HEMISPHERX BIOPHARMA INC
Form 10-Q
August 06, 2010

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 10-Q
Quarterly Report Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

For the Quarterly Period Ended June 30, 2010

Commission File Number: 1-13441

HEMISPHERx BIOPHARMA, INC.
(Exact name of registrant as specified in its charter)

Delaware	52-0845822
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

1617 JFK Boulevard, Suite 660, Philadelphia, PA 19103
(Address of principal executive offices) (Zip Code)

(215) 988-0080
(Registrant's telephone number, including area code)

Not Applicable
(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
x Yes ¨ No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or such shorter period that the registrant was required to submit and post such files).
¨Yes x No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act. (Check one):

¨ Large accelerated filer	x Accelerated filer
¨ Non-accelerated filer	¨ Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). ¨ Yes x No

134,396,443 shares of common stock were issued and outstanding as of August 03, 2010.

PART I - FINANCIAL INFORMATION

ITEM 1: Financial Statements

HEMISPHERx BIOPHARMA, INC. AND SUBSIDIARIES
Consolidated Balance Sheets
(in thousands, except for share and per share amounts)

	December 31, 2009	June 30, 2010 (Unaudited)
ASSETS		
Current assets:		
Cash and cash equivalents (Note 11)	$ 58,072	$ 5,331
Marketable securities maturing in less than one year (Note 5)	-	30,433
Inventories (Note 4)	-	934
Prepaid expenses and other current assets	332	120
Total current assets	58,404	36,818
Property and equipment, net	4,704	4,675
Marketable securities maturing in one year or greater (Note 5)	-	14,783
Patent and trademark rights, net	830	836
Investment	35	35
Construction in progress (Note 8)	135	405
Other assets (Note 4)	886	35
Total assets	$ 64,994	$ 57,587
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 1,294	$ 1,335
Accrued expenses (Note 6)	1,321	509
Current portion of capital lease (Note 7)	-	35
Total current liabilities	2,615	1,879
Long-term liabilities		
Long-term portion of capital lease (Note 7)	-	21
Commitments and contingencies		
Stockholders' equity (Note 9):		
Preferred stock, par value $0.01 per share, authorized 5,000,000; issued and outstanding; none	-	-
Common stock, par value $0.001 per share, authorized 200,000,000 shares; issued and outstanding 132,787,447 and 134,368,677, respectively	133	135
Additional paid-in capital	273,093	274,121
Accumulated other comprehensive loss	-	(2)
Accumulated deficit	(210,847)	(218,567)

Total stockholders' equity	62,379	55,687
Total liabilities and stockholders' equity	$ 64,994	$ 57,587

See accompanying notes to consolidated financial statements.

HEMISPHERX BIOPHARMA, INC. AND SUBSIDIARIES
Consolidated Statements of Operations
(in thousands, except share and per share data)
(Unaudited)

	Three months ended June 30,	
	2009	2010
Revenues:		
Clinical treatment programs	$ 17	$ 41
Total revenues	17	41
Costs and expenses:		
Production/cost of goods sold	152	328
Research and development	1,982	1,694
General and administrative	1,862	1,788
Total costs and expenses	3,996	3,810
Operating loss	(3,979)	(3,769)
Interest and other income	109	93
Net loss	$ (3,870)	$ (3,676)
Basic and diluted loss per share (Note 2)	$ (.04)	$ (.03)
Weighted average shares outstanding, basic and diluted	100,077,267	133,107,607

See accompanying notes to consolidated financial statements.

HEMISPHERX BIOPHARMA, INC. AND SUBSIDIARIES
Consolidated Statements of Operations
(in thousands, except share and per share data)
(Unaudited)

	Six months ended June 30,	
	2009	2010
Revenues:		
Clinical treatment programs	$ 46	$ 73
Total revenues	46	73
Costs and expenses:		
Production/cost of goods sold	273	468
Research and development	3,577	3,690
General and administrative	3,028	3,757
Total costs and expenses	6,878	7,915
Operating loss	(6,832)	(7,842)
Financing costs	(241)	-
Interest and other income	116	122
Net loss	$ (6,957)	$ (7,720)
Basic and diluted loss per share (Note 2)	$ (.08)	$ (.06)
Weighted average shares outstanding, basic and diluted	89,110,201	132,963,622

See accompanying notes to consolidated financial statements.

