

BIODELIVERY SCIENCES INTERNATIONAL INC

Form DEF 14A

June 18, 2008

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## SCHEDULE 14A INFORMATION

**Proxy Statement Pursuant to**

**Section 14(a) of the Securities Exchange Act of 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

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

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to §240.14a-12

**BioDelivery Sciences International, Inc.**

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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No fee required.

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

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2) Aggregate number of securities to which transaction applies:

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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):

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4) Proposed maximum aggregate value of transaction:

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5) Total fee paid:

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Fee paid previously with preliminary materials.

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1) Amount Previously Paid:

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2) Form, Schedule or Registration Statement No.:

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3) Filing Party:

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4) Date Filed:

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June 18, 2008

To the Stockholders of BioDelivery Sciences International, Inc.:

BioDelivery Sciences International, Inc. (the **Company**) is pleased to send you the enclosed notice of the 2008 Annual Meeting of Stockholders of the Company (the **Meeting**) to be held at 11 a.m. on Thursday, July 24, 2008 at the Hampton Inn & Suites, 111 Hampton Woods Lane, Raleigh, North Carolina.

The items of business for the Meeting are listed in the following Notice of Annual Meeting and are more fully addressed in the attached Proxy Statement. The Proxy Statement is first being mailed to stockholders of the Company on or about June 23, 2008.

**Your vote is important please date, sign and return your proxy card in the enclosed envelope as soon as possible to ensure that your shares will be represented and voted at the Meeting even if you cannot attend.** If you attend the Meeting, you may vote your shares in person even though you have previously signed and returned your proxy.

If you have any questions regarding this material, please do not hesitate to call me at (919) 582-9050.

Sincerely yours,

Francis E. O'Donnell, Jr.

Chairman of the Board of Directors

BioDelivery Sciences International, Inc.

**WHETHER OR NOT YOU EXPECT TO ATTEND THE MEETING, PLEASE COMPLETE THE ENCLOSED PROXY CARD AND PROMPTLY MAIL IT IN THE ENCLOSED ENVELOPE IN ORDER TO ASSURE REPRESENTATION OF YOUR SHARES AT THE MEETING.**

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**BIODELIVERY SCIENCES INTERNATIONAL, INC.**

**801 Corporate Center Drive, Suite #210**

**Raleigh, North Carolina 27607**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**To be held on Thursday, July 24, 2008**

The 2008 Annual Meeting of Stockholders (the **Meeting**) of BioDelivery Sciences International, Inc. (the **Company**) will be held at 11 a.m. on Thursday, July 24, 2008, at the Hampton Inn & Suites 111 Hampton Woods Lane, Raleigh, North Carolina, for the following purposes:

1. To elect all five (5) members of the Company's Board of Directors, each to hold office until his successor is elected and qualified or until his earlier resignation or removal (Proposal 1);
2. To adopt an amendment to the Company's Certificate of Incorporation to create a classified board of directors comprised of three classes with staggered terms (Proposal 2);
3. To ratify the appointment by the Audit Committee of the Company's Board of Directors of Cherry, Bekaert & Holland, L.L.P (as the successor to Aidman Piser & Company, P.A.'s practice as the result of the acquisition of such practice on May 1, 2008) as the Company's independent auditors for the fiscal year ending December 31, 2008 (Proposal 3); and
4. To transact such other business as may properly come before the meeting or any adjournment thereof.

Stockholders are cordially invited to attend the Meeting in person. **However, to assure your representation at the Meeting, please complete and sign the enclosed proxy card and return it promptly.** Even if you have previously submitted a proxy card you may choose to vote in person at the Meeting. Whether or not you expect to attend the Meeting, please read the attached proxy statement and then promptly complete, date, sign and return the enclosed proxy card in order to ensure your representation at the Meeting.

**The Board of Directors unanimously recommends a vote for the approval of each of the proposals to be submitted at the meeting.**

BY ORDER OF THE BOARD OF DIRECTORS

James A. McNulty, CPA

Secretary, Treasurer and Chief Financial Officer

Raleigh, North Carolina

June 18, 2008

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**BIODELIVERY SCIENCES INTERNATIONAL, INC.**

**801 Corporate Center Drive, Suite #210**

**Raleigh, North Carolina 27607**

**919-582-9050**

**PROXY STATEMENT**

**ANNUAL MEETING OF STOCKHOLDERS**

**to be held on Thursday, July 24, 2008, 11 a.m.**

**Hampton Inn & Suites**

**111 Hampton Woods Lane**

**Raleigh, North Carolina**

**QUESTIONS AND ANSWERS ABOUT THESE PROXY MATERIALS**

**Why am I receiving this proxy statement?**

This proxy statement describes the proposals on which our Board of Directors would like you, as a stockholder, to vote at our annual meeting of the stockholders, which will take place on Thursday, July 24, 2008 at 11 a.m. local time at Hampton Inn & Suites 111 Hampton Woods Lane, Raleigh, North Carolina.

This proxy statement also gives you information on these proposals so that you can make an informed decision. We intend to mail this proxy statement and accompanying proxy card on or about June 23, 2008 to all stockholders of record entitled to vote at the annual meeting.

In this proxy statement, we refer to BioDelivery Sciences International, Inc. as the Company, we, us or our.

**Who can vote at the annual meeting of stockholders?**

Stockholders who owned shares of our common stock, par value \$.001 per share ( **Common Stock** ), on June 18, 2008 (the **Record Date** ) may attend and vote at the annual meeting. Each share is entitled to one vote. There were 19,150,546 shares of Common Stock outstanding on the Record Date. All shares of Common Stock shall vote together as a single class. Information about the stockholdings of our directors and executive officers is contained in the section of this proxy statement entitled **Beneficial Ownership of Principal Stockholders, Officers, and Directors** on page 25 of this proxy statement.

**What is the proxy card?**

The proxy card enables you to appoint Mark A. Sirgo, our President and Chief Executive Officer, and/or James A. McNulty, our Secretary, Treasurer and Chief Financial Officer, as your representative at the annual meeting. By completing and returning the proxy card, you are

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authorizing these persons to vote your shares at the annual meeting in accordance with your instructions on the proxy card. This way, your shares will be voted whether or not you attend the annual meeting. Even if you plan to attend the annual meeting, we think that it is a good idea to complete and return your proxy card before the annual meeting date just in case your plans change. If a proposal comes up for vote at the annual meeting that is not on the proxy card, the proxies will vote your shares, under your proxy, according to their best judgment.

### **What am I voting on?**

You are being asked to vote on: (i) the election of the members of our Board of Directors, (ii) the adoption of an amendment to our Certificate of Incorporation to create a classified board of directors comprised of three



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classes with staggered terms and (iii) the ratification of our independent registered public accounting firm for the fiscal year ending December 31, 2008. We will also transact any other business that properly comes before the annual meeting.

### **How does the Board of Directors recommend that I vote?**

Our Board of Directors unanimously recommends that the stockholders vote for all proposals being put before our stockholders at the Meeting.

### **What is the difference between holding shares as a stockholder of record and as a beneficial owner?**

Most of our stockholders hold their shares in an account at a brokerage firm, bank or other nominee holder, rather than holding share certificates in their own name. As summarized below, there are some distinctions between shares held of record and those owned beneficially.

