (the Prospectus Supplement) in which it offered (i) an aggregate of 7,500,000 shares of common stock at $0.50 per share, (ii) warrants , with term of five years, to purchase an aggregate of 7,500,000 share of its common stock at exercise price of $0.70 per share, and (iii) warrants, with a term of four months, to purc an aggregate of 3,000,000 share of its common stock at an exercise price of $0.67 per share. The warrants are exercisable 181 days after the transaction closes. On February 2008, the Company closed the transaction set forth in the Prospectus Supplement and received net proceeds of approximately $3.4 million after transaction costs.

13. SELECTED QUARTERLY FINANCIAL DATA (UNAUDITED)

Summarized quarterly financial data for the last two years as originally reported are as follows:

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
2007				
Total operating expenses	$ 1,924	$ 1,772	$ 1,368	$ 1,391
Total other income (expense)	(3,650)	1,808	(1,218)	82
Net income (loss)	(5,574)	36	(2,586)	(1,309
Net income (loss) per share:				
Basic	(0.16)	(0.00)	(0.06)	(0.02
Diluted	(0.16)	(0.00)	(0.06)	(0.02

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
2006				
Total operating expenses	$ 1,724	$ 2,099	$ 1,929	$ 1,296
Total other income (expense)	(6,602)	2,329	7,600	528
Net income (loss)	(8,326)	230	5,671	(768
Net income (loss) per share:				
Basic	(0.30)	0.01	0.20	(0.03
Diluted	(0.30)	(0.03)	0.18	(0.03

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A Development-Stage Company)

CONDENSED CONSOLIDATED BALANCE SHEETS (UNAUDITED)

(dollars in thousands except share and per share data)

		September 30, 2008		Decembe 2007
ASSETS				
CURRENT ASSETS:				
Cash and cash equivalents	$	816	$	1
Prepaid expenses and other current assets		79		
Total current assets	$	895	$	1
PROPERTY AND EQUIPMENT NET		48		
RESTRICTED CASH		62		
INTANGIBLE ASSETS NET		228		
TOTAL ASSETS	$	1,233	$	1
LIABILITIES AND STOCKHOLDERS DEFICIT				
CURRENT LIABILITIES:				
Accounts payable	$	160	$	
Accrued expenses		244		
Accrued dividends payable		104		
Advances received from subscribers for Series A 12% Convertible Preferred Stock and related warrants				1
Advances received for equity consideration		200		
Total current liabilities	$	708	$	2
WARRANT LIABILITIES		868		2
OTHER LONG TERM LIABILITIES		40		
Total liabilities	$	1,616	$	4
CONTINGENCIES (Note 7)				
STOCKHOLDERS DEFICIT:				
Undesignated shares, $0.01 par value; 10,000,000 shares authorized; 5,000,000 shares designated Series A 12% Convertible Preferred Stock and 5,000,000 shares undesignated at September 30, 2008 and December 31, 2007	$		$	
Series A 12% Convertible Preferred Stock; 5,000,000 shares designated, 1,742,500 issued and outstanding at September 30, 2008 and 1,667,500 shares subscribed, none issued and outstanding at December 31, 2007		704		
Common stock, $0.001 par value; 200,000,000 shares authorized, 47,947,609 and 40,364,792 issued and outstanding at September 30, 2008 and December 31, 2007 respectively;		48		

Additional paid-in capital	36,547	32
Deficit accumulated during the development stage	(37,682)	(35
Total stockholders deficit	$ (383)	$ (2
TOTAL LIABILITIES AND STOCKHOLDERS DEFICIT	$ 1,233	$ 1

See notes to unaudited condensed consolidated financial statements.

F-27

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A Development-Stage Company)

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (UNAUDITED)

(dollars in thousands except share and per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,		Cum fro
	2008	**2007**	**2008**	**2007**	**Septe**
OPERATING EXPENSES:					
Research and development	$ 338	$ 332	$ 1,504	$ 1,668	
General and administrative	601	1,036	2,721	3,396	
Total operating loss	$ (939)	$ (1,368)	$ (4,225)	$ (5,064)	
OTHER INCOME AND EXPENSE					
Interest income	5	11	27	91	
Interest expense		(18)		(343)	
Change in fair value of convertible debt instrument		5		(1,091)	
Change in fair value of warrant liabilities	1,148	(1,216)	1,863	(1,717)	
Total other income (expense)	$ 1,153	$ (1,218)	$ 1,890	$ (3,060)	
NET INCOME (LOSS)	$ 214	$ (2,586)	$ (2,335)	$ (8,124)	
SERIES A 12% CONVERTIBLE PREFERRED STOCK DIVIDEND	52		187	$	
NET INCOME (LOSS) APPLICABLE TO COMMON STOCK	$ 162	$	$ (2,522)	$	
NET INCOME (LOSS) PER SHARE BASIC	$ 0.00	$ (0.06)	$ (0.05)	$ (0.21)	
WEIGHTED AVERAGE COMMON SHARES OUTSTANDING BASIC	47,947,609	40,364,792	46,402,947	38,519,133	
NET INCOME (LOSS) PER SHARE DILUTED	$ 0.00	$ (0.06)	$ (0.05)	$ (0.21)	
WEIGHTED AVERAGE COMMON SHARES OUTSTANDING DILUTED	47,947,609	40,364,792	46,402,947	38,519,133	

See notes to unaudited condensed consolidated financial statements.

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A Development-Stage Company)

CONDENSED CONSOLIDATED STATEMENT OF STOCKHOLDERS DEF

NINE MONTHS ENDED SEPTEMBER 30, 2008 (UNAUDITED)

(dollars in thousands except share data)

	Common Stock		Preferred Stock			Deficit Accumulated During the	
	Number of Shares	Amount	Number of Shares	Amount	Additional Paid in Capital	Development Stage	To Stockh Def
BALANCE, JANUARY 1, 2008	40,364,792	$ 40		$	$ 32,196	$ (35,160)	$ (2
Net loss						(2,335)	(2
Series A 12% Convertible Preferred Dividend						(187)	(
Series A 12% Convertible Preferred Stock issued in a February 4, 2008 private placement (net of cash issuance costs of $52)			1,742,500	704			
Common stock issued in a February 25, 2008 offering (net of cash issuance costs of $369)	7,500,000	8			1,036		1
Issuance of common stock in payment of Series A 12% Convertible Preferred Dividend	82,817				83		
Issuance of Common Stock Warrants					20		
Reclassification of Warrant Liabilities					2,662		2
Stock-based compensation expense					550		
BALANCE, SEPTEMBER 30,	47,947,609	$ 48	1,742,500	$ 704	$ 836,547	$ (37,682)	$ (

2008

See notes to unaudited condensed consolidated financial statements.

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A Development-Stage Company)

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)

(dollars in thousands)

	Nine Months Ended September 30, 2008	2007	Cumula Period fr Incepti (July 10, 2 to Septemb 2008
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net loss	$ (2,335)	$ (8,124)	$ (37
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	39	49	
Stock-based compensation expense	550	479	2
Non-cash interest expense		328	4
Change in fair value of convertible debt instrument		1,091	3
Change in fair value of warrant liabilities	(1,863)	1,717	(11
Write off of intangible assets	11		
Changes in operating assets and liabilities:			
Prepaid expenses and other current assets	(9)	51	
Accounts payable and accrued expenses	(559)	184	
Other long term liabilities	3	11	
Net cash used in operating activities	$ (4,163)	$ (4,214)	$ (37
CASH FLOWS FROM INVESTING ACTIVITIES:			
Maturity of certificate of deposit	$	$ 5,000	$
Purchases of property and equipment	(2)	(2)	
Change in restricted cash	8	(11)	
Increase in patents costs and other assets		(74)	
Net cash provided by (used in) investing activities	$ 6	$ 4,913	$
CASH FLOWS FROM FINANCING ACTIVITIES:			
Net proceeds from issuance of common stock and warrants	$ 3,381	$	$ 28
Net proceeds from issuance of Series A 12% Convertible Preferred Stock and related warrants	53		1
Net proceeds from issuance of convertible debt instruments			10
Repayment of convertible debt instruments		(334)	(1
Proceeds from issuance of common stock warrants	20		
Proceeds from shareholder advances	200		
Net cash provided by (used in) financing activities	$ 3,654	$ (334)	$ 39
NET INCREASE IN CASH AND CASH EQUIVALENTS	(503)	365	
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD	1,319	773	

CASH AND CASH EQUIVALENTS, END OF PERIOD	$ 816	$ 1,138	$
SUPPLEMENTAL DISCLOSURE Cash paid for interest	$	$ 15	$
NONCASH FINANCING ACTIVITIES:			
Issuance of equity warrants in connection with equity offerings			$ 1
Conversion of accrued expenses into common stock			$
Cashless exercise of employee stock options			$
Conversion and redemptions of convertible notes and accrued interest into common stock		$ 5,915	$ 12
Conversion of extension costs related to convertible notes into common stock			$
Conversion of prepaid interest into common stock		$ (32)	
Payment of 12% Convertible Preferred dividend in common stock	$ 83		$
Dividends payable on preferred stock	$ 104		$
Issuance of warrants to induce conversion of notes payable			$
Issuance of stock to acquire Pro-Pharmaceuticals-NV			$

See notes to unaudited condensed consolidated financial statements.