HEMISPHERx BIOPHARMA, INC. AND SUBSIDIARIES
Consolidated Statements of Changes in Stockholders' Equity and Comprehensive Loss
(in thousands except share data)
(Unaudited)

	Common Stock Shares	Common Stock $.001 Par Value	Additional Paid-In Capital	Accumulated Other Compre-hensive Loss	Accumulated Deficit	Total Stockholders' Equity	Compre-hensive Loss
Balance at December 31, 2009	132,787,447	$ 133	$ 273,093	$ -	$ (210,847)	$ 62,379	$ -
Stock issued for settlement of accounts payable	446,761	-	302	-	-	302	-
Equity based compensation	614,469	1	434	-	-	435	-
Shares sold at the market	520,000	1	292	-	-	293	
Unrealized loss in investment securities	-	-	-	(2)	-	(2)	(2)
Net loss	-	-	-	-	(7,720)	(7,720)	(7,720)
Balance at June 30, 2010	134,368,677	$ 135	$ 274,121	$ (2)	$ (218,567)	$ 55,687	$ (7,722)

See accompanying notes to consolidated financial statements.

HEMISPHERx BIOPHARMA, INC. AND SUBSIDIARIES
Consolidated Statements of Cash Flows
For the Six Months Ended June 30, 2009 and 2010
(in thousands)
(Unaudited)

	2009	2010
Cash flows from operating activities:		
Net loss	$ (6,957)	$ (7,720)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation of property and equipment	177	192
Amortization of patent and trademark rights, and royalty interest	186	39
Financing cost related to Standby Financing	241	-
Equity based compensation	141	435
Gain on disposal of equipment	(83)	(77)
Change in assets and liabilities:		
Accounts and other receivables	(9)	-
Prepaid expenses and other current assets	171	212
Accounts payable	1,017	343
Accrued expenses	987	(812)
Net cash used in operating activities	$ (4,129)	$ (7,388)
Cash flows from investing activities:		
Purchase of property plant and equipment	$ (5)	$ (362)
Additions to patent and trademark rights	(130)	(45)
Capital lease deposit	-	(6)
Purchase of short-term investments	(1,000)	(45,218)
Net cash used in investing activities	$ (1,135)	$ (45,631)

HEMISPHERX BIOPHARMA, INC. AND SUBSIDIARIES
Consolidated Statements of Cash Flows (Continued)
For the Six Months Ended June 30, 2009 and 2010
(in thousands)
(Unaudited)

	2009	2010
Cash flows from financing activities:		
Payments on capital lease	$ -	$ (15)
Warrants and options converted	5,683	-
Proceeds from sale of stock, net of issuance costs	34,119	293
Net cash provided by financing activities	$ 39,802	$ 278
Net increase (decrease) in cash and cash equivalents	34,538	(52,741)
Cash and cash equivalents at beginning of period	6,119	58,072
Cash and cash equivalents at end of period	$ 40,657	$ 5,331
Supplemental disclosures of non-cash investing and financing cash flow information:		
Issuance of common stock for accounts payable and accrued expenses	$ 1,137	$ 302
Equipment acquired by capital lease	$ -	$ 70
Unrealized loss on investments	$ -	$ (2)

See accompanying notes to consolidated financial statements.

HEMISPHERx BIOPHARMA, INC. AND SUBSIDIARIES
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Note 1: Basis Of Presentation

The consolidated financial statements include the financial statements of Hemispherx Biopharma, Inc. and its wholly-owned subsidiaries. The Company has three domestic subsidiaries BioPro Corp., BioAegean Corp. and Core Biotech Corp., all of which are incorporated in Delaware and are dormant. The Company's foreign subsidiary, Hemispherx Biopharma Europe N.V./S.A., established in Belgium in 1998, has minimal activity. All significant intercompany balances and transactions have been eliminated in consolidation.