#### *Stockholder of Record*

If, on the Record Date, your shares were registered directly in your name with our transfer agent, American Stock Transfer & Trust Company, you are a stockholder of record who may vote at the annual meeting, and we are sending these proxy materials directly to you. As the stockholder of record, you have the right to direct the voting of your shares by returning the enclosed proxy card to us or to vote in person at the annual meeting. Whether or not you plan to attend the annual meeting, please complete, date and sign the enclosed proxy card to ensure that your vote is counted.

#### *Beneficial Owner*

If, on the Record Date, your shares were held in an account at a brokerage firm or at a bank or other nominee holder, you are considered the beneficial owner of shares held in street name, and these proxy materials are being forwarded to you by your broker or nominee who is considered the stockholder of record for purposes of voting at the annual meeting. As the beneficial owner, you have the right to direct your broker on how to vote your shares and to attend the annual meeting. However, since you are not the stockholder of record, you may not vote these shares in person at the annual meeting unless you receive a valid proxy from your brokerage firm, bank or other nominee holder. To obtain a valid proxy, you must make a special request of your brokerage firm, bank or other nominee holder. If you do not make this request, you can still vote by using the voting instruction card enclosed with this proxy statement; however, you will not be able to vote in person at the annual meeting.

### **How do I vote?**

#### **(1) You may vote by mail.**

You may vote by mail by completing, signing and dating your proxy card and returning it in the enclosed, postage-paid and addressed envelope. If we receive your proxy card prior to the annual meeting and if you mark your voting instructions on the proxy card, your shares will be voted:

as you instruct, and

according to the best judgment of the proxies if a proposal comes up for a vote at the annual meeting that is not on the proxy card. If you return a signed card, but do not provide voting instructions, your shares will be voted:

for adoption of an amendment to our Certificate of Incorporation to create a classified board of directors comprised of three classes with staggered terms;

for the five (5) nominees to our Board of Directors, all of whom are presently serving on the board;



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to ratify the appointment of our independent registered public accounting firm for the fiscal year ending December 31, 2008; and

according to the best judgment of either Dr. Sirgo or Mr. McNulty, if a proposal comes up for a vote at the annual meeting that is not on the proxy card.

### **(2) You may vote by telephone.**

You may vote by telephone by following the directions on the enclosed proxy card.

### **(3) You may vote in person at the annual meeting.**

We will pass out written ballots to anyone who wants to vote at the annual meeting. However, if you hold your shares in street name, you must bring to the annual meeting a valid proxy from the broker, bank or other nominee holding your shares that confirms your beneficial ownership of the shares and gives you the right to vote your shares. Holding shares in street name means you hold them through a brokerage firm, bank or other nominee, and therefore the shares are not held in your individual name. We encourage you to examine your proxy card closely to make sure you are voting all of your shares in the Company.

### **What does it mean if I receive more than one proxy card?**

You may have multiple accounts at the transfer agent and/or with brokerage firms. Please sign and return all proxy cards to ensure that all of your shares are voted.

### **What if I change my mind after I return my proxy?**

You may revoke your proxy and change your vote at any time before the polls close at the annual meeting. You may do this by:

sending a written notice to the Secretary of the Company stating that you would like to revoke your proxy of a particular date;

signing another proxy card with a later date and returning it before the polls close at the annual meeting; or

attending the annual meeting and voting in person.

Please note, however, that if your shares are held of record by a brokerage firm, bank or other nominee, you must instruct your broker, bank or other nominee that you wish to change your vote by following the procedures on the voting form provided to you by the broker, bank or other nominee. If your shares are held in street name, and you wish to attend the annual meeting and vote at the annual meeting, you must bring to the annual meeting a legal proxy from the broker, bank or other nominee holding your shares, confirming your beneficial ownership of the shares and giving you the right to vote your shares.

### **Will my shares be voted if I do not sign and return my proxy card?**

If your shares are held in street name or in your name and you do not sign and return your proxy card, your shares will not be voted unless you vote in person at the annual meeting.

### **How are votes counted?**

You may vote for, against, or abstain on each of the proposals being placed before our stockholders.

### **How many votes are required to elect the nominated persons to the Board of Directors?**

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The affirmative vote of a plurality of the votes cast at the meeting of the stockholders by the holders of shares of common stock entitled to vote in the election are required to elect each director.

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### **How many votes are required to adopt an amendment to our Certificate of Incorporation to create a staggered Board of Directors?**

The affirmative vote of a majority of the votes cast at the meeting of the stockholders by the holders of shares of common stock entitled to vote are required to adopt an amendment to our Certificate of Incorporation to create a staggered Board of Directors.

### **How many votes are required to ratify the Company's independent public accountants?**

The affirmative vote of a majority of the votes cast at the meeting of the stockholders by the holders of shares of common stock entitled to vote are required to ratify Cherry, Bekaert & Holland, L.L.P (as the successor to Aidman Piser & Company, P.A.) as our independent registered public accounting firm for the year ending December 31, 2008.

### **How many votes are required to approve other matters that may come before the stockholders at the annual meeting?**

An affirmative vote of a majority of the votes cast at the annual meeting is required for approval of all other items being submitted to the stockholders for their consideration.

### **What happens if I don't indicate how to vote my proxy?**

If you just sign your proxy card without providing further instructions, your shares will be counted as a for vote for all of the proposals being placed before our stockholders at the Meeting.

### **Is my vote kept confidential?**

Proxies, ballots and voting tabulations identifying stockholders are kept confidential and will not be disclosed except as may be necessary to meet legal requirements.

### **Where do I find the voting results of the annual meeting?**

We will announce voting results at the annual meeting.

### **Who can help answer my questions?**

You can contact our Secretary and Chief Financial Officer, Mr. James A. McNulty, at (813) 864-2562 or by sending a letter to Mr. McNulty at offices of the Company at 324 South Hyde Park Avenue, Suite 350, Tampa Florida 33606, with any questions about proposals described in this proxy statement or how to execute your vote.

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**BIODELIVERY SCIENCES INTERNATIONAL, INC.**

**801 Corporate Center Drive, Suite #210**

**Raleigh, North Carolina 27607**

**919-582-9050**

**PROXY STATEMENT**

**INTRODUCTION**

*2008 Annual Meeting of Stockholders*

This Proxy Statement is being furnished to holders of shares of common stock, \$.001 par value (the **Common Stock**) of BioDelivery Sciences International, Inc., a Delaware corporation (the **Company**), in connection with the solicitation of proxies by the Board of Directors of the Company (the **Board of Directors**) for use at the 2008 Annual Meeting of Stockholders of the Company (the **Meeting**). The Meeting is to be held at 11 a.m. on Thursday, July 24, 2008 at the Hampton Inn & Suites 111 Hampton Woods Lane, Raleigh, North Carolina, and at any adjournment or adjournments thereof.

*Record Date; Mailing Date*

The Board of Directors has fixed the close of business on June 18, 2008 (the **Record Date**) as the record date for the determination of stockholders entitled to notice of, and to vote and act at, the Meeting. Only stockholders of record at the close of business on that date are entitled to notice of, and to vote and act at, the Meeting. The Proxy Statement is first being mailed to stockholders of the Company on or about June 23, 2008.