F-30

Table of Contents

PRO-PHARMACEUTICALS, INC.

(A DEVELOPMENT-STAGE COMPANY)

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. BASIS OF PRESENTATION

The unaudited condensed consolidated financial statements as reported in this Quarterl Report on Form 10-Q reflect all adjustments which are, in the opinion of management, necessary to present fairly the financial position of Pro-Pharmaceuticals, Inc. (the Company) as of September 30, 2008 and the results of its operations for the three ar months ended September 30, 2008 and September 30, 2007 and the cumulative period inception (July 10, 2000) through September 30, 2008, the statement of stockholders for the nine months ended September 30, 2008 and its cash flows for the nine months ended September 30, 2008 and September 30, 2007 and for the cumulative period fron inception (July 10, 2000) to September 30, 2008. All adjustments made to the interim financial statements include all those of a normal and recurring nature. The results for interim periods are not necessarily indicative of results which may be expected for any other interim period or for the full year.

The unaudited condensed consolidated financial statements of the Company should be in conjunction with its Annual Report on Form 10-K for the year ended December 31, 2007.

The financial statements of the Company have been prepared assuming that the Compa will continue as a going concern. As shown in the unaudited condensed consolidated financial statements, the Company incurred net losses of approximately $37.5 million the cumulative period from inception (July 10, 2000) through September 30, 2008. Th Company s net losses have resulted principally from costs associated with (i) research development expenses, including clinical trial costs, (ii) general and administrative activities and (iii) the Company s financing transactions including interest and the cos related to fair value accounting for the Company s convertible debt instrument and wa liabilities. As a result of planned expenditures for future research, discovery, developm and commercialization activities and potential legal cost to protect its intellectual prope the Company expects to incur additional losses and use additional cash in its operation the foreseeable future. From inception (July 10, 2000) through September 30, 2008, th Company has raised approximately $41.2 million in capital through sale and issuance c common stock, common stock purchase warrants, and debt securities in public and pri offerings. From inception (July 10, 2000) through September 30, 2008, the Company h used approximately $37.9 million of cash in its operations. At September 30, 2008, the Company had approximately $816,000 of cash and cash equivalents to fund future operations. The Company believes there is sufficient cash only to fund operations only December 2008. If the Company is unsuccessful in raising additional capital before the of December 2008, the Company may be required to cease operations or seek bankrup protection. In light of the Company s current financial position and the uncertainty of raising sufficient capital to achieve its business plan, there is substantial doubt about th Company s ability to continue as a going concern. The accompanying financial statem do not include any adjustments that might result if such circumstances arise.

The Company is subject to a number of risks similar to those of other development-sta companies, including dependence on key individuals, uncertainty of product developm and generation of revenues, dependence on outside sources of capital, risks associated clinical trials of products, dependence on third-party collaborators for research operati dependence on third-party manufacturing, dependence on third-party sales and marketi need for regulatory approval of products, successful protection of intellectual property.

competition with larger, better-capitalized companies. Successful completion of the Company s development program and, ultimately, the attainment of profitable operati dependent upon future events, including obtaining adequate financing to fulfill its development activities and achieving a level of revenues adequate to support the Comp cost structure. There are no assurances, however, that the Company will be able to obta additional financing on favorable terms, or at all, or successfully market its products.

Table of Contents

Impact of New Accounting Standards In September 2006, the Financial Accounting Standards Board (FASB), issued SFAS No. 157, Fair Value Measurements (SF No. 157). SFAS No. 157 clarifies the principle that fair value should be based on the assumptions market participants would use when pricing an asset or liability and establishes a fair value hierarchy that prioritizes the information used to develop those assumptions. Under the standard, fair value measurements are separately disclosed by within the fair value hierarchy. In February 2008, the FASB decided that an entity nee apply this standard to nonfinancial assets and liabilities that are recognized or disclose fair value in the financial statements on a nonrecurring basis until the subsequent year. Company adopted SFAS No. 157 in the first quarter of fiscal year 2008. See Note 4. W believe there is sufficient cash to fund operations only into December 2008.

In February 2007, the FASB issued SFAS No. 159, The Fair Value Option for Financ Assets and Financial Liabilities (SFAS No. 159). SFAS No. 159 provides entities option to report selected financial assets and liabilities at fair value, with the objective reduce both the complexity in accounting for financial instruments and the volatility in earnings caused by measuring related assets and liabilities differently. The Company adopted SFAS No. 159 in the first quarter of fiscal year 2008. SFAS No. 159 had no in on the Company s financial statements as the Company did not elect the option to valu selected assets or liabilities at fair value.

In June 2007, the FASB issued Emerging Issues Task Force 07-3, Accounting for Nonrefundable Advance Payments for Goods or Services Received for Use in Future Research and Development Activities (EITF 07-3). EITF 07-3 provides that nonre advance payments for goods or services that will be used or renders for future research development activities should be deferred and capitalized. The Company adopted EITI 07-3 in the first quarter of fiscal year 2008. This standard had no material effect on the Company.

2. STOCK-BASED COMPENSATION

The Company accounts for stock-based compensation in accordance with SFAS No. 123(R), Share-Based Payment (SFAS No. 123(R)), which was adopted Janu 2006. The Company has two stock-based compensation plans where the Company s common stock has been made available for option grants as part of the Company s compensation programs (the Plans). These Plans are described in more detail in the Form 10-K.

The fair value of the options granted is determined using the Black-Scholes option-pric model. Key assumptions used to apply this option-pricing model are as follows:

	Nine Months Ended September 30, 2008	Nine Months Ended September 30, 2007	Cumulative Period from Inception (July 10, 2000) to September 30, 2008
Risk-free interest rate	2.65%	4.45%	3.04
Expected life of the options	5 years	5 years	3.99 years
Expected volatility of the underlying stock	95%	95%	92
Expected dividend rate	None	None	None
Expected forfeiture rate	None	None	None

Stock-based compensation expense for both employees and non-employees totaled approximately $148,000 and $159,000 for the three months ended September 30, 2008 2007. For the nine months ended September 30, 2008 and 2007, stock-based compensa expense was approximately $550,000 and $479,000, respectively.

F-32

Table of Contents

Members of the Board of Directors receive stock options for each Board and Committe
meeting attended. The options are typically granted in the year following service. The Company expenses the value of stock options as earned. In the three and nine month periods ended September 30, 2008 Board members earned approximately 11,000 and 34,000 stock options respectively.

The following table summarizes the stock option activity in the equity incentive plans January 1, 2008 through September 30, 2008:

	Shares	Exercise Price Per Share	Weighted Average Exercise Pr
Outstanding, January 1, 2008	3,677,854	$ 0.63-4.05	$ 2.9
Granted	1,130,000	0.38-0.44	0.4
Options expired	(100,354)	2.96-4.05	3.6
Outstanding, September 30, 2008	4,707,500	$ 0.38-4.05	$ 2.3

The following tables summarize information about stock options outstanding at September 30, 2008:

Exercise Price		Options Outstanding Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Options Exercisable Number of Shares	Weighted Average Exercise Price	Weig Aver Rema Contra Life (Y
$0.38	$0.70	1,355,000	$ 0.48	4.31	1,123,000	$ 0.48	
$1.01	$2.70	955,500	1.32	3.94	575,503	1.52	
$2.92	$4.05	2,397,000	3.75	4.05	2,302,003	3.75	
		4,707,500	$ 2.32	4.10	4,000,506	$ 2.52	

During the three month periods ended September 30, 2008 and September 30, 2007 no options were granted. During the nine month periods ended September 30, 2008 and 20 respectively, 1,130,000 options and 823,500 options were granted. The weighted aver grant date fair value for options granted during the nine month period ended Septembe 2008 and 2007 was $0.32 and $0.74, respectively. The total fair value of options veste during the three month period ended September 30, 2008 was approximately $58,000. options vested during the three month period ended September 30, 2007. The total fair value of options vested during the nine month periods ended September 30, 2008 and 2 was approximately $656,000 and $403,000, respectively. During the three month perio ended September 30, 2008 and 2007, 50,000 and no options expired, respectively. Dur the nine month period ended September 30, 2008 and 2007, 100,354 and 85,000 option expired, respectively. During the three and nine month periods ended September 30, 20 no options were cancelled. During the three and nine month periods ended September 2007, no and 45,000 options were cancelled.

As of September 30, 2008, there were 706,994 unvested options which will vest as foll 186,667 in 2008, 307,663 in 2009, and 212,664 in 2010. Total expected unrecognized compensation cost related to such unvested options is approximately $357,000 which i expected to be recognized over a weighted average period of 0.63 years. As of

September 30, 2008, there was no intrinsic value of outstanding options based on the Company s closing common stock price of $0.20 at September 30, 2008. As of September 30, 2008, there was no intrinsic value of outstanding fully vested options ar exercisable options based on the Company s closing common stock price of $0.20 at September 30, 2008.