In the opinion of Management, all adjustments necessary for a fair presentation of such consolidated financial statements have been included. Such adjustments consist of normal recurring items. Interim results are not necessarily indicative of results for a full year.

The interim consolidated financial statements and notes thereto are presented as permitted by the Securities and Exchange Commission ("SEC"), and do not contain certain information which will be included in our annual consolidated financial statements and notes thereto.

These consolidated financial statements should be read in conjunction with our consolidated financial statements included in our annual report on Form 10-K, filed March 12, 2010, and 10-K/A, filed April 30, 2010, for the year ended December 31, 2009.

Note 2: Net Loss Per Share

Basic and diluted net loss per share is computed using the weighted average number of shares of common stock outstanding during the period. Equivalent common shares, consisting of stock options and warrants including the Company's convertible debentures, which amounted to 35,817,809 and 52,641,984 shares, are excluded from the calculation of diluted net loss per share for the six months ended June 30, 2009 and 2010, respectively, since their effect is antidilutive.

Note 3: Equity Based Compensation

The fair value of each option award is estimated on the date of grant using a Black-Scholes option valuation model. Expected volatility is based on the historical volatility of the price of the Company's stock. The risk-free interest rate is based on U.S. Treasury issues with a term equal to the expected life of the option. The Company uses historical data to estimate expected dividend yield, expected life and forfeiture rates. The fair values of the options granted, were estimated based on the following weighted average assumptions:

	Six Months Ended June 30,	
	2009	2010
Risk-free interest rate	1.76% - 2.54%	1.02%-2.03%
Expected dividend yield	-	-
Expected lives	2.5 – 5.0 yrs.	5.0 years
Expected volatility	86.78% - 110.57%	109.72%-110.01%
Weighted average grant date fair value of options and warrants issued	$ 113,814	$ 402,771

8

Stock option activity for 2009 and during the six months ended June 30, 2010, is as follows:

Stock option activity for employees:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Outstanding December 31, 2008	6,258,608	$ 2.60	7.92	$ -
Options granted	-	-	-	-
Options forfeited	(29,856)	2.24	5.75	-
Outstanding December 31, 2009	6,228,752	$ 2.60	6.95	-
Options granted	820,000	.66	10.00	-
Options forfeited	-	-	-	-
Outstanding June 30, 2010	7,048,752	$ 2.37	6.64	$ -
Exercisable June 30, 2010	6,991,530	$ 2.38	6.64	$ -

The weighted-average grant-date fair value of options granted during the six months ended June 30, 2009 and 2010 was $-0- and $384,000, respectively.

Unvested stock option activity for employees:

	Number of Options	Weighted Average Exercise Price	Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Outstanding December 31, 2008	76,944	$ 1.41	8.89	$ -
Options granted	-	-	-	-
Options vested	(38,611)	1.28	7.92	-
Options forfeited	-	-	-	-
Outstanding December 31, 2009	38,333	$ 1.54	8.00	-
Options granted	18,889	.66	10.00	-
Options vested	-	-	-	-
Options forfeited	-	-	-	-
Outstanding June 30, 2010	57,222	$ 1.25	8.33	$ -

Stock option activity for non-employees:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Outstanding December 31, 2008	2,417,482	$ 2.35	6.98	-
Options granted	361,250	2.12	7.00	-
Options exercised	(293,831)	1.56	7.93	-
Options forfeited	(251,469)	2.14	7.43	-
Outstanding December 31, 2009	2,233,432	$ 2.44	5.73	-
Options granted	40,000	.71	9.88	-
Options exercised	-	-	-	-
Options forfeited	-	-	-	-
Outstanding June 30, 2010	2,273,432	$ 2.41	5.31	-
Exercisable June 30, 2010	2,152,598	$ 2.39	5.61	-

The weighted-average grant-date fair value of options granted during the six months ended June 30, 2009 and 2010 was approximately $38,000 and $18,700, respectively.