*Proposals to be Submitted at the Meeting*

At the Meeting, Stockholders will be acting upon the following proposals:

1. To elect all five (5) members of the Company's Board of Directors, each to hold office until his successor is elected and qualified or until his earlier resignation or removal (Proposal 1);
2. To adopt an amendment to the Company's Certificate of Incorporation to create a classified board of directors comprised of three classes with staggered terms (Proposal 2);
3. To ratify the appointment by the Audit Committee of the Company's Board of Directors of Cherry, Bekaert & Holland, L.L.P (as the successor to Aidman Piser & Company, P.A.'s practice as the result of the acquisition of such practice on May 1, 2008) as the Company's independent auditors for the fiscal year ending December 31, 2008 (Proposal 3); and
4. To transact such other business as may properly come before the meeting or any adjournment thereof.

*Principal Offices*

The principal executive offices of the Company are located at 801 Corporate Center Drive, Suite #210, Raleigh, North Carolina 27607. The telephone number is (919) 582-9050.

*Information Concerning Solicitation and Voting*

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As of the Record Date, there were 19,150,546 outstanding shares of Common Stock, each share entitled to one vote on each matter to be voted on at the Annual Meeting. Only holders of shares of Common Stock on the Record Date will be entitled to vote at the Annual Meeting. The holders of Common Stock are entitled to one vote on all matters presented at the meeting for each share held of record. The presence in person or by proxy of holders of record of a majority of the shares outstanding and entitled to vote as of the Record Date shall be required for a quorum to transact business at the Annual Meeting. If a quorum should not be present, the Annual

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Meeting may be adjourned until a quorum is obtained. To be elected, each nominee named in Proposal 1 must receive the vote of a plurality of the votes of the shares of Common Stock present in person or represented by proxy at the meeting. For the purposes of election of directors, although abstentions will count toward the presence of a quorum, they will not be counted as votes cast and will have no effect on the result of the vote. Broker non-votes, which occur when brokers are prohibited from exercising discretionary voting authority for beneficial owners who have not provided voting instructions, will not be counted for the purpose of determining the number of shares present in person or by proxy on a voting matter and will have no effect on the outcome of the vote. Brokers who hold shares in street name may vote on behalf of beneficial owners with respect to Proposals 1, 2, 3 and 4.

*Expenses*

The expense of preparing, printing and mailing this Proxy Statement, exhibits and the proxies solicited hereby will be borne by the Company. In addition to the use of the mails, proxies may be solicited by officers and directors and regular employees of the Company, without additional remuneration, by personal interviews, telephone or facsimile transmission. The Company will also request brokerage firms, nominees, custodians and fiduciaries to forward proxy materials to the beneficial owners of shares of Common Stock held of record and will provide reimbursements for the cost of forwarding the material in accordance with customary charges.

*Revocability of proxies*

Proxies given by stockholders of record for use at the Annual Meeting may be revoked at any time prior to the exercise of the powers conferred. In addition to revocation in any other manner permitted by law, stockholders of record giving a proxy may revoke the proxy by an instrument in writing, executed by the stockholder or his attorney authorized in writing or, if the stockholder is a corporation, under its corporate seal, by an officer or attorney thereof duly authorized, and deposited either at the corporate headquarters of the Company at any time up to and including the last business day preceding the day of the Annual Meeting, or any adjournments thereof, at which the proxy is to be used, or with the chairman of such Annual Meeting on the day of the Annual Meeting or adjournments thereof, and upon either of such deposits the proxy is revoked.

**ALL PROXIES RECEIVED WILL BE VOTED IN ACCORDANCE WITH THE CHOICES SPECIFIED ON SUCH PROXIES. PROXIES WILL BE VOTED IN FAVOR OF A PROPOSAL IF NO CONTRARY SPECIFICATION IS MADE. ALL VALID PROXIES OBTAINED WILL BE VOTED AT THE DISCRETION OF THE PERSONS NAMED IN THE PROXY WITH RESPECT TO ANY OTHER BUSINESS THAT MAY COME BEFORE THE ANNUAL MEETING.**

**THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE FOR THE APPROVAL OF EACH OF THE PROPOSALS TO BE SUBMITTED AT THE MEETING.**



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The Board of Directors currently consists of one class of directors having five (5) members. The Board of Directors may determine the total number of directors and the number of directors to be elected at any annual meeting or special meeting in lieu thereof. The Board of Directors has fixed at five (5) the number of directors to be elected at the Meeting. At the Meeting, stockholders will be asked to elect Francis E. O'Donnell, Jr., Mark A. Sirgo, William B. Stone, John J. Shea and William S. Poole (the **Nominees**), each to hold office until his successor is elected and qualified or until his earlier resignation or removal.

It is the intention of the persons named in the enclosed proxy to vote to elect the Nominees, each of whom is an incumbent director, and each of whom has consented to serve if elected. If some unexpected occurrence should make necessary, in the discretion of the Board of Directors, the substitution of some other person for any of the Nominees, it is the intention of the persons named in the proxy to vote for the election of such other persons as may be designated by the Board of Directors.

*Directors and Executive Officers*

Listed below are the names of the directors, executive officers and significant employees of the Company, their ages as of June 18, 2008 and positions held:

<b>Name</b>	<b>Age</b>	<b>Position(s) Held</b>
Francis E. O'Donnell, Jr., M.D.	58	Chairman of the Board and Director
Mark A. Sirgo, Pharm.D.	54	President, Chief Executive Officer and Director
Raphael J. Mannino, Ph.D.	61	Executive Vice President, Chief Scientific Officer
Andrew L. Finn, Pharm.D.	59	Executive Vice President of Product Development
James A. McNulty	57	Chief Financial Officer, Secretary and Treasurer
William B. Stone	65	Lead Director
John J. Shea	81	Director
William S. Poole	61	Director

There are no family relationships between any director, executive officer or significant employee.

None of the Company's directors or executive officers have been involved, in the past five years, in a fashion material to an evaluation of such director's or officer's ability or integrity to serve as a director or executive officer, in any Certain Legal Proceedings, more fully detailed in Item 401(d) of Regulation S-K, which include but are not limited to, bankruptcies, criminal convictions and an adjudication finding that an individual violated federal or state securities laws.

*Francis E. O'Donnell, Jr., M.D.*, age 58, has been of our Chairman of the Board and a Director since March 29, 2002. Dr. O'Donnell has previously served as our President and Chief Executive Officer. In January 2005, he relinquished the title of President and in August 2005 he relinquished the title of Chief Executive Officer. For more than the last six years, Dr. O'Donnell has served as managing director of The Hopkins Capital Group, an affiliation of limited liability companies which engage in private equity and venture capital investing in disruptive technologies in healthcare. He is a co-founder and chairman of RetinaPharma Technologies, Inc. He serves as Chairman and CEO of Accentia Biopharmaceuticals, Inc., a holding company with commercialization assets representing a vertically-integrated platform for specialty pharmaceuticals and biologics. Dr. O'Donnell is a graduate of The Johns Hopkins School of Medicine and received his residency training at the Wilmer Ophthalmological Institute, Johns Hopkins Hospital. Dr. O'Donnell is a former professor and Chairman of the

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Department of Ophthalmology, St. Louis University School of Medicine. Dr. O'Donnell holds 34 U.S. Patents. Dr. O'Donnell is the 2000 Recipient of the Jules Stein Vision Award sponsored by Retinitis Pigmentosa International. He is a trustee of the Health Careers Foundation and of St. Louis University.