No cash was received from employees as a result of employee stock option exercises during the three and nine month periods ended September 30, 2008 and 2007 and durin the cumulative period from inception (July 10, 2000) to September 30, 2008. No optio were exercised during the three and nine month periods ended

Table of Contents

September 30, 2008 and 2007 and the intrinsic value of options exercised for the cumulative period from inception was approximately $74,000 resulting from the cashl exercise of options in October 2003.

3. ACCRUED EXPENSES

Accrued expenses consist of the following:

	September 30, 2008 (000)	December 2007 (000)
Legal and accounting fees	$ 70	$ 1
Scientific and clinical fees	71	21
Accrued payroll and vacation	82	9
Other	21	3
Total	$ 244	$ 36

F-34

Table of Contents

4. COMMON STOCK WARRANTS

The following table summarizes information with regard to outstanding warrants issue
connection with equity and debt financings and as compensation as of September 30, 2
The 2001 Placement Agents, February 4, 2008 Transaction and February 25, 2008
Transaction, Cork Investments and Investor Relations Group Warrants are classified as
equity. The October 2003, April 2004, August 2004 and February 2006 Transaction
Warrants do not meet the requirements of equity classification and are classified as
liabilities:

Issued in Connection With	Number Issued	Exercise Price	Exercisable Date	Expiration D
October 2003 Transaction (1)				
Investor Warrants	657,293	$ 3.19	October 2, 2003	October 2, 200
April 2004 Transaction (2)				
Investor Warrants	618,056	$ 3.23	April 7, 2004	April 7, 2009
August 2004 Transaction				
Investor Warrants	2,000,000	$ 4.20	February 13, 2005	August 12, 200
Placement Agent Warrants	100,000	$ 4.20	February 13, 2005	August 12, 200
February 2006 Transaction				
Investor Warrants (3)	9,985,097	$ 0.50	August 15, 2006	August 14, 201
Placement Agent Warrants (4)	998,508	$ 0.50	August 15, 2006	August 14, 201
2001 Placement Agents	110,000	$ 3.50	February 1, 2002	February 1, 20
February 4, 2008 Transaction				
$1.50 Investor Warrants	1,742,500	$ 1.50	August 3, 2008	February 4, 20
$2.00 Investor Warrants	1,742,500	$ 2.00	August 3, 2008	February 4, 20
$1.50 Placement Agent Warrants	8,400	$ 1.50	August 3, 2008	February 4, 20
February 25, 2008 Transaction				
$0.70 Investor Warrants	7,500,000	$ 0.70	August 25, 2008	August 25, 201
$0.63 Investor Warrants	3,000,000	$ 0.63	August 25, 2008	December 26,
$0.70 Placement Agent Warrants	206,250	$ 0.70	August 25, 2008	August 25, 201
Investor Relations Group	39,000	$ 0.50	September 30, 2008	September 30,
Cork Investments	300,000	$ 1.00	July 2, 2008	July 2, 2011
Total	29,007,604			

(1) The exercise price of the warrants has been adjusted from $5.29 per share to $3.19
share due to the subsequent issuance of equity related instruments.

(2) The exercise price of the warrants has been adjusted from $5.30 per share to $3.23
share due to the subsequent issuance of equity related instruments.

(3) The exercise price of the warrants has been adjusted from $3.35 per share to $0.50
share and an additional 8,494,784 shares of the Company s common stock are issu
upon exercise of the warrants due to subsequent issuance of equity related instrume

(4)

The exercise price of the warrants has been adjusted from $3.35 per share to $0.50
share and an additional 849,477 shares of the Company s common stock are issual
upon exercise of the warrants due to subsequent issuance of equity related instrume

*October 2003, April 2004, August 2004 Transaction*s In connection with the Octobe
2003, April 2004 and August 2004 PIPE transactions, the Company issued common st
purchase warrants. The warrants were accounted for as freestanding derivative instrum
in the consolidated balance sheet under the caption Warrant Liabilities . Changes in
value are recognized as either a gain or loss in the consolidated statement of operation
under the caption Gain/loss on change in fair value of warrant liabilities .

February 2006 Transaction In February 2006, the Company issued $10 million in
aggregate principal amount of convertible debentures (Debentures) together with w
to investors and the placement agent to purchase approximately 1,490,313 and 149,03
shares respectively, of the Company s common stock.

Table of Contents

The warrants are accounted for as freestanding derivative instruments in the consolidat
balance sheet under the caption Warrant Liabilities . Changes in fair value are recog
either a gain or loss in the consolidated statement of operations under the caption Gai
on change in fair value of warrant liabilities .

The exercise price of the investor and placement agent warrants are each subject to cer
anti-dilution protections, including for stock splits, stock dividends, change in control
events and dilutive issuances of common stock or common stock equivalents, such as s
options, at an effective price per share that is lower than the then exercise price. In the
event of a dilutive issuance of common stock or common stock equivalents, the exercis
price is reduced to equal the lower price per share of the subsequent transaction.

In March 2007, under a Waiver and Exchange Agreement with six of the seven remain
holders of the Debentures, the exercise price of the investor warrants was reduced to $
per share, which, in accordance with the anti-dilution provisions of the warrants would
result in an additional 3,152,014 shares of the Company s common stock becoming is
upon exercise of the investor warrants. Pursuant to the same agreement, approximately
million of the then remaining $4.4 million of outstanding Debentures was discharged i
exchange for shares of the Company s common stock. In connection with the Februar
finance transactions, as a result of the anti-dilution provisions of the warrant instrumen
the exercise price of the investor and placement agent warrants was reduced to $0.50 a
an additional 5,342,770 and 849,477 shares of the Company s common stock are issu
respectively, upon exercise of the investor and placement agent warrants. The Warrant
Agreement contains a provision that limits the number of shares that can be issued to
holders of the warrant.

February 4, 2008 Transaction On February 4, 2008, the Company closed a private
placement in which it sold units of securities comprised of 1,742,500 shares of Series
12% Convertible Preferred Stock together with warrants to purchase 1,742,500 shares
common stock exercisable at $1.50 and warrants to purchase 1,742,500 shares of com
stock exercisable at $2.00. In addition the Company issued to placement agents warran
purchase 8,400 shares of common stock at $1.50. The warrants were accounted for as
freestanding derivative instruments in the consolidated balance sheet formerly under th
caption Warrant Liabilities . These warrants were originally classified as a liability b
the February 2006 warrants contain an anti-dilution provision in the event of a subsequ
dilutive issuance and the potential number of shares issuable exceeded the Company s
authorized shares. Changes in fair value were recognized as either a gain or loss in the
consolidated statement of operations under the caption Gain/loss on change in fair va
warrant liabilities . In the second quarter of 2008, the warrants were reclassified to eq
a result of an amendment to the Company s articles of incorporation approved at the
May 21, 2008 annual meeting of shareholders increasing the Company s authorized
common stock from 100,000,000 to 200,000,000 shares (the Charter Amendment).
Charter Amendment authorization of the additional shares coupled with a provision in
February 2006 warrants limiting the number of shares that can be issued to holders of t
February 2006 warrants, ensures that sufficient shares are available for issuance upon
exercise of these warrants, thereby enabling them to be reclassified from a liability to
equity. Through May 21, 2008, these warrants were marked to market resulting in a
reduction in warrant liabilities in the balance sheet and an offsetting credit to change in
value of warrant liabilities in the statement of operations in the amount of approximate
$100,000. The remaining fair value of approximately $502,000 was credited to additio
paid-in capital in the balance sheet.

February 25, 2008 Transaction On February 25, 2008, the Company sold to investor
7,500,000 shares of its common stock, 7,500,000 warrants to purchase shares of comm
stock exercisable at $0.70, and 3,000,000 warrants to purchase shares of common stoc
exercisable at $0.63. In addition, the Company issued to a placement agent 206,250
warrants to purchase shares of common stock at $0.70. The warrants were accounted f
freestanding derivative instruments in the consolidated balance sheet under the caption

Warrant Liabilities . These warrants were originally classified as a liability because t
February 2006 warrants contain an anti-dilution provision in the event of a subsequent
dilutive issuance and the potential number of shares issuable exceeded the Company s
authorized shares prior to the Charter Amendment. Changes in fair value were recogni
as either a gain or loss in the consolidated statement of operations under the caption
Gain/loss on

F-36

Table of Contents

change in fair value of warrant liabilities . In the second quarter of 2008 the warrants reclassified to equity as a result of the Charter Amendment. The Charter Amendment authorization of the additional shares coupled with a provision in the February 2006 warrants limiting the number of shares that can be issued to holders of the February 20 warrants ensures that sufficient shares are available for issuance upon exercise of these warrants, thereby enabling them to be reclassified from a liability to equity. Through May 21, 2008, these warrants were marked to market resulting in a reduction in warran liabilities in the balance sheet and an offsetting credit to change in fair value of warran liabilities in the statement of operations in the amount of approximately $356,000. The remaining fair value of approximately $2,160,000 was credited to additional paid-in ca in the balance sheet.