Unvested stock option activity for non-employees during the year:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Outstanding December 31, 2008	26,667	$ 1.43	9.00	$ -
Options granted	131,250	2.81	3.42	-
Options vested	(18,333)	1.79	7.45	-
Options forfeited	-	-	-	-
Outstanding December 31, 2009	139,584	$ 2.68	3.76	-
Options granted	-	-	-	-
Options vested	(18,750)	2.81	3.00	-
Options forfeited	-	-	-	-
Outstanding June 30, 2010	120,834	$ 2.66	3.88	$ -

The impact on the Company’s results of operations of recording equity based compensation for the six months ended June 30, 2009 and 2010 was to increase general and administrative expenses by approximately $141,000 and $435,000 respectively. The impact on basic and fully diluted earnings per share for the six months ended June 30, 2009 was $-0- and for June 30, 2010 was to increase loss per share by $0.03.

As of June 30, 2009 and 2010, respectively, there was $28,000 and $19,000 of unrecognized equity based compensation cost related to options granted under the Equity Incentive Plan.

10

Note 4: Inventories and Other Assets

The Company uses the lower of first-in, first-out ("FIFO") cost or market method of accounting for inventory.

Inventories consist of the following:

	(in thousands) December 31, 2009	June 30, 2010
Inventory work in process	$ -	$ 934
Finished goods, net of reserves of $282,000 at December 31, 2009 and $250,000 at June 30, 2010.	-	-
	$ -	$ 934

The conversion of existing Alferon N Injection® Work-In-Progress inventory was started up again in May 2010 towards the manufacture of new Finished Goods and is estimated to be available for commercial sales in mid-2011. As a result the Work-In-Progress of $864,000, which was included in "Other assets" in 2009, has been reclassified and included with current assets at the June 30, 2010 value of $934,000.

Other assets consist of the following:

	(in thousands) December 31, 2009	June 30, 2010
Inventory work in process	$ 864	$ -
Security deposit	15	16
Internet Domain Names	7	7
Deposit on new telephone system	-	6
Security deposit on Capital Lease (see Note 7)	-	6
	$ 886	$ 35

Note 5: Marketable Securities

Marketable securities consist of fixed income securities with remaining maturities of greater than three months at the date of purchase, debt securities and equity securities. At June 30, 2010, all of our fixed income securities were classified as available for sale investments and measured as Level 1 instruments of the fair value measurements standard (see Note 10: Fair Value). Securities classified as available for sale consisted of:

June 30, 2010
(in thousands)

Name Of Security	Cost	Market Value	Unrealized Gain (Loss)	Maturity Date
Marketable Securities with maturity periods less than one year:				
Protective Life	523	502	(21)	8/16/2010
GE Money Bank	250	250	-	10/15/2010
Discover Bank	500	500	-	10/29/2010
Toyota Motor Credit	1,020	1.017	(3)	12/15/2010
GE Money Bank	250	249	(1)	1/14/2011
World Financial Capital	300	299	(1)	1/28/2011
Bank of America	500	499	(1)	4/21/2011
Merrick Bank	250	250	-	4/21/2011
American Express Bank FSB	250	250	-	9/30/2010
Beal Bank	250	250	-	12/8/2010
Safra National Bank	250	250	-	1/1/2011
Goldman Sachs	1,062	1,026	(36)	1/15/2011
Discover Bank	250	249	(1)	6/23/2011
PIMCO	22,200	22,531	331	NA
Cisco Systems	786	771	(15)	2/22/2011
IBM Corp.	784	772	(12)	3/22/2011
Oracle Corp.	785	768	(17)	1/15/2011
Total Marketable Securities with maturity periods less than one year:	$ 30,210	$ 30,433	$ 223	
Marketable Securities with maturity periods greater than one year:				
PlainsCapital Bank	250	249	(1)	10/31/2011
Citibank N.A.	250	250	-	4/30/2012
Wright Express Financial Services	250	250	-	4/26/2012
Bank of Northern Miami	250	250	-	7/30/2012
Park Sterling Bank	250	250	-	10/16/2012
Columbus Bank & Trust Co.	250	251	1	10/22/2012
World's Foremost Bank	100	103	3	1/28/2013
Medallion Bank	242	244	2	4/30/2013
Wells Fargo	1,081	1,052	(29)	8/1/2011
Bank of America	1,066	1,042	(24)	8/15/2011
Wachovia Bank	274	271	(3)	9/28/2011
Bank One Corp.	1,070	1,062	(8)	11/15/2011
Morgan Stanley	1,077	1,045	(32)	1/9/2012
Goldman Sachs	1,035	1,018	(17)	8/1/2012
Merrill Lynch	1,088	1,059	(29)	8/15/2012
Morgan Stanley	1,071	1,053	(18)	8/31/2012