*Mark A. Sirgo, Pharm.D.*, age 54, has been our President and Chief Executive Officer since July 2005. He joined our company in August 2004 as Senior Vice President of Commercialization and Corporate Development upon our acquisition of Arius Pharmaceuticals (Arius), of which he was a co-founder and Chief Executive Officer. He has also served as our Executive Vice President, Corporate and Commercial Development and our Chief Operating Officer. Dr. Sirgo has more than 20 years of experience in the pharmaceutical industry, including 16 years in clinical drug development; 7 years in marketing, sales, business development and 5 years in executive management. Prior to his involvement with Arius from 2003 to 2004, he spent 16 years in a variety of positions of increasing responsibility in both clinical development and marketing at Glaxo, Glaxo Wellcome, and GlaxoSmithKline, including Vice President of International OTC Development and Vice President of New Product Marketing. Dr. Sirgo was responsible for managing the development and FDA approval of Zantac 75 while at Glaxo Wellcome among other accomplishments. From 1996 to 1999, Dr. Sirgo was Senior Vice President of Global Sales and Marketing at Pharmaceutical Product Development, Inc. (Nasdaq:PPDI), a leading contract service provider to the pharmaceutical industry. Dr. Sirgo serves on the Board of Salix Pharmaceuticals (Nasdaq:SLXP), a specialty pharmaceutical company specializing in gastrointestinal products. Dr. Sirgo received his BS in Pharmacy from The Ohio State University and his Doctorate from Philadelphia College of Pharmacy and Science.

*Raphael J. Mannino, Ph.D.*, age 61, has been our Executive Vice President and Chief Scientific Officer since October 2000. He served as a Director of our company from October 2001 until June 2008. Dr. Mannino has served as President, CEO, Chief Scientific Officer, and a member of the Board of Directors of BioDelivery Sciences, Inc., our predecessor, since its incorporation in 1995. Dr. Mannino's previous experience includes positions as Associate Professor, at the University of Medicine and Dentistry of New Jersey (1990 to present), Assistant, then Associate Professor, Albany Medical College (1980 to 1990), and Instructor then Assistant Professor, Rutgers Medical School (1977 to 1980). His postdoctoral training was from 1973 to 1976 at the Biocenter in Basel, Switzerland. Dr. Mannino received his Ph.D. in Biological Chemistry in 1973 from the Johns Hopkins University, School of Medicine.

*Andrew L. Finn, Pharm.D.*, age 59, has been our Executive Vice President of Product Development since January 2007. He joined the company in August 2004 upon our acquisition of Arius, of which he was a co-founder. Dr. Finn has previously served as our Senior Vice President of Product Development and Executive Vice President of Clinical Development and Regulatory Affairs. Dr. Finn has more than 25 years experience in pharmaceutical product development. Prior to his involvement with Arius, he was, from 2000 to 2003, Executive Vice President of Product Development at POZEN Inc. with responsibilities for formulation development, non-clinical development, clinical research and regulatory affairs. He participated in the activities leading up to the initial public offering and submitted marketing applications in Europe and the U.S. for two migraine products. From 1996 to 1999, Dr. Finn was Co-Founder and Chief Executive Officer of enVision Sciences, a regulatory and clinical service company. From 1991 to 1996, he was Vice President of U.S. Clinical Research for Solvay Pharmaceuticals, where he oversaw NDA submissions in the areas of inflammatory bowel disease, osteoporosis prevention and treatment of obsessive-compulsive disorder. Prior to this he spent 10 years in positions of increasing responsibility at Glaxo Inc., where he oversaw a number of NDA submissions, including Zofran for chemotherapy induced nausea and vomiting. Dr. Finn received his BS in Pharmacy from the University of North Carolina and his Doctorate from the University of Michigan.

*James A. McNulty*, age 57, has served as our Secretary, Treasurer and Chief Financial Officer on a part time basis (estimated to constitute approximately 50% of his time) since October 2000. Beginning January 1, 2008, his position is full-time. Mr. McNulty has, since May 2000, also served as Chief Financial Officer of Hopkins Capital Group, an affiliation of limited liability companies which engage in venture activities. Hopkins Capital Group is owned and controlled by Dr. Francis E. O'Donnell, Jr. Mr. McNulty also serves as the Treasurer and

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Corporate Secretary of Accentia Biopharmaceuticals, Inc., a holding company with commercialization assets representing a vertically-integrated platform for specialty pharmaceuticals and biologics, and through December 31, 2007 as Chief Financial Officer for Biovest International, a majority-owned subsidiary of Accentia. Mr. McNulty has performed accounting and consulting services as a Certified Public Accountant since 1975. He co-founded Pender McNulty & Newkirk, which became one of Florida's largest regional CPA firms, and was a founder/principal in two other CPA firms, McNulty & Company, and McNulty Garcia & Ortiz. He served as CFO of Star Scientific, Inc. from October 1998 to May 2000. From June 2000 through January 2002 he served as CFO/COO of American Prescription Providers, Inc. He is a published co-author (with Pat Summerall) of *Business Golf*, *the Art of Building Relationships on the Links*. Mr. McNulty is a graduate of University of South Florida, a licensed Certified Public Accountant, and is a member of the American and Florida Institutes of CPAs.

*William B. Stone*, age 65, is a member of our Board of Directors and is our Lead Director. For thirty years, until his retirement in October 2000, Mr. Stone was employed with Mallinckrodt Inc. For the last twenty years of his career, he held positions of Vice President and Corporate Controller and Vice President and Chief Information Officer for 16 years and 4 years, respectively. Mr. Stone is a graduate of the University of Missouri-Columbia where he earned BS and MA degrees in accounting, and is a Certified Public Accountant.

*John J. Shea*, age 81, is a member of our Board of Directors. He is currently the head of his own firm of J. Shea Inc. and has also been a Quality Systems Adviser with Quintiles, a private consulting firm. Mr. Shea has been employed at J. Shea Inc. since 1989. Mr. Shea has also served in the capacity of Director of Quality Assurance and was responsible for the implementation of quality assurance procedures in a number of public companies. From 1987-1989, he served as Director of Quality Assurance at NeoRx Corporation. Mr. Shea was also the Director of Corporate Quality Assurance at Hexcel Corporation from 1980-1987. Mr. Shea has also served as the quality assurance person for other companies including, Teledyne Relays, Ortho Diagnostics, Inc. and Bio Reagents & Diagnostics, Inc. Mr. Shea earned a B.S. in Chemistry at Bethany College.

*William S. Poole*, age 61, is a member of our Board of Directors. He has extensive experience in the biopharmaceutical and medical device industries for over thirty years. From 1972 to early 1996, Mr. Poole worked for Lederle Laboratories, a Division of American Cyanamid Company. During his 24-year career at Cyanamid, Mr. Poole held positions of increasing responsibility and held the position of World-Wide Division President of the Medical Device Division when Wyeth acquired Cyanamid in 1995. He later served as President, North American Pharmaceuticals, of Novo Nordisk Pharmaceuticals, and also as President of Biovail Pharmaceuticals. In both of these companies, Mr. Poole was instrumental in aggressively growing revenue, building a solid management team and dramatically improving profitability. As President of these firms, Mr. Poole had total P&L responsibility and directly oversaw vice presidents in charge of manufacturing, research & development, sales, legal, marketing, finance, regulatory and human resources functions. In recent years, Mr. Poole has acted as a private consultant and, until his appointment to the board, Mr. Poole served as a member of the Commercial Advisory Board of our subsidiary, Arius. Currently, Mr. Poole is Acting President/CEO of Spherics, Inc., a biotechnology company focusing on unique delivery mechanisms of certain drugs for the treatment of CNS diseases. In addition Mr. Poole is a Board Member of Accentia BioPharmaceuticals Inc., and is Chairman of the Compensation Committee.