Investor Relations Group In May 2008 the Company entered into an agreement with Investor Relations Group (IRG) for IRG to provide investor relations services to the Company in exchange for cash and warrants on a monthly basis. On September 30, 20 the Company terminated the agreement under the provisions of the agreement. During effective contract period IRG earned 39,000 warrants valued at approximately $3,000. expense associated with these warrants was calculated using the Black-Scholes option-pricing model and charged to stock compensation expense. Assumptions used t value these warrants are included in the table provided below. The warrants are exercis at $0.50 per share for a period of three years.

Cork Investments On July 2, 2008 the Company issued 300,000 warrants to Howard Crosby in exchange for $20,000. The warrants are exercisable for common stock at $1 per share for a period of three years. The $20,000 was credited to additional paid in ca

Effective January 1, 2008, the Company adopted SFAS No. 157. SFAS No. 157 establ a new framework for measuring fair value and requires fair value to be determined bas on the exchange price that would be received for an asset or paid to transfer a liability exit price) in the principal or most advantageous market for the asset and or liability in orderly transaction between market participants. SFAS No. 157 establishes market or observable inputs as the preferred source of values, followed by assumptions based on hypothetical transactions in the absence of market inputs. The valuation techniques and disclosures required by SFAS No. 157 are determined by the following hierarchy:

Level 1 Quoted prices for identical instruments in active markets.

Level 2 Quoted prices for similar instruments in active markets; quoted prices for id or similar instruments in markets that are not active; and model derived valuations who inputs are observable or whose significant value drivers are observable.

Level 3 Significant inputs to the valuation model are unobservable.

The Company uses the Black-Scholes pricing model to calculate fair value of its warra liabilities.

Key assumptions used to apply these models as of September 30, 2008 and December 2007 are as follows:

	Warrants	
	September 30, 2008	December 31, 2007
Risk free interest rate	1.02-2.24%	3.16% - 3.34
Expected life	0.01years 2.87years	0.75 years 3.62 year

Expected volatility of common share price		95%		95%
Common share price	$	0.20	$	0.70

Table of Contents

Below is a summary of our fair value measurements at September 30, 2008:

Description	Value at 9/30/2008 (000)	Quoted Prices in Active Markets for Identical Assets (Level 1) (000)	Significant Other Observable Inputs (Level 2) (000)	Significa Unobserva Inputs (Lev (000)
Warrant Liabilities	$ 868	$	$ 868	$
Totals	$ 868		$ 868	

	Fair Value o Warrant Liabilities (000)
Balance December 31, 2007	$ 2,06
Fair value assigned to February 4, 2008 transaction warrants upon issuance	98
Fair value assigned to February 25, 2008 transaction warrants upon issuance	2,33
Change in fair value of warrant liabilities	58
Balance March 31, 2008	$ 5,97
Change in fair value of warrant liabilities reclassified to Stockholders Deficit at May 21, 2008.	(45
Reclassification of warrant liabilities to Stockholders Deficit	(2,66
Change in fair value of warrant liabilities	(84
Balance June 30, 2008	$ 2,01
Change in fair value of warrant liabilities	(1,14
Balance September 30, 2008	86

5. STOCKHOLDERS (DEFICIT)

February 4, 2008 Private Placement. On February 4, 2008, the Company closed a pr placement begun in October 2007 of its Series A 12% Convertible Preferred Stock (S A Preferred) and related warrants. In this transaction, the Company sold units of secu at $1.00 per unit, each unit comprised of (i) one share of Series A Preferred, (ii) a warr to purchase one share of common stock for $1.50, and (iii) a warrant to purchase one s of common stock for $2.00. Each share of the Series A Preferred is entitled to dividend the rate of 12% per annum payable at the Company s option in cash or shares of comm stock valued at the higher of $1.00 per share or 100% of the value weighted average pr of the Company s share price for the 20 consecutive trading days prior to the applicab dividend payment date. Dividends are payable semi-annually on March 30 and September 30. The dividend paid on the initial dividend payment date is calculated fro the date the Company deposited each subscription advance.

The shares of Series A Preferred are entitled to vote as a class with the Company s co stock and each share of Series A Preferred is convertible at any time to one share of common stock, subject to adjustment in the event of a stock dividend, stock split or combination, reclassification or similar event. The Company has the right to require conversion if the closing price of the common stock exceeds $3.00 for 15 consecutive trading days and a registration statement covering the resale of the shares of common s issuable upon conversion of the Series A Preferred is then in effect. Each warrant is exercisable solely for cash beginning August 3, 2008 and expires on February 4, 2012. exercise price of each warrant is adjustable in the event of a stock split or stock combination, capital reorganization, merger or similar event.

As of December 31, 2007, the Company had received subscription advances of approximately $1,667,500 for the units of securities described above. In 2008, the Company received additional subscription advances of approximately $75,000 resultin total gross proceeds of approximately $1,742,500. On February 4, 2008 the

F-38

Table of Contents

Company closed the private placement. The Company incurred approximately $52,000 cash transaction costs resulting in net cash proceeds of approximately $1,690,500. In addition, the Company incurred approximately $2,000 of costs for warrants issued to placement agents. Proceeds of approximately $984,000 were allocated to investor warr using the Black-Scholes method with the following assumptions as of February 4, 200 risk free interest rate 2.51%, volatility 95%, fair market value of the company s comm stock on February 4, 2008, and the share price on the closing date of the transaction of $0.59.

The warrants were determined to have the characteristics of derivative liabilities in accordance with SFAS No. 133, Accounting for Derivative Financial Instruments Inc to and Potentially Settled in a Company s Own Stock and were originally accounted liabilities.

In the second quarter of 2008, these warrants liabilities were marked to market as a consequence of the Charter Amendment increasing the Company s authorized shares common stock, resulting in a change in fair value of warrant liabilities gain in the Statement of Operations of approximately $100,000 and reclassified to Stockholders Equity. Please see Footnote 4. Common Stock Warrants for further explanation.

February 25, 2008 Offering On February 25, 2008, the Company closed an offering which it sold to investors (i) an aggregate of 7,500,000 shares of the Company s comm stock at $0.50 per share, (ii) warrants , which expire on August 25, 2013, to purchase a aggregate of 7,500,000 share of the Company s common stock at an exercise price of per share, and (iii) warrants, which expire on December 26, 2008, to purchase an aggre of 3,000,000 shares of the Company s common stock at an exercise price of $0.67 per In addition, the Company issued to a placement agent warrants, which expire on Augu 2013, to purchase 206,250 shares of the Company s common stock at an exercise pric $0.70. The warrants are exercisable beginning on August 25, 2008. The warrants provi for cashless exercise if at any time during the term of the warrants if there is no effecti registration statement for the issuance or resale of the underlying warrant shares. The exercise price of each warrant is adjustable in the event of a stock split or stock combination, capital reorganization, merger or similar event.

The Company received net proceeds of approximately $3,381,000 net of cash transacti costs of approximately $369,000. In addition the Company incurred approximately $5 of costs for warrants issued to a placement agent. Proceeds of approximately $2,281,0 were allocated to investor warrants using the Black-Scholes method with the following assumptions as of February 25, 2008.

	5 Year Warrants Exercisable at $0.70	4 Month Warran Exercisable at $0.
Risk Free Interest Rate	2.94%	2.13
Volatility	95%	95
Fair market value of the Company s common stock	$ 0.40	$ 0.40

The warrants were determined to have the characteristics of derivative liabilities in accordance with SFAS No. 133, Accounting for Derivative Financial Instruments Inc to and Potentially Settled in a Company s Own Stock and were originally accounted liabilities.

In the second quarter of 2008, these warrants liabilities were marked to market as a consequence of the Charter Amendment increasing the Company s authorized shares common stock, resulting in a change in fair value of warrant liabilities gain in the Statement of Operations of approximately $356,000 and reclassified to Stockholders

Equity. Please see Footnote 4. Common Stock Warrants for further explanation.

On July 2, 2008 the Company issued 300,000 warrants to Cork Investments in exchang
$20,000. The warrants are exercisable for common stock at $1.00 per share for a perio
three years. The $20,000 was credited to Additional paid in capital.

Table of Contents

6. EARNINGS PER SHARE

Basic income or loss per share is based on the weighted-average number of common sl outstanding during each period. Diluted loss per share is based on basic shares as determined above plus the incremental shares that would be issued upon the assumed exercise of in-the-money stock options and warrants using the treasury stock method a assumed conversion of convertible preferred stock using the if converted method. The computation of diluted net income or loss per share does not assume the issuance of common shares that have an anti-dilutive effect on net income or loss per share. For th three and nine month periods ended September 30, 2008 and September 30, 2007, all s options, warrants and potential shares related to conversion of the convertible debentu were excluded from the computation of diluted net income or loss per share as their ef is anti-dilutive. Dilutive shares which could exist pursuant to the exercise of outstandi stock options and warrants and conversion of preferred stock at September 30, 2008, a 2007, totaled 35,457,604 and 12,029,561 respectively.