Wells Fargo		1,083		1,066	(17)	9/1/2012
GE Capital		104		102	(2)	5/29/2012
Sallie Mae Bank		104		102	(2)	5/29/2012
Israel Disc Bank		250		249	(1)	9/11/2012
Allstate		115		112	(3)	9/16/2012
World's Foremost Bank		104		103	(1)	3/4/2013
BWW Bank North America		251		252	1	6/4/2013
Goldman Sachs		250		251	1	6/17/2013
General Dynamics		763		758	(5)	7/15/2011
Merck & Co.		817		796	(21)	11/15/2011
Shell International		755		754	(1)	9/22/2011
3M Company		808		789	(19)	11/1/2011
Total Marketable Securities with maturity periods greater than one year:	$	15,008	$	14,783	$ (225)	
Total Marketable Securities	$	45,218	$	45,216	(2)	

No investment was pledged to secure public funds at June 30, 2010.

Note 6: Accrued Expenses

Accrued expenses consists of the following:

	(in thousands) December 31, 2009	June 30, 2010
Compensation	$ 716	$ 205
Professional fees	421	154
Other expenses	71	37
Other liability	113	113
	$ 1,321	$ 509

Note 7: Capital Lease

The Company has acquired equipment under a capital lease as follows:

	(in thousands) Asset Balance at June 30, 2010
Leased Equipment included with property and equipment	$ 70
Less: accumulated depreciation	(4)
	$ 66

The following is a schedule by year of future minimum lease payments under the capital lease as of June 30, 2010:

2010	$	18
2011		35
2012		4
Total lease payments remaining		57
Less: amount representing interest		(1)
Present value of remaining minimum lease payments		56
Less: current obligations under lease obligations		(35)
Long-term capital lease obligations	$	21

Lease payments made under this capital lease are $3,000 per month for 24 months starting February 2010. Imputed rate is 2% per annum. A security deposit of $6,000 was paid and is included in other assets.

Note 8: Construction in Progress

On September 16, 2009, our Board of Directors approved up to $4.4 million for full engineering studies, capital improvements, system upgrades and introduction of building management systems to enhance production of three products: Alferon N Injection®, Alferon® LDO and Ampligen®. Construction in progress consists of accumulated costs for the construction and installation of property and equipment within the Company's New Jersey facility until the assets are placed into service. As of December 31, 2009, construction in progress was $135,000 as compared to $405,000 for the six months ended June 30, 2010.

Note 9: Stockholders' Equity

The Equity Compensation Plan effective May 1, 2004, authorizes the grant of non-qualified and incentive stock options, stock appreciation rights, restricted stock and other stock awards. A maximum of 8,000,000 shares of common stock is reserved for potential issuance pursuant to awards under the Equity Plan of 2004. Unless sooner terminated, the Equity Compensation Plan of 2004 will continue in effect for a period of 10 years from its effective date. As of June 30, 2010, the Company effectively exhausted this plan and issued an aggregate 7,999,981 shares, stock options and warrants to vendors, Board Members, Directors and consultants under the 2004 Equity Compensation Plan. The shares had prices ranging from $0.35 to $0.89 based on the NYSE Amex closing price. The stock options had various exercise prices ranging from $1.30 to $6.00, had terms of five to ten years and vesting over varying periods.