If Proposal No. 2 is adopted, the directors of the Company will be divided into classes as follows:

STANDING FOR ONE YEAR TERMS (CLASS I):

Frank E. O. Donnell, Jr., M.D.

STANDING FOR TWO YEAR TERMS (CLASS II):

John J. Shea

Mark A. Sirgo

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STANDING FOR THREE YEAR TERMS (CLASS III):

William B. Stone

William S. Poole

*Director Independence*

We believe that William B. Stone, John J. Shea and William S. Poole qualify as independent directors for Nasdaq Stock Market purposes. This means that our Board of Directors is composed of a majority of independent directors as required by the rules of the Nasdaq Stock Market.

*Committees of the Board of Directors*

Our Board of Directors has established three standing committees Audit, Compensation, and Nominating and Corporate Governance. The Audit and Nominating and Corporate Governance Committees each operate under a charter that has been approved by the board.

As compensation for their duties, directors receive \$1,000 for appearing in person at a Board of Directors meeting. Compensation also includes 30,000 options to purchase common stock for each year served as a director. Additionally, each director is granted 7,500 options to purchase common stock per year for serving on a committee of the Board of Directors and an additional 7,500 options to purchase common stock per year for serving as chairman of a committee of the Board of Directors. Our Lead Director receives an additional 15,000 options.

*Audit Committee*

Our Board of Directors has an Audit Committee, currently composed of William B. Stone, John J. Shea and William S. Poole, each of whom are independent directors as defined in accordance with section 3(a)(58)(A) of the Exchange Act and the rules of the Nasdaq Stock Market, Mr. Stone serves as chairman of the committee. The Board of Directors has determined that Mr. Stone is an audit committee financial expert as defined in Item 407(d)(5)(ii) of Regulation S-K. During 2007 and until his resignation from the Board of Directors in June 2008, Thomas W. D Alonzo also sat on the Audit Committee, and was also considered independent in accordance with section 3(a)(58)(A) of the Exchange Act and the rules of the Nasdaq Stock Market.

The Audit Committee met five times during 2007. Each member of the Audit Committee was present at all of the Audit Committee meetings held during such director's tenure as a member of the Audit Committee. The Audit Committee oversees our corporate accounting, financial reporting practices and the audits of financial statements. For this purpose, the Audit Committee has a charter and performs several functions. The Audit Committee evaluates the independence and performance of, and assesses the qualifications of, our independent auditors, and engages such independent auditors. The Audit Committee approves the plan and fees for the annual audit, review of quarterly reports, tax and other audit-related services, and approves in advance any non-audit service to be provided by the independent auditors. The Audit Committee monitors the independence of the independent auditors and the rotation of partners of the independent auditors on our engagement team as required by law. The Audit Committee reviews the financial statements to be included in our Annual Report on Form 10-K and reviews with management and the independent auditors the results of the annual audit and our quarterly financial statements. In addition, the Audit Committee oversees all aspects of our systems of internal accounting control and corporate governance functions on behalf of the board. The Audit Committee provides oversight assistance in connection with legal and ethical compliance programs established by management and the board, including Sarbanes-Oxley implementation, and makes recommendations to the Board of Directors regarding corporate governance issues and policy decisions.

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### *Nominating and Corporate Governance Committee*

Our Board of Directors has a Nominating and Corporate Governance Committee composed of William S. Poole and John J. Shea. Mr. Shea serves as the chairman of the committee. During 2007 and until his resignation from the Board of Directors in June 2008, Thomas W. D. Alonzo also sat on the Nominating and Corporate Governance Committee, and was also considered independent in accordance with section 3(a)(58)(A) of the Exchange Act and the rules of the Nasdaq Stock Market.

The Nominating and Corporate Governance Committee is charged with the responsibility of reviewing our corporate governance policies and with proposing potential director nominees to the Board of Directors for consideration. The Nominating and Corporate Governance Committee was formed in May of 2004 and did not meet formally in 2007. The Nominating and Corporate Governance Committee has a charter. All members of the Nominating and Corporate Governance Committee are independent directors as defined by the rules of the Nasdaq Stock Market. The Nominating and Corporate Governance Committee will consider director nominees recommended by security holders. To recommend a nominee please write to the Nominating and Corporate Governance Committee c/o the Company, Attn: James A McNulty. There are no minimum qualifications for consideration for nomination to be a director of the Company. The nominating committee will assess all director nominees using the same criteria. All of the current nominees to serve as directors on our Board of Directors have previously served in such capacity. During 2007, we did not pay any fees to any third parties to assist in the identification of nominees. During 2007, we did not receive any director nominee suggestions from stockholders.

### *Compensation and Investment Committees*

Our Board of Directors also has a Compensation Committee, which, either alone or in conjunction with the full board, as the case may be, reviews or recommends the compensation arrangements for our management and employees. The Compensation Committee has a charter and is comprised of three members: John J. Shea, William B. Stone and William S. Poole, who acts as chairman of this committee. The compensation committee met three times during 2007.

Our Board of Directors also has an investment committee, which either alone or in conjunction with the full board, as the case may be, reviews and recommends the investment arrangements for our company. The members of the investment committee are Dr. Francis E. O. Donnell and William B. Stone. The investment committee as such did not meet during 2007.

### *Lead Director*

On July 26, 2007, our Board of Directors created the position of Lead Director. William B. Stone serves as our Lead Director. Pursuant to the charter of the Lead Director, the Lead Director shall be an independent, non-employee director designated by our Board of Directors who shall serve in a lead capacity to coordinate the activities of the other non-employee directors, interface with and advise management, and to perform such other duties as are specified in the charter or as our Board of Directors may determine.

### *Code of Ethics*

We have adopted a code of ethics that applies to all employees, as well as each member of our Board of Directors. The code of ethics is available at our website at [www.bdsinternational.com](http://www.bdsinternational.com).

We intend to satisfy any disclosure requirement under Item 5.05 of Form 8-K regarding an amendment to, or waiver from, a provision of this code of ethics by posting such information on our website, at the address specified above.

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*Section 16(a) Beneficial Ownership Reporting Compliance*

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires that the Company's directors and executive officers and persons who beneficially own more than 10% of the Common Stock (referred to herein as the reporting persons) file with the Securities and Exchange Commission (SEC) various reports as to their ownership of and activities relating to the Common Stock. Such reporting persons are required by the SEC regulations to furnish the Company with copies of all Section 16(a) reports they file. Based solely upon a review of copies of Section 16(a) reports and representations received by us from reporting persons, and without conducting any independent investigation of our own, in fiscal year 2007, all Forms 3, 4 and 5 were timely filed with the SEC by such reporting persons, except that one Amended Form 5 was filed on February 26, 2008 by Mark A. Sirgo, our President and Chief Executive Officer, covering two small acquisition transactions as defined in SEC Rule 16a-6 (for an aggregate of 700 shares of our Common Stock), which acquisitions were not previously reported on a timely basis. Such transactions were unintentionally omitted from the original Form 5, filed on February 14, 2008.