	Three Months Ended September 30, 2008	Three Months Ended September 30, 2007	Nine Months Ended September 30, 2008	Nine Months Ended September 30, 2007
Net Income (loss) applicable to common stock-basic and diluted	$ 162,000	$ (2,586,000)	$ (2,522,000)	$ (8,124
Weighted average common shares outstanding-basic and diluted	47,947,609	40,364,792	46,402,947	38,519
Net Income (loss) per Share-basic and diluted	$ 0.00	$ (0.06)	$ (0.05)	$ (

7. INCOME TAXES

As of December 31, 2007, the total amount of unrecognized tax benefits was approxim $1,082,000. Of this amount, approximately $890,000 would impact the effective tax ra prior to the adjustment for the Company s valuation allowance. The Company has not recognized an adjustment to the deficit accumulated during the development stage for unrecognized tax benefits because the Company has recorded a full valuation allowanc against net operating loss carryforwards.

The Company is subject to U.S. Federal income tax as well as income tax of certain sta jurisdictions. The tax years ranging from 2000 through 2007 remain open to examinati by various taxing jurisdictions as the statute of limitations has not expired.

The Company recognizes accrued interest and penalties related to unrecognized tax benefits in income tax expense. Since the Company s net deferred tax assets and the unrecognized tax benefits determined under FASB Interpretation No. 48, Accounting Uncertainty in Income taxes (FIN 48), would not result in a tax liability, the Comp not accrued for any interest and penalties relating to these unrecognized tax benefits.

8. CONTINGENCIES

In January 2004, David Platt, Ph.D., the Company s Chairman and Chief Executive O filed a lawsuit in Massachusetts Superior Court against GlycoGenesys, Inc. for various claims including breach of contract. GlycoGenesys asserted counterclaims against the Company and Dr. Platt alleging tortious interference, misappropriation of proprietary rights, defamation and unfair competition, and sought monetary damages and injunctiv relief related to the Company s intellectual property. Prospect Therapeutics, Inc. (form known as Marlborough Research and Development, Inc.) purchased certain assets including this lawsuit from the GlycoGenesys bankruptcy estate and continues prosecu the counterclaims against the Company and Dr. Platt. Concluding that certain disputes fact could not be resolved as a matter of law, the Court on May 27, 2008 denied the Company s motion for summary judgment. Prospect Therapeutics informed the Court does not seek monetary damages other than recovery of attorney fees. The lawsuit is expected to proceed to trial in March 2009. The Company and Dr. Platt believe the counterclaims are without merit and intend to contest them vigorously. Additionally, th Company believes that any impact on the financial statements is neither probable nor reasonably estimable and therefore no amounts have been recorded as of September 30 2008.

Table of Contents

The Company s Board of directors authorized the indemnification of Dr. Platt for the expenses of his defense of the counterclaims. In the nine months ended September 30, 2008, Company incurred no expenses in connection with this defense. Through September 30, 2008 the Company has incurred cumulative expenses of approximately $438,000 in connection with this defense.

In January 2005, the Company filed a request with the U.S. Patent and Trademark Offi for an inter partes re-examination of U.S. Patent No. 6,680,306 (306) now owned by Prospect Therapeutics, Inc. because the Company believes that the invention claimed i this patent is anticipated by other inventions (technically, prior art), including the Company s U.S. Patent No. 6,645,946 for DAVANAT. The Patent Office has agreed the Company s argument throughout the re-examination that all claims stated in the patent are anticipated by prior art. The Company believes that the actions of the Patent Office support the Company s position that the invention claimed in the DAVANAT patent is prior art relative to the 306 patent.

On January 30, 2008, Custom Equity Research, Incorporated (d/b/a Summer Street Research Partners) (Summer Street) filed a lawsuit against the Company in the Sup Court of the Commonwealth of Massachusetts, alleging claims for breach of contract, declaratory judgment and unjust enrichment arising out of an engagement letter under which Summer Street agreed to provide institutional investment placement services to Company. Summer Street claims it is entitled to a placement fee for each placement m during the term of the agreement and for each issuance of securities made or agreed to made by the Company from October 17, 2007 through November 16, 2008. The Comp initially responded to the lawsuit with a motion to dismiss, which the Court denied on June 23, 2008, finding that the letter agreement was ambiguous with respect to Summe Street s entitlement to compensation. The Court also denied Summer Street s motion prejudgment attachment and trustee process, preliminarily finding that Summer Street not likely to prevail on any of its claims. On July 3, 2008, the Company filed its answe denying Summer Street s material allegations. No trial date has been set for this matte Company believes the lawsuit is without merit and intends to contest it vigorously. Additionally, the Company believes that any impact on the financial statements is neit probable nor reasonably estimable and therefore no amounts have been recorded as of September 30, 2008.

In the ordinary course of business, the Company may from time to time be involved in other legal matters that in the Company s estimation will not have a material adverse i on it. The Company records accruals for such contingencies to the extent that the Com concludes that their occurrence is probable and the related damages are estimable.

9. SUBSEQUENT EVENTS

In October 2008, a number of holders representing approximately 73% of the outstand Convertible Debenture warrants agreed to waive their right to receive cash, at their opt in the event of a fundamental transaction related to the Company. Because they now receive the same treatment as common shareholders, the warrant liability associated w these warrants will be reclassified to stockholders equity in the fourth quarter of 2008. addition, the placement agent waived all future rights to the anti-dilution provisions of warrant agreement.

On October 31, 2008, the Company s board of directors authorized Medi-Pharmaceut Inc., its wholly-owned Nevada subsidiary, to enter into a joint venture to deploy certai technology it owns, as well as original technology to be developed by the joint venture use in nutraceutical cardiovascular therapies. This deployment was accomplished by: (merger of FOD Enterprises, Inc., a Nevada corporation, with and into Medi-Pharmaceuticals on November 25, 2008, following which Medi-Pharmaceuticals became the surviving corporation and the Company became the owner of 10% of the outstanding capital stock of Medi-Pharmaceuticals; and (ii) the Company entering into license agreement with Medi-Pharmaceuticals dated November 25, 2008, and clarified an amendment dated December 15, 2008. Pursuant to the license agreement, the Comp granted Medi-Pharmaceuticals an exclusive, worldwide perpetual license to commerci all of its polysaccharide technology exclusively in the field of cardiovascular therapies (both

F-41

Table of Contents

preventive and therapeutic) in exchange for a royalty equal to 10% of Medi-Pharmaceuticals net revenues from products sold based on the licensed technol Medi-Pharmaceuticals must advance $1.0 million in cash to the Company by May 30, or it will have the ability to terminate the license agreement.

Following a hearing with the NYSE Alternext US on December 23, 2008, our appeal c earlier delisting notice was denied and our stock ceased to trade on this exchange as of close of trading on January 9, 2009. As of January 21, 2009 our stock began to be quot on the OTC Bulletin Board under the symbol PRWP.OB .

Table of Contents

No dealer, salesperson or any other person is authorized to give any information o make any representations in connection with this offering other than those contai in this prospectus and, if given or made, the information or representations must be relied upon as having been authorized by us. This prospectus does not constitu offer to sell or a solicitation of an offer to buy any security other than the securiti offered by this prospectus, or an offer to sell or a solicitation of an offer to buy an securities by anyone in any jurisdiction in which the offer or solicitation is not authorized or is unlawful.

Up to Shares of Common Stock

Issuable Upon Exercise of Rights to Subscribe for such Shares at $ per T Shares

PROSPECTUS

Dealer-Manager

Maxim Group LLC

, 2009

Table of Contents

PART II. INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution.

The following table sets forth the expenses payable by us in connection with this offeri
of securities described in this registration statement. All amounts shown are estimates,
except for the SEC and FINRA registration fee. The Registrant will bear all expenses
shown below.

SEC filing fee	$ 78
FINRA filing fee	$ 2,50
Blue Sky fees and expenses	$ 30,00
Accounting fees and expenses	$ 51,00
Legal fees and expenses	$ 350,00
Printing and engraving expenses	$ 100,00
Other	$ 35,71
Total	$ 570,00

Item 14. Indemnification of Directors and Officers.

The registrant s By-laws, as amended to date, provide for indemnification of officers a
directors to the fullest extent permitted by Section 7502 of Chapter 78 of the Nevada
Revised Statutes (NRS) (as from time to time amended), provided such officer or di
acts in good faith and in a manner which such person reasonably believes to be in or no
opposed to the best interests of the registrant, and with respect to any criminal matter, h
no reasonable cause to believe such person s conduct was unlawful.