The Equity Incentive Plan of 2007, effective June 20, 2007, authorizes the grant of non-qualified and incentive stock options, stock appreciation rights, restricted stock and other stock awards. A maximum of 9,000,000 shares of common stock is reserved for potential issuance pursuant to awards under the Equity Incentive Plan of 2007. Unless sooner terminated, the Equity Incentive Plan of 2007 will continue in effect for a period of 10 years from its effective date. The Company issued to vendors, Board Members, Directors and consultants, shares, stock options, warrants and "Incentive Rights" under the Employee Wages or Hours Reduction Program. As of June 30, 2010, the Company effectively exhausted this plan and issued an aggregate of 8,980,374 shares and shares issuable upon exercise/conversion of the foregoing securities. The aggregate shares to vendors, Board Members, Directors and consultants had prices ranging from $0.32 to $2.54 based on the NYSE Amex closing price. The stock options had various exercise prices ranging from $0.72 to $3.05, terms of ten years and vesting over varying periods.

The Company utilized the Black-Scholes Pricing Model to fair value the stock options which had been issued during the six months ended June 30, 2010 and accordingly recorded approximately $435,000 as equity based compensation for these issuances during this period. The stock options generally vested immediately upon grant with the exception of 20,000 options to one officer which vest over 18 months.

In an effort to conserve our cash, the Employee Wage Or Hours Reduction Program (the "Program") was ratified by our Board effective January 1, 2009. The Incentive Rights are rights for employees to receive Company shares and had prices ranging from $0.13 to $0.80 based on the average daily closing prices of the Company shares on the NYSE Amex. The Program was suspended as of May 31, 2009 with employees returning back to their rate of pay as of January 1, 2009. At the passage of six months for each of their months of participation, non-affiliate employees executed their right to receive shares for the months ended July 31, August 31, September 30, October 30 and November 30, 2009. Dr. William A. Carter, and his spouse, Dr. Katalin Kovari, have yet to exercise their rights to receive their 820,826 shares of stock related to this Program.

The Equity Incentive Plan of 2009, effective June 24, 2009, authorizes the grant of non-qualified and incentive stock options, stock appreciation rights, restricted stock and other stock awards. A maximum of 15,000,000 shares of common stock is reserved for potential issuance pursuant to awards under the Equity Incentive Plan of 2009. Unless sooner terminated, the Equity Incentive Plan of 2009 will continue in effect for a period of 10 years from its effective date. As of June 30, 2010 the Company issued 2,571,081 securities to Directors and consultants consisting of an aggregate of 2,101,642 options and 469,439 shares of common stock issuable upon exercise/conversion of the foregoing securities. The shares issued to consultants had prices ranging from $0.40 to $0.68 based on the NYSE Amex closing price.

The aggregate stock options had various exercise prices ranging from $0.51 to $2.81, had terms of ten years and vested immediately upon grant.

On May 28, 2010, we entered into an Equity Distribution Agreement (the "Agreement") with Maxim Group LLC ("Maxim") to create an At-The-Market ("ATM") equity program under which we may sell up to 32,000,000 shares of our Common Stock (the "Shares") from time to time through Maxim as our sales agent (the "Agent"). Under the Agreement, the Agent is entitled to a commission at a fixed commission rate of 4.0% of the gross sales price per Share sold, up to aggregate gross proceeds of $10,000,000, and, thereafter, at a fixed commission rate of 3.0% of the gross sales price per Share sold. Sales of the Shares under the Agreement may be made in transactions that are deemed to be "at-the-market" offerings as defined in Rule 415 under the Securities Act of 1933, as amended, including sales made by means of ordinary brokers' transactions, including on the NYSE Amex, at market prices or as otherwise agreed with the Agent. We have no obligation to sell any of the Shares, and may at any time suspend offers under the Agreement or terminate the Agreement. The Shares will be issued pursuant to our previously filed and effective Registration Statement on Form S-3 (File No. 333-159856). On June 22, 2009, we filed a base Prospectus and on May 28, 2010, filed a Prospectus Supplement relating to the offering with the Securities and Exchange Commission. During the quarter ended June 30, 2010, we sold 520,000 shares through the ATM equity program that resulted in net cash proceeds of $292,785 and commissions paid to Maxim of $12,199. The Shares sold through the ATM equity program had an average daily selling price ranging from $0.53 to $0.61.

Note 10: Fair Value

The Company is required under U.S. Generally Accepted Accounting Principles ("GAAP") to disclose information about the fair value of all the Company's financial instruments, whether or not these instruments are measured at fair value on the Company's consolidated balance sheet.