*Meetings of the Board of Directors*

The Board of Directors met in person and telephonically 25 times during 2007 and also acted by unanimous written consent. It is the Company's policy that all directors must attend all meetings, barring extenuating circumstances. All Nominees were present at seventy-five (75%) percent or more of the Board of Directors meetings held during such director's tenure as a member of the Board of Directors.

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**Audit Committee Report\***

The Audit Committee of the Board of Directors (the **Committee**) during 2007 was composed of three directors: William B. Stone, Thomas W. D'Alonzo and John J. Shea, each of whom was independent as defined by the rules of the Nasdaq Stock Market. Mr. Stone serves as chairman of the committee. Mr. D'Alonzo resigned from the Board of Directors on June 4, 2008. Effective June 16, 2008, William S. Poole was appointed to serve on the Committee. The Board of Directors has adopted a written Audit Committee Charter, which was filed as Appendix A to the Company's 2003 Proxy Statement, and was updated in January 2008.

Management is responsible for the Company's financial statements, financial reporting process and systems of internal controls. The Company's independent auditors are responsible for performing an independent audit of the Company's financial statements in accordance with auditing standards generally accepted in the United States and for issuing a report thereon. The Committee's responsibility is to oversee all aspects of the financial reporting process on behalf of the Board of Directors. The responsibilities of the Committee also include engaging and evaluating the performance of the accounting firm that serves as the Company's independent auditors.

The Committee discussed with the Company's independent auditors, with and without management present, such auditors' judgments as to the quality, not just acceptability, of the Company's accounting principles, along with such additional matters required to be discussed under the Statement on Auditing Standards No. 61, Communication with Audit Committees. The Committee has discussed with the independent auditors the auditors' independence from the Company and its management, including the written disclosures and the letter submitted to the Committee by the independent auditors as required by the Independent Standards Board Standard No. 1, Independence Discussions with Audit Committees.

In reliance on such discussions with management and the independent auditors, review of the representations of management and review of the report of the independent auditors to the Committee, the Committee recommended (and the Board of Directors approved) that the Company's audited financial statements be included in the Company's Annual Report on Form 10-K for the year ended December 31, 2007. The Committee and the Board of Directors have also, respectively, recommended and approved the selection of the Company's current independent auditors, which approval is subject to ratification by the Company's stockholders.

Audit Committee of the Board of Directors

/s/ William B. Stone

/s/ John J. Shea

\* The information contained in this Audit Committee Report shall not be deemed to be soliciting material or filed or incorporated by reference in future filings with the SEC, or subject to the liabilities of Section 18 of the Securities Exchange Act, except to the extent that the Company specifically requests that the information be treated as soliciting material or specifically incorporates it by reference into a document filed under the Securities Act or the Securities Exchange Act.

**Table of Contents****Executive Compensation****Summary Compensation Table**

The following table sets forth all annualized compensation paid to our named executive officers at the end of the fiscal years ended December 31, 2007 and 2006. Individuals we refer to as our named executive officers include our Chief Executive Officer and our most highly compensated executive officers whose salary and bonus for services rendered in all capacities exceeded \$100,000 during the fiscal year ended December 31, 2007.

**SUMMARY COMPENSATION TABLE**

Name and principal position	Year	Salary (\$)	Bonus (\$)	Stock Awards (\$)	Option Awards (\$)	Non-Equity Incentive Plan Compensation (\$)	Nonqualified Deferred	All Other Compensation (\$)	Total (\$)
							Compensation Earnings (\$)		
Mark A. Sirgo, Pharm.D. President, Chief Executive Officer and Director	2007	\$ 286,169	0	0	\$ 1,522,035	\$ 44,770 <sup>(1)</sup>	0	\$ 32,404 <sup>(2)</sup>	\$ 1,885,378
	2006	\$ 252,617	0	0	\$ 27,831	\$ 21,574 <sup>(1)</sup>	0	\$ 12,668	\$ 314,690
Andrew L. Finn, Pharm.D. Executive Vice President of Product Development	2007	\$ 236,941	0	0	\$ 383,897	0	0	\$ 9,838 <sup>(3)</sup>	\$ 630,677
	2006	\$ 223,902	0	0	\$ 24,492	0	0	0	\$ 248,394
James A. McNulty Chief Financial Officer, Secretary and Treasurer	2007	\$ 114,400	0	0	\$ 380,033	0	0	\$ 17,714 <sup>(4)</sup>	\$ 512,147
	2006	\$ 109,355	0	0	\$ 12,245	0	0	0	\$ 121,600
Raphael J. Mannino, Ph.D. Executive Vice President and Chief Scientific Officer	2007	\$ 98,026	0	0	\$ 40,580	\$ 44,770 <sup>(1)</sup>	0	\$ 11,726 <sup>(5)</sup>	\$ 195,102
	2006	\$ 97,841	0	0	\$ 23,379	\$ 21,574 <sup>(1)</sup>	0	\$ 11,123 <sup>(5)</sup>	\$ 153,914

<sup>(1)</sup> The compensation disclosed in this item is comprised of 20,000 stock options granted as compensation for serving as a director.

<sup>(2)</sup> Includes: (a) vacation payout of \$21,154 and 401(k) matching of \$11,250 paid in 2007.

<sup>(3)</sup> Includes: 401(k) matching of \$9,838 paid in 2007.

<sup>(4)</sup> Includes: (a) vacation payout of \$11,423 and 401(k) matching of \$6,291 paid in 2007.

<sup>(5)</sup> Includes: (a) a car allowance of \$6,500 and 401(k) matching of \$5,226 paid in 2007. Excludes \$120,000, which funds were reimbursed by us to the University of Medicine and Dentistry of New Jersey during 2006 and 2007 (pursuant to a contractual arrangement) for services rendered by Dr. Mannino to such university.

**Narrative Disclosure to Summary Compensation Table***Employment Agreements*

Except as set forth below, we currently have no written employment agreements with any of our officers, directors, or key employees. All directors and officers have executed confidentiality and non-compete agreements with us.

The following is a description of our current executive employment agreements:

*Dr. Francis E. O'Donnell, Jr., Chairman of the Board* On March 29, 2002, Dr. O'Donnell executed an employment agreement to be our full-time President and CEO at an annual salary of \$150,000. Dr. O'Donnell's term of employment was to be no longer than three years or until another CEO is appointed. However, in January 2005, we entered into an amendment to Dr. O'Donnell's employment agreement pursuant to which: (i) he



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agreed to serve solely in the position of CEO and Chairman of the Board, (ii) the term of his employment was extended until March 22, 2008 and (iii) his annual salary was, effective February 1, 2005, reduced to \$1.00. Dr. O'Donnell relinquished the title of Chief Executive Officer in August 2005 and now serves only as our Chairman of the Board.

*Mark A. Sirgo, Pharm.D., President and Chief Executive Officer* On August 24, 2004, Dr. Sirgo executed a three-year employment agreement to be our Senior Vice President of Commercial and Corporate Development and the

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President of Arius at an annual salary of \$175,000. Dr. Sirgo also received a signing bonus in the amount of \$31,177 at the signing of this agreement. He was subsequently promoted three times and now holds the position of President and Chief Executive Officer of our company.