NRS 78.7502 states:

1. A corporation may indemnify any person who was or is a party or is threatened to
made a party to any threatened, pending or completed action, suit or proceeding, wheth
civil, criminal, administrative or investigative, except an action by or in the right of the
corporation, by reason of the fact that he is or was a director, officer, employee or agen
the corporation, or is or was serving at the request of the corporation as a director, offic
employee or agent of another corporation, partnership, joint venture, trust or other
enterprise, against expenses, including attorneys fees, judgments, fines and amounts p
settlement actually and reasonably incurred by him in connection with the action, suit o
proceeding if he:

(a) Is not liable pursuant to NRS 78.138; or

(b) Acted in good faith and in a manner which he reasonably believed to be in or no
opposed to the best interests of the corporation, and, with respect to any crimina
action or proceeding, had no reasonable cause to believe his conduct was unlaw

The termination of any action, suit or proceeding by judgment, order, settlement,
conviction or upon a plea of *nolo contendere* or its equivalent, does not, of itself, creat
presumption that the person is liable pursuant to NRS 78.138 or did not act in good fai

and in a manner which he reasonably believed to be in or not opposed to the best intere
of the corporation, or that, with respect to any criminal action or proceeding, he had reasonable cause to believe that his conduct was unlawful.

2. A corporation may indemnify any person who was or is a party or is threatened to b
made a party to any threatened, pending or completed action or suit by or in the right o
corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the reque
the corporation as a director, officer, employee or agent of another corporation, partne
joint venture, trust or other enterprise against expenses, including amounts paid in settlement and

Table of Contents

attorneys fees actually and reasonably incurred by him in connection with the defens settlement of the action or suit if he:

(a) Is not liable pursuant to NRS 78.138; or

(b) Acted in good faith and in a manner which he reasonably believed to be in or n opposed to the best interests of the corporation.

Indemnification may not be made for any claim, issue or matter as to which such a per has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable to the corporation or for amounts paid in settlement to the corporation, unless and only to the extent that the court in which the action or suit was brought or other court of competent jurisdiction determines upon application that in vi all the circumstances of the case, the person is fairly and reasonably entitled to indemn for such expenses as the court deems proper.

3. To the extent that a director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding refer in subsections 1 and 2, or in defense of any claim, issue or matter therein, the corporati shall indemnify him against expenses, including attorneys fees, actually and reasona incurred by him in connection with the defense.

The registrant s By-laws also provide that to the fullest extent permitted by NRS 78.7 from time to time amended), the registrant shall pay the expenses of officers and direc of the Corporation incurred in defending a civil or criminal action, suit or proceeding, they are incurred and in advance of the final disposition of such matter, upon receipt o undertaking in form and substance acceptable to the board of directors for the repaym such advances if it is ultimately determined by a court of competent jurisdiction that th officer or director is not entitled to be indemnified.

NRS 78.751 states:

1. Any discretionary indemnification pursuant to NRS 78.7502, unless ordered by a c or advanced pursuant to subsection 2, may be made by the corporation only as authori in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances. The determination must be made:

(a) By the stockholders;

(b) By the board of directors by majority vote of a quorum consisting of directors were not parties to the action, suit or proceeding;

(c) If a majority vote of a quorum consisting of directors who were not parties to th action, suit or proceeding so orders, by independent legal counsel in a written opinion; or

(d)

If a quorum consisting of directors who were not parties to the action, suit or proceeding cannot be obtained, by independent legal counsel in a written opinio

2. The articles of incorporation, the bylaws or an agreement made by the corporation m provide that the expenses of officers and directors incurred in defending a civil or crim action, suit or proceeding must be paid by the corporation as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the director or officer to repay the amount if it is ultima determined by a court of competent jurisdiction that he is not entitled to be indemnifie the corporation. The provisions of this subsection do not affect any rights to advancem of expenses to which corporate personnel other than directors or officers may be entitl under any contract or otherwise by law.

3. The indemnification pursuant to NRS 78.7502 and advancement of expenses author in or ordered by a court pursuant to this section:

(a) Does not exclude any other rights to which a person seeking indemnification or advancement of expenses may be entitled under the articles of incorporation or bylaw, agreement, vote of

II-2

Table of Contents

stockholders or disinterested directors or otherwise, for either an action in his official capacity or an action in another capacity while holding his office, excep that indemnification, unless ordered by a court pursuant to NRS 78.7502 or for advancement of expenses made pursuant to subsection 2, may not be made to o behalf of any director or officer if a final adjudication establishes that his acts o omissions involved intentional misconduct, fraud or a knowing violation of the and was material to the cause of action.

(b) Continues for a person who has ceased to be a director, officer, employee or ag and inures to the benefit of the heirs, executors and administrators of such a per

In addition, the registrant maintains directors and officers liability insurance which against liabilities that its directors and officers may incur in such capacities.

Reference is made to Undertakings, below, for the registrant s undertakings in this registration statement with respect to indemnification of liabilities arising under the Securities Act of 1933, as amended (the Securities Act).

Item 15. Recent Sales of Unregistered Securities.

The following information relates to all securities issued or sold by the Registrant with the past three years and not registered under the Securities Act. Each of the transaction described below was conducted in reliance upon the exemptions from registration prov in Section 4(2) of the Securities Act and the rules and regulations promulgated thereun There were no underwriters employed in connection with any of the transactions set fo in this Item 15.

On February 14, 2006, the Registrant completed a private placement in which it issued sold to institutional accredited investors 7% Convertible Debentures (the Debentures related common stock purchase warrants exercisable to purchase approximately 1,490, shares of the Registrant s common stock (the Warrants). The Warrants were exerci $3.35 per share, subject to adjustment, for five years beginning August 15, 2006. The Registrant subsequently registered the resale of the shares issuable upon redemption of as interest payments on, the Debentures, and upon exercise of the Warrants.

On March 20, 2007, the Registrant entered into Waiver and Exchange Agreements (together, the Exchange Agreement) with certain investors to whom it issued the Debentures and Warrants pursuant to the terms and conditions of a Securities Purchase Agreement dated as of February 14, 2006.

On June 19, 2007, the Registrant entered into a Securities Purchase Agreement (the Securities Purchase Agreement) with certain institutional investors named therein to shares of the Registrant s common stock and related common stock purchase warrants exercisable to purchase approximately 4,173,460 shares of the Registrant s common s

On June 29, 2007, the Securities Purchase Agreement was terminated following the no received from the NYSE Alternext US (then known as the American Stock Exchange) the Registrant was not in compliance with certain listing standards.

On February 4, 2008, the Registrant completed a private placement begun in October 2 in which it sold an aggregate of 1,742,500 units of securities, each unit comprised of o share of our Series A 12% Convertible Preferred Stock (Series A Preferred Stock), a warrant exercisable at $1.50 to purchase one share of its common stock, and a warrant exercisable at $2.00 to purchase one share of its common stock. Each unit was offered sold for $1.00. As of December 31, 2007, the Registrant had received gross proceeds o

$1,667,500, and during 2008, the Registrant received an additional $75,000, resulting i
total advance gross proceeds of $1,742,500. Net proceeds after transaction costs were
approximately $1.7 million.

Table of Contents

Each share of the Series A Preferred Stock has voting rights and is convertible at any t at the election of the holder into one share of the Registrant s common stock subject to adjustment for stock splits, recapitalizations and the like. The Registrant may require conversion if the closing price of its common stock exceeds $3.00 for 15 consecutive trading days. Each share of the Series A Preferred Stock accrues interest at 12% per an payable at the Registrant s option in cash or shares of common stock valued per share higher of $1.00 or 100% of the value weighted average price of its shares of common s for the 20 consecutive trading days prior to the applicable dividend payment date. The warrants are exercisable for cash consideration for four years beginning the 181st day a the date of issue. The exercise price is subject to adjustment for stock splits, recapitalizations and the like and in the event of certain business combinations.

Item 16. Exhibits.