The Company estimates that the fair values of cash and cash equivalents, marketable securities, other assets, accounts payable and accrued expenses approximate their carrying values due to the short-term maturities of these items. Additionally, the Company has certain warrants with a cash settlement feature (in the event of a change in control to a non-public company) that are carried at fair value. Management estimates the fair value using a model which determines the probability that the cash settlement feature conditions will arise. The carrying amount and estimated fair value of the above warrants was zero at June 30, 2010.

On January 1, 2008, the Company adopted new accounting guidance (codified at FASB ASC 820 and formerly Statement No. 157 Fair Value Measurements) that defines fair value, establishes a framework for measuring fair value in Generally Accepted Accounting Principles, and expands disclosures about fair value measurements. The guidance does not impose any new requirements around which assets and liabilities are to be measured at fair value, and instead applies to asset and liability balances required or permitted to be measured at fair value under existing accounting pronouncements. The Company measures its marketable securities based on quoted prices of active markets and warrant liability, for those warrants with a cash settlement feature, at fair value. As of June 30, 2010, the Company had no derivative assets or liabilities.

FASB ASC 820-10-35-37 (formerly SFAS No. 157) establishes a valuation hierarchy based on the transparency of inputs used in the valuation of an asset or liability. Classification is based on the lowest level of inputs that is significant to the fair value measurement. The valuation hierarchy contains three levels:

- Level 1 – Quoted prices are available in active markets for identical assets or liabilities at the reporting date.

- Level 2 – Observable inputs other than Level 1 prices such as quote prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

- Level 3 – Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. Level 3 assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or other valuation techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation. As of December 31, 2009, the Company has classified the warrants with cash settlement features as Level 3. Management evaluates a variety of inputs and then estimates fair value based on those inputs. The primary inputs evaluated by management to determine the likelihood of a change in control to a non-public company (thereby triggering the cash settlement feature) were the Company's FDA approval status including the additional requirements including required cash outflows prior to resubmission to the FDA (observable), the industry and market conditions (unobservable), litigation matters against the Company (observable) and statistics regarding the number of company's going private (observable).

The table below presents the balances of assets and liabilities measured at fair value on a recurring basis by level within the hierarchy as of June 30, 2010:

	Total	Level 1	Level 2	Level 3
Assets:				
Marketable Securities	$ 45,216	$ 45,216	$ -	$ -
Liabilities:				
Warrants	-	-	-	-
Total	$ 45,216	$ 45,216	$ -	$ -

For detailed information regarding the change to the fair value of assets recorded in Level 1 (See Note 5: Marketable Securities). There were no changes in the fair value for the Level 3 Warrants during the three months ended June 30, 2010.

NOTE 11: Cash And Cash Equivalents

The Company considers all highly liquid investments with an original maturity of three months or less when purchased to be cash equivalents.

NOTE 12: Recent Accounting Pronouncements

The Financial Accounting Standards Board (“FASB”) has published FASB Accounting Standards Update 2010-01 through 2010-12. The adoption of published FASB Accounting Standards Update 2010-01 through 2010-20 has no material effect on the Company’s financial statements for the six months ended June 30, 2010.

NOTE 13: Subsequent Events

The Company evaluated subsequent events through the date on which the financial statements were issued, and determined that three amended employment agreements with Executive Officers and an amended adviser’s agreement with The Sage Group, Inc. (“SAGE”) constituted subsequent events that required disclosure without adjustment to the financial statements for the six months ended June 30, 2010. In summary:

- The June 11, 2010 employment agreements with William A. Carter, Chairman of the Board and Chief Executive Officer, and Thomas K. Equels, Vice Chairman of the Board, Secretary and General Counsel, were amended to make certain terminology revisions that did not impact or alter the terms of these executives’ compensation. These amendments were reviewed and approved by the Compensation Committee on July 14, 2010 with unanimous recommendation to the Board for approval. On July 15, 2010, the Board of Directors unanimously approved the amendments. As a result, these amended employment agreements were signed on July 15, 2010 with an effective date of June 11, 2010.