On February 22, 2007, Dr. Sirgo's employment agreement was amended to: (i) make it renewable for consecutive one year terms after August 24, 2007 unless written notice is given by either party at least 30 days prior to the end of the applicable term and (ii) increase Dr. Sirgo's annual salary to \$260,000, which will be adjusted to \$296,000 per annum at such time as we engage in any asset sale, royalty sale, bank loan, joint venture/partnering funding, or debt and or equity financing which yields gross proceeds of \$5 million or greater. Such adjustment occurred in May 2007. Dr. Sirgo is eligible for a discretionary annual bonus of up to 50% of his base salary.

We may terminate Dr. Sirgo's employment agreement without cause and Dr. Sirgo may resign upon 30 days advance written notice. We may immediately terminate Dr. Sirgo's employment agreement for Good Cause (as defined in the agreement). Upon the termination of Dr. Sirgo's employment for any reason, Dr. Sirgo will continue to receive payment of any base salary earned but unpaid through the date of termination and any other payment or benefit to which he is entitled under the applicable terms of any applicable company arrangements. If Dr. Sirgo is terminated during the term of the employment agreement other than for Good Cause (as defined in the employment agreement), or if Dr. Sirgo terminates his employment for Good Reason (as defined in the employment agreement), Dr. Sirgo is entitled to a lump sum severance payment equal to 1 times the sum of his annual base salary plus a pro-rata annual bonus based on his target annual bonus. In the event that such termination is within six months following a Change of Control (as defined in the employment agreement), the lump sum paid to Dr. Sirgo will equal the sum of his then current annual base salary *plus* an amount equal to fifty percent (50%) of his then current annual base salary, multiplied by 2. In addition, Dr. Sirgo's employment agreement will terminate prior to its scheduled expiration date in the event of Dr. Sirgo's death or disability.

Dr. Sirgo's employment agreement also includes a 2 year non-competition and non-solicitation and confidentiality covenants on terms identical to the existing employment agreement. Under the terms of this agreement, he is also entitled to the following benefits: medical, dental and disability and 401(k).

*Andrew L. Finn, Pharm.D., Executive Vice President of Product Development* On August 24, 2004, Dr. Finn executed a three-year employment agreement to be our Senior Vice President of Product Development and the Senior Vice President and Chief Operating Officer of Arius at an annual salary of \$175,000. He was subsequently promoted and now holds the position of Executive Vice President of Product Development of our company. Dr. Finn also received a signing bonus in the amount of \$28,092 at the signing of this agreement.

On February 22, 2007, Dr. Finn's employment agreement was amended to: (i) make it renewable for consecutive one year terms after August 24, 2007 unless written notice is given by either party at least 30 days prior to the end of the applicable term and (ii) increase Dr. Finn's annual salary to \$228,800, which will be adjusted to \$240,000 per annum at such time as we engage in any asset sale, royalty sale, bank loan, joint venture/partnering funding, or debt and or equity financing which yields gross proceeds of \$5 million or greater. Such adjustment occurred in May 2007. Dr. Finn is eligible for a discretionary annual bonus of up to 50% of his base salary.

We may terminate Dr. Finn's employment agreement without cause and Dr. Finn may resign upon 30 days advance written notice. We may immediately terminate Dr. Finn's employment agreement for Good Cause (as defined in the agreement). Upon the termination of Dr. Finn's employment for any reason, Dr. Finn will continue to receive payment of any base salary earned but unpaid through the date of termination and any other payment or benefit to which he is entitled under the applicable terms of any applicable company arrangements. If Dr. Finn is terminated during the term of the employment agreement other than for Good Cause (as defined in the employment agreement), or if Dr. Finn terminates his employment for Good Reason (as defined in the employment agreement), Dr. Finn is entitled to a lump sum severance payment equal to 1 times the sum of his

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annual base salary plus a pro-rata annual bonus based on his target annual bonus. In the event that such termination is within six months following a Change of Control (as defined in the employment agreement), the lump sum paid to Dr. Finn will equal the sum of his then current annual base salary *plus* an amount equal to fifty percent (50%) of his then current annual base salary, multiplied by 1.5. In addition, Dr. Finn's employment agreement will terminate prior to its scheduled expiration date in the event of Dr. Finn's death or disability.

Dr. Finn's employment agreement also includes a 2 year non-competition and non-solicitation and confidentiality covenants on terms identical to the existing employment agreement, except that if Dr. Finn's employment is terminated upon a Change of Control, the non-competition period will be 18 months. Under the terms of this agreement, he is also entitled to the following benefits: medical, dental and disability and 401(k).

*James A. McNulty, CPA, Chief Financial Officer, Secretary and Treasurer* Through December 31, 2007, Mr. McNulty served as our part-time CFO, devoting approximately 50% of his time to the Company. Beginning January 1, 2008, substantially all of his time is devoted to the Company. Mr. McNulty has an employment agreement with us (which was amended on August 31, 2002, and subsequently amended again in June 2003) for a base salary of \$185,000, reduced to \$110,000 in June 2003 and then increased to \$114,400 in February 2007 concurrently with Mr. McNulty's entry into his new employment agreement described below. Mr. McNulty's employment agreement, dated February 22, 2007, is for a term of ending on February 22, 2008 and is subject at the end of that term to successive, automatic one-year extensions unless either party gives notice of non-extension to the other party at least 30 days prior to the end of the applicable term. Mr. McNulty is also employed part-time as Secretary/Treasurer of Accentia Biopharmaceuticals, Inc. Under the terms of Mr. McNulty's employment agreement with the Company, Mr. McNulty will receive base salary in 2008 of \$198,000 per year and a target bonus of up to 50% of his base salary.

We may terminate Mr. McNulty's employment agreement without cause and Mr. McNulty may resign upon 30 days advance written notice to the other party. We may immediately terminate the McNulty employment agreement for Good Cause (as defined in the employment agreement). Upon the termination of Mr. McNulty's employment for any reason, Mr. McNulty will continue to receive payment of any base salary earned but unpaid through the date of termination and any other payment or benefit to which he is entitled under the applicable terms of any applicable company arrangements. If Mr. McNulty is terminated during the term of his employment agreement other than for Good Cause (as defined in the employment agreement), or if Mr. McNulty terminates his employment for Good Reason (as defined in the employment agreement), Mr. McNulty is entitled to a lump sum severance payment equal to 1 times the sum of his annual base salary plus a pro-rata annual bonus based on his target annual bonus. In the event that such termination is within six months following a Change of Control (as defined in the employment agreement), the lump sum paid to Mr. McNulty will equal the sum of his then current annual base salary *plus* an amount equal to fifty percent (50%) of his then current annual base salary, multiplied by 1.5. In addition, the employment agreement will terminate prior to its scheduled expiration date in the event of Mr. McNulty's death or disability.

The employment agreement also includes a 2 year non-competition, non-solicitation and confidentiality covenants on terms identical to his former employment agreement with us, except that if Mr. McNulty's employment is terminated upon a Change of Control, the non-competition period will be 18 months. Under the terms of this agreement, he is also entitled to the following benefits: medical, dental and disability and 401(k).

*Dr. Raphael Mannino, Ph.D., Executive Vice President and Chief Scientific Officer* On September 1, 2002, Dr. Mannino executed an employment agreement with us at an annual salary of \$210,000. In 2006, this agreement expired. On February 22, 2007, we entered into a new employment agreement with Dr. Mannino calling for a base salary of \$218,400.