The following exhibits are filed herewith or incorporated by reference herein:

Exhibit Number	Description
1.1	Form of Dealer-Manager Agreement by and between Pro-Pharmaceutica and Maxim Group LLC.
3.1	Articles of Incorporation of the Registrant, dated January 23, 2001, as fi with the Secretary of State of the State of Nevada. (1)
3.2	Certificate of Amendment to Articles of Incorporation of the Registrant, filed with the Secretary of State of the State of Nevada Secretary of Stat May 28, 2004. (2)
3.3	Certificate of Designation of Preferences, Rights and Limitations of Seri 12% Convertible Preferred Stock of the Registrant, as filed with the Secretary of State of the State of Nevada on October 5, 2007. (3)
3.4	Certificate of Amendment to Articles of Incorporation of the Registrant, filed with the Secretary of State of the state of Nevada. (4)
3.5	Amended and Restated Bylaws of the Registrant (5)
3.6	Amendment to Amended and Restated Bylaws of the Registrant. (6)
4.1	Specimen Certificate for Shares of Common Stock of Registrant.*
4.2	Form of Subscription Rights Certificate to Purchase Rights for Common Stock of Registrant.
4.3	Form of Notice to Stockholders who are Record Holders.
4.4	Form of Notice to Stockholders who are Acting as Nominees.
4.5	Form of Notice to Clients of Stockholders who are Acting as Nominees.
4.6	Form of Beneficial Owner Election Form.
4.7	Form of Dealer Manager Warrant to be entered into between Maxim Gro LLC and the Registrant.
5.1	Opinion of Greenberg Traurig, LLP (including the consent of such firm) regarding the legality of the securities being offered.
10.1	Pro-Pharmaceuticals, Inc. 2001 Stock Incentive Plan. (7)

10.2	Pro-Pharmaceuticals, Inc. 2003 Non-employee Director Stock Incentive (6)
10.3	Employment Agreement, effective January 2, 2004, by and between the Registrant and David Platt. (9)
10.4	Form of Incentive Stock Option Agreement (under the 2001 Stock Incen Plan). (10)

10.5	Form of Non-Qualified Stock Option Agreement (under the 2001 Stock Incentive Plan). (10)
10.6	Form of Non-Qualified Stock Option Agreement (under the 2003 Non-Empl Director Stock Incentive Plan). (10)
10.7	Form of 7% Convertible Debenture issued on February 14, 2006. (11)
10.8	Securities Purchase Agreement dated February 14, 2006, between Pro-Pharmaceuticals, Inc. and the Purchasers named therein. (11)
10.9	Registration Rights Agreement dated February 14, 2006, between Pro-Pharmaceuticals, Inc. and the Purchasers named therein. (11)
10.10	Form of Common Stock Purchase Warrant issued on February 14, 2006. (11
10.11	Office Lease Agreement dated May 2, 2006 between NS 5/27 Acquisition L landlord, and the Registrant, tenant. (12)
10.12	Waiver and Exchange Agreement dated March 21, 2007. (13)
10.13	Employment Agreement effective October 1, 2007 between Theodore D. Zucconi, President, and the Registrant. (14)
10.14	Employment Agreement dated May 1, 2003 between Anthony D. Squeglia, Registrant filed upon succession as Chief Financial Officer effective Octobe 2007. (15)
10.15	Form of Securities Purchase Agreement for units of Series A 12% Convertib Preferred Stock and Common Stock Purchase Warrants. (3)
10.16	Form of Registration Rights Agreement. (3)
10.17	Form of Series A Common Stock Purchase Warrant. (3)
10.18	Form of Series B Common Stock Purchase Warrant. (3)
10.19	Amended and Restated Employment Agreement dated December 20, 2007 between Anthony D. Squeglia and the Registrant. (16)
10.20	Amended and Restated Employment Agreement dated December 19, 2007 between Theodore D. Zucconi and the Registrant. (17)
10.21	Securities Purchase Agreement dated February 14, 2008 between the Regist and Alpha Capital, Rockmore Investment Master Fund, Ltd., Iroquois Maste Fund, Ltd., Cranshire Capital, L.P., Hudson Bay Fund, L.P., Hudson Bay Overseas Fund, Ltd., Truk International Fund, L.P., Truk Opportunity Fund, LLC, ICM Business Trust, Ionic Capital Master Fund, Ltd., Highbridge Cap Management, LLC, Portside Growth & Opportunity Fund, Millenium Partne L.P., Peter Hauser, Peter L. Hauser IRA, Enable Growth Partners L.P., Geor Macricostas, CAMOFI Master LDC, Cougar Trading, LLC, Brio Capital L.I Fairfield Investments. (18)
10.22	Form of Common Stock Purchase Warrant issued on February 25, 2008. (18
10.23	Placement Agent Agreement dated February 12, 2008 between Maxim Grou LLC and the Registrant. (18)
10.24	Form of Subscription Agent Agreement between Continental Stock Transfer Trust Company and the Registrant.
10.25	License Agreement dated November 25, 2008, as amended by letter dated December 15, 2008, between Medi-Pharmaceuticals, Inc. and the Registrant
10.26	Amended and Restated Employment Agreement dated January 19, 2009 bet Anthony D. Squeglia and the Registrant. (21)

10.27	Employment Agreement dated January 19, 2009 between Maureen Foley an Registrant. (21)

Table of Contents

16.1	Letter from Deloitte & Touche LLP to the SEC dated April 14, 2008. (19)
21.1	Subsidiaries of the Registrant. (20)
23.1	Consent of Deloitte & Touche LLP, an independent registered public accoun firm.
23.2	Consent of Greenberg Traurig, LLP (included as part of Exhibit 5 hereto).
24	Powers of Attorney (included on signature page).*

* Previously filed.

(1) Incorporated by reference to the Registrant s Registration Statement on Form 10-S filed with the SEC on June 13, 2001.
(2) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q filed the SEC on August 16, 2004.
(3) Incorporated by reference to the Registrant s Current Report on Form 8-K filed wi SEC on October 9, 2007.
(4) Incorporated by reference to the Registrant s Current Report on Form 8-K filed wi SEC on June 8, 2007.
(5) Incorporated by reference to the Registrant s Current Report on Form 8-K filed wi SEC on December 17, 2007.
(6) Incorporated by reference to the Registrant s Current Report on Form 8-K filed wi SEC on April 15, 2007.
(7) Incorporated by reference to the Registrant s Quarterly Report on Form 10-QSB fo quarter ended September 30, 2001 filed with the SEC on November 14, 2001.
(8) Incorporated by reference to the Registrant s Registration Statement on Form S-8, filed with the SEC on October 22, 2003.
(9) Incorporated by reference to the Registrant s Annual Report on Form 10-K for the year ended December 31, 2003, as filed with the SEC on March 30, 2004.
(10) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for period ended September 30, 2004 as filed with the SEC on November 19, 2004.
(11) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed the SEC on February 15, 2006.
(12) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed the SEC on May 5, 2006.
(13) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed the SEC on March 21, 2007.
(14) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed the SEC on September 27, 2007
(15) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed the SEC on October 4, 2007.
(16) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed the SEC on December 21, 2007.
(17) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed the SEC on December 26, 2007.
(18) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed the SEC on February 15, 2008.
(19) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed the SEC on April 14, 2008.
(20) Incorporated by reference to the Registrant s Annual Report on Form 10-K as file the SEC on March 28, 2008.
(21) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed the SEC on January 23, 2009.

Table of Contents

Item 17. Undertakings.

Insofar as indemnification by the registrant for liabilities arising under the Securities A may be permitted to directors, officers and controlling persons of the registrant pursuar the provisions referenced in Item 14 of this registration statement, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commis such indemnification is against public policy as expressed in the Securities Act of 193 is, therefore, unenforceable. If a claim for indemnification against such liabilities (othe than the payment by the registrant of expenses incurred or paid by a director, officer, o controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by a director, officer or controlling person in connection with t securities being registered hereunder, the registrant will, unless in the opinion of its co the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act, and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

1. To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set in the registration statement. Notwithstanding the foregoing, any increase or decrease i volume of securities offered (if the total dollar value of securities offered would not ex that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

2. That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating t securities offered therein, and this offering of such securities at that time shall be deem be the initial bona fide offering thereof;

3. To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of this offering;

4. That, for the purpose of determining liability under the Securities Act to any purchas each prospectus filed pursuant to Rule 424(b) as part of a registration statement relatin an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included the registration statement as of the date it is first used after effectiveness; provided, however, that no statement made in a registration statement or prospectus that is part o registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration or prospectus that part of the registration statement or made in any such document immediately prior to s

date of first use; and

Table of Contents

5. That, for the purpose of determining liability of the registrant under the Securities A
any purchaser in the initial distribution of the securities, the undersigned registrant
undertakes that in a primary offering of securities of the undersigned registrant pursuan
this registration statement, regardless of the underwriting method used to sell the secur
to the purchaser, if the securities are offered or sold to such purchaser by means of any
the following communications, the undersigned registrant will be a seller to the purcha
and will be considered to offer or sell such securities to such purchaser:

(i) any preliminary prospectus or prospectus of an undersigned registrant relating to thi
offering required to be filed pursuant to Rule 424;

(ii) any free writing prospectus relating to this offering prepared by, or on behalf of, th
undersigned registrant or used or referred to by the undersigned registrant;

(iii) the portion of any other free writing prospectus relating to this offering containing
material information about an undersigned registrant or its securities provided by or on
behalf of the undersigned registrant; and

(iv) any other communication that is an offer in this offering made by the undersigned
registrant to the purchaser.

6. The undersigned registrant hereby undertakes to file, during any period in which off
or sales are being made, a supplement to the prospectus included in this Registration
Statement which sets forth, with respect to a particular offering, the specific number of
shares of common stock to be sold, the name of the holder, the sales price, the name of
participating broker, dealer, underwriter or agent, any applicable commission or discou
and any other material information with respect to the plan of distribution not previous
disclosed.

Table of Contents

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant l
duly caused this Amendment No. 1 to the Registration Statement on Form S-1 to be sig
on its behalf by the undersigned, thereunto duly authorized, in the City of Newton, Sta
Massachusetts on February 2, 2009.