- The existing employment agreement with Robert Dickey IV, Senior Vice President, was set to expire on September 1, 2010. Upon discussion and review on July 14, 2010, the Compensation Committee unanimously recommendation to the Board that an agreement be authorized for renewal on a month-to-month basis at the same general terms and level of compensation as established in the employment agreement of February 1, 2010. On July 15, 2010, the Board of Directors unanimously authorized the renewal of this extension within the terms recommended by the Compensation Committee. As a result, this agreement renewal was signed on August 3, 2010 with an effective date of September 1, 2010.

- The adviser’s agreement with SAGE was scheduled to expire on November 13, 2010. Upon discussion and review on July 15, 2010, the Company entered into an amended adviser’s agreement for an initial term of 18 months.

ITEM 2:Management's Discussion and Analysis of Financial Condition and Results of Operations.

Special Note Regarding Forward-Looking Statements

Certain statements in this document constitute "forwarding-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities and Exchange Act of 1995 (collectively, the "Reform Act"). Certain, but not necessarily all, of such forward-looking statements can be identified by the use of forward-looking terminology such as "believes", "expects", "may", "will", "should", or "anticipates" or the negative thereof or other variations thereon or comparable terminology, or by discussions of strategy that involve risks and uncertainties. All statements other than statements of historical fact, included in this report regarding our financial position, business strategy and plans or objectives for future operations are forward-looking statements. Without limiting the broader description of forward-looking statements above, we specifically note that statements regarding potential drugs, their potential therapeutic effect, the possibility of obtaining regulatory approval, our ability to manufacture and sell any products, market acceptance or our ability to earn a profit from sales or licenses of any drugs or our ability to discover new drugs in the future are all forward-looking in nature.

17

Such forward-looking statements involve known and unknown risks, uncertainties and other factors, including but not limited to, the risk factors discussed below, which may cause the actual results, performance or achievements of Hemispherx and its subsidiaries to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements and other factors referenced in this report. We do not undertake and specifically decline any obligation to publicly release the results of any revisions which may be made to any forward-looking statement to reflect events or circumstances after the date of such statements or to reflect the occurrence of anticipated or unanticipated events.

Overview

General

We are a specialty pharmaceutical company based in Philadelphia, Pennsylvania and engaged in the clinical development of new drug therapies based on natural immune system enhancing technologies for the treatment of viral and immune based chronic disorders. We were founded in the early 1970s doing contract research for the National Institutes of Health. Since that time, we have established a strong foundation of laboratory, pre-clinical and clinical data with respect to the development of natural interferon and nucleic acids to enhance the natural antiviral defense system of the human body and to aid the development of therapeutic products for the treatment of certain chronic diseases. We have three domestic subsidiaries BioPro Corp., BioAegean Corp., and Core BioTech Corp., all of which are incorporated in Delaware and are dormant. Our foreign subsidiary is Hemispherx Biopharma Europe N.V./S.A. established in Belgium in 1998, which has minimal activity. All significant intercompany balances and transactions have been eliminated in consolidation.

Our current strategic focus is derived from four applications of our two core pharmaceutical technology platforms Ampligen® and Alferon N Injection®. The commercial focus for Ampligen® includes application as a treatment for Chronic Fatigue Syndrome ("CFS") and as an influenza vaccine enhancer (adjuvant) for both therapeutic and preventative vaccine development. Alferon N Injection® is a Food and Drug Administration ("FDA") approved product with an indication for refractory or recurring genital warts. Alferon® LDO (Low Dose Oral) is a formulation currently under development targeting influenza.

We have formed an independent Data Monitoring Committee ("DMC") which will oversee our various drug development programs. The principal role of an independent DMC is to perform interim analyses of the clinical outcome data and to insure the safety of patients in clinical trials. The DMC also plays a critical role in studies that may use "Adaptive Design" wherein trial design modifications can be made after patient enrollment has started. Adaptive Design should enable us to respond to data collected during a trial to increase the likelihood of generating statistically and clinically significant results. As of August 3, 2010, there has yet to be any clinical outcome data generated for the DMC to review.