PRO-PHARMACEUTICALS,

By: /S/ DAVID PLATT
Name: David Platt, Ph.D.
Title: Chief Executive Of

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 1 to tl
Registration Statement has been signed by the following persons in the capacities and
the dates stated.

Signature	Title	Date
/S/ DAVID PLATT David Platt, Ph.D.	Chief Executive Officer and Director (Principal Executive Officer)	February 2,
* Anthony D. Squeglia	Chief Financial Officer (Principal Financial and Accounting Officer)	February 2,
* Mildred S. Christian, Ph.D.	Director	February 2,
* Dale H. Conaway, D.V.M.	Director	February 2,
* Henry S. Esber, Ph.D.	Director	February 2,
* James T. Gourzis, M.D., Ph.D.	Director	February 2,
* S. Colin Neill	Director	February 2,
* Steven Prelack	Director	February 2,

*	Director	February 2,
Jerald K. Rome		
*	Director	February 2,
Theodore D. Zucconi, Ph.D.		

The undersigned, by signing his name, hereto, does sign and execute this Amendment 1 pursuant to the Power of Attorney executed by the above named officer and directors the Registrant and previously filed with the Securities and Exchange Commission on b of such officer and directors.

*By:	/S/ DAVID PLATT David Platt, Ph.D.	Attorney-in-Fact	February 2,

II-9

Table of Contents

EXHIBIT INDEX

Exhibit Number	Description
1.1	Form of Dealer-Manager Agreement by and between Pro-Pharmaceutical and Maxim Group LLC.
3.1	Articles of Incorporation of the Registrant, dated January 23, 2001, as fil with the Secretary of State of the State of Nevada. (1)
3.2	Certificate of Amendment to Articles of Incorporation of the Registrant, a filed with the Secretary of State of the State of Nevada Secretary of State May 28, 2004. (2)
3.3	Certificate of Designation of Preferences, Rights and Limitations of Serie 12% Convertible Preferred Stock of the Registrant, as filed with the Secre of State of the State of Nevada on October 5, 2007. (3)
3.4	Certificate of Amendment to Articles of Incorporation of the Registrant, a filed with the Secretary of State of the state of Nevada. (4)
3.5	Amended and Restated Bylaws of the Registrant (5)
3.6	Amendment to Amended and Restated Bylaws of the Registrant. (6)
4.1	Specimen Certificate for Shares of Common Stock of Registrant.*
4.2	Form of Subscription Rights Certificate to Purchase Rights for Common Stock of Registrant.
4.3	Form of Notice to Stockholders who are Record Holders.
4.4	Form of Notice to Stockholders who are Acting as Nominees.
4.5	Form of Notice to Clients of Stockholders who are Acting as Nominees.
4.6	Form of Beneficial Owner Election Form.
4.7	Form of Dealer Manager Warrant to be entered into between Maxim Gro LLC and the Registrant.
5.1	Opinion of Greenberg Traurig, LLP (including the consent of such firm) regarding the legality of the securities being offered.
10.1	Pro-Pharmaceuticals, Inc. 2001 Stock Incentive Plan. (7)
10.2	Pro-Pharmaceuticals, Inc. 2003 Non-employee Director Stock Incentive P (6)
10.3	Employment Agreement, effective January 2, 2004, by and between the Registrant and David Platt. (9)
10.4	Form of Incentive Stock Option Agreement (under the 2001 Stock Incent Plan). (10)
10.5	Form of Non-Qualified Stock Option Agreement (under the 2001 Stock Incentive Plan). (10)
10.6	Form of Non-Qualified Stock Option Agreement (under the 2003 Non-Employee Director Stock Incentive Plan). (10)
10.7	Form of 7% Convertible Debenture issued on February 14, 2006. (11)
10.8	Securities Purchase Agreement dated February 14, 2006, between Pro-Pharmaceuticals, Inc. and the Purchasers named therein. (11)

10.9	Registration Rights Agreement dated February 14, 2006, between Pro-Pharmaceuticals, Inc. and the Purchasers named therein. (11)
10.10	Form of Common Stock Purchase Warrant issued on February 14, 2006.

Table of Contents

Exhibit Number	Description
10.11	Office Lease Agreement dated May 2, 2006 between NS 5/27 Acquisitio LLC, landlord, and the Registrant, tenant. (12)
10.12	Waiver and Exchange Agreement dated March 21, 2007. (13)
10.13	Employment Agreement effective October 1, 2007 between Theodore D. Zucconi, President, and the Registrant. (14)
10.14	Employment Agreement dated May 1, 2003 between Anthony D. Squegl and Registrant filed upon succession as Chief Financial Officer effective October 1, 2007. (15)
10.15	Form of Securities Purchase Agreement for units of Series A 12% Conve Preferred Stock and Common Stock Purchase Warrants. (3)
10.16	Form of Registration Rights Agreement. (3)
10.17	Form of Series A Common Stock Purchase Warrant. (3)
10.18	Form of Series B Common Stock Purchase Warrant. (3)
10.19	Amended and Restated Employment Agreement dated December 20, 200 between Anthony D. Squeglia and the Registrant. (16)
10.20	Amended and Restated Employment Agreement dated December 19, 200 between Theodore D. Zucconi and the Registrant. (17)
10.21	Securities Purchase Agreement dated February 14, 2008 between the Registrant and Alpha Capital, Rockmore Investment Master Fund, Ltd., Iroquois Master Fund, Ltd., Cranshire Capital, L.P., Hudson Bay Fund, L Hudson Bay Overseas Fund, Ltd., Truk International Fund, L.P., Truk Opportunity Fund, LLC, ICM Business Trust, Ionic Capital Master Fund Ltd., Highbridge Capital Management, LLC, Portside Growth & Opportu Fund, Millenium Partners, L.P., Peter Hauser, Peter L. Hauser IRA, Enab Growth Partners L.P., George Macricostas, CAMOFI Master LDC, Coug Trading, LLC, Brio Capital L.P., Fairfield Investments. (18)
10.22	Form of Common Stock Purchase Warrant issued on February 25, 2008.
10.23	Placement Agent Agreement dated February 12, 2008 between Maxim G LLC and the Registrant. (18)
10.24	Form of Subscription Agent Agreement between Continental Stock Trans & Trust Company and the Registrant.
10.25	License Agreement dated November 25, 2008, as amended by letter date December 15, 2008, between Medi-Pharmaceuticals, Inc. and the Registr
10.26	Amended and Restated Employment Agreement dated January 19, 2009 between Anthony D. Squeglia and the Registrant. (21)
10.27	Employment Agreement dated January 19, 2009 between Maureen Foley the Registrant. (21)
16.1	Letter from Deloitte & Touche LLP to the SEC dated April 14, 2008. (19
21.1	Subsidiaries of the Registrant. (20)
23.1	Consent of Deloitte & Touche LLP, an independent registered public accounting firm.
23.2	Consent of Greenberg Traurig, LLP (included as part of Exhibit 5 hereto)
24	Powers of Attorney (included on signature page).*

* Previously filed.

(1) Incorporated by reference to the Registrant s Registration Statement on Form 10-filed with the SEC on June 13, 2001.

Table of Contents

(2) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q file
the SEC on August 16, 2004.

(3) Incorporated by reference to the Registrant s Current Report on Form 8-K filed w
SEC on October 9, 2007.

(4) Incorporated by reference to the Registrant s Current Report on Form 8-K filed w
SEC on June 8, 2007.

(5) Incorporated by reference to the Registrant s Current Report on Form 8-K filed w
SEC on December 17, 2007.

(6) Incorporated by reference to the Registrant s Current Report on Form 8-K filed w
SEC on April 15, 2007.

(7) Incorporated by reference to the Registrant s Quarterly Report on Form 10-QSB
quarter ended September 30, 2001 filed with the SEC on November 14, 2001.

(8) Incorporated by reference to the Registrant s Registration Statement on Form S-8
filed with the SEC on October 22, 2003.

(9) Incorporated by reference to the Registrant s Annual Report on Form 10-K for th
fiscal year ended December 31, 2003, as filed with the SEC on March 30, 2004.

(10) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for
period ended September 30, 2004 as filed with the SEC on November 19, 2004.

(11) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed
the SEC on February 15, 2006.

(12) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed
the SEC on May 5, 2006.

(13) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed
the SEC on March 21, 2007.

(14) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed
the SEC on September 27, 2007

(15) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed
the SEC on October 4, 2007.

(16) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed
the SEC on December 21, 2007.

(17) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed
the SEC on December 26, 2007.

(18) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed
the SEC on February 15, 2008.

(19) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed
the SEC on April 14, 2008.

(20) Incorporated by reference to the Registrant s Annual Report on Form 10-K as file
the SEC on March 28, 2008.

(21) Incorporated by reference to the Registrant s Current Report on Form 8-K as filed
the SEC on January 23, 2009.