Dr. Mannino's employment agreement, dated February 22, 2007, is for a term of ending on February 22, 2008 and is subject at the end of that term to successive, automatic one-year extensions unless either party gives notice of non-extension to the other party at least 30 days prior to the end of the applicable term. Under the terms the agreement, Dr. Mannino will receive base salary of \$218,400 per year and a target bonus of up to 50% of his base salary.

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We may terminate Dr. Mannino's employment agreement without cause and Dr. Mannino may resign upon 30 days advance written notice to the other party. We may immediately terminate Dr. Mannino's employment agreement for Good Cause (as defined in the employment agreement). Upon the termination of Dr. Mannino's employment for any reason, Dr. Mannino will continue to receive payment of any base salary earned but unpaid through the date of termination and any other payment or benefit to which he is entitled under the applicable terms of any applicable company arrangements. If Dr. Mannino is terminated during the term of the his employment agreement other than for Good Cause (as defined in the employment agreement), or if Dr. Mannino terminates his employment for Good Reason (as defined in the employment agreement), Dr. Mannino is entitled to a lump sum severance payment equal to 1 times the sum of his annual base salary plus a pro-rata annual bonus based on his target annual bonus. In the event that such termination is within six months following a Change of Control (as defined in the employment agreement), the lump sum paid to Dr. Mannino will equal the sum of his then current annual base salary *plus* an amount equal to fifty percent (50%) of his then current annual base salary, multiplied by 1.5. In addition, the employment agreement will terminate prior to its scheduled expiration date in the event of Dr. Mannino's death or disability.

The employment agreement also includes a 2 year non-competition, non-solicitation and confidentiality covenants on terms identical to his former employment agreement with us, except that if Dr. Mannino's employment is terminated upon a Change of Control, the non-competition period will be 18 months. Under the terms of this agreement, he is also entitled to the following benefits: medical, dental and disability and 401(k).

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The following table summarizes outstanding unexercised options, unvested stocks and equity incentive plan awards held by each of our name executive officers, as of December 31, 2007.

**OUTSTANDING EQUITY AWARDS AT FISCAL YEAR-END**

Name	OPTION AWARDS					STOCK AWARDS			
	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options (#)	Option Exercise Price (\$)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested (\$)	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested (#)
Mark A. Sirgo, Pharm.D.	20,000			\$ 4.13	7/25/2017				
			434,000 <sup>(1)</sup>	\$ 6.63	4/13/2017				
	15,296		30,595 <sup>(2)</sup>	\$ 2.42	1/26/2017				
	5,910		11,820 <sup>(3)</sup>	\$ 2.05	7/27/2016				
	32,666		16,334 <sup>(4)</sup>	\$ 3.03	12/1/2015				
	20,000			\$ 2.94	8/22/2015				
	5,952		2,977 <sup>(5)</sup>	\$ 2.94	7/28/2015				
	5,147			\$ 3.40	10/21/2014				
Andrew L. Finn, Pharm.D.			100,000 <sup>(1)</sup>	\$ 6.63	4/13/2017				
	12,402		24,807 <sup>(2)</sup>	\$ 2.42	1/26/2017				
	5,201		10,402 <sup>(3)</sup>	\$ 2.05	7/27/2016				
	32,666		16,334 <sup>(4)</sup>	\$ 3.03	12/1/2015				
	5,952		2,977 <sup>(5)</sup>	\$ 2.94	7/28/2015				
		5,147			\$ 3.40	10/21/2014			
James A. McNulty			100,000 <sup>(1)</sup>	\$ 6.63	4/13/2017				
	11,369		22,740 <sup>(2)</sup>	\$ 2.42	1/26/2017				
	5,201		10,402 <sup>(3)</sup>	\$ 2.05	7/27/2016				
	6,666		3,334 <sup>(4)</sup>	\$ 3.03	12/1/2015				
	17,458		8,731 <sup>(5)</sup>	\$ 2.94	7/28/2015				
	3,235			\$ 3.40	10/21/2014				
		18,616			\$ 3.83	8/14/2013			
Raphael J. Mannino, Ph.D.	20,000			\$ 4.13	7/25/2017				
	10,852		21,706 <sup>(2)</sup>	\$ 2.42	1/26/2017				
	4,964		9,930 <sup>(3)</sup>	\$ 2.05	7/27/2016				
	20,000			\$ 2.05	7/27/2016				
	20,000			\$ 2.94	8/22/2015				
	7,142		3,572 <sup>(5)</sup>	\$ 2.94	7/28/2015				
	6,176			\$ 3.40	10/21/2014				
	20,000			\$ 2.29	7/29/2014				
	31,449			\$ 3.83	8/14/2013				
	20,000			\$ 3.83	8/14/2013				
	60,000			\$ 1.63	1/31/2008				

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- (1) Of the unvested stock options, one third of the unvested stock options will vest on April 13, 2008, another third will vest on April 13, 2009 and the remaining third will vest on April 13, 2010.
- (2) Of the unvested stock options, half of the unvested stock options will vest on January 26, 2008 and another half will vest on January 26, 2009.
- (3) Of the unvested stock options, half of the unvested stock options will vest on July 27, 2008 and another half will vest on July 27, 2009.
- (4) These unvested stock options will vest on December 1, 2008.
- (5) These unvested stock options will vest on July 28, 2008.

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### **Outstanding Equity Awards Narrative Disclosure**

#### *Amended and Restated 2001 Stock Incentive Plan*

The purpose of the Amended and Restated 2001 Stock Incentive Plan is: (i) to align our interests and recipients of options under the 2001 Stock Option Plan by increasing the proprietary interest of such recipients in our growth and success, and (ii) to advance our interests by providing additional incentives to officers, key employees and well-qualified non-employee directors and consultants who provide services to us, who are responsible for our management and growth, or otherwise contribute to the conduct and direction of its business, operations and affairs.

Our Board of Directors administers our stock option plan, selects the persons to whom options are granted and fixes the terms of such options.

Under our original 2001 Stock Incentive Plan, we reserved 572,082 shares. The plan was approved by our stockholders at our 2001 annual meeting. Our Board of Directors subsequently voted to amend the 2001 Stock Option Plan to increase the plan to 1,100,000 shares, and later, through an amendment and restatement of the 2001 Stock Incentive Plan, to 2,100,000 shares, which amendment and restatement was approved by our stockholders at the 2003 Annual Meeting in August 2003, and in the July 2006 Annual Meeting the plan was increased to 3,500,000 shares. Options to purchase 2,695,904 shares of common stock are outstanding as of December 31, 2007 under the Amended and Restated 2001 Stock Option Plan. All options were issued under our stock option plan, as the same may be amended. Options may be awarded during the ten-year term of the stock option plan to our employees (including employees who are directors), consultants who are not employees and our other affiliates. Our stock option plan provides for the grant of options intended to have been approved by our Board of Directors and qualify as incentive stock options, or Incentive Stock Options, under Section 422A of the Internal Revenue Code of 1986, as amended, and options which are not Incentive Stock Options, or Non-Statutory Stock Options.

Only our employees or employees of our subsidiaries may be granted Incentive Stock Options. Our affiliates or consultants or others as may be permitted by our Board of Directors, may be granted Non-Statutory Stock Options.

Directors are eligible to participate in our stock option plan. The Amended and Restated 2001 Stock Option Plan provides for an initial grant of an option to purchase up to 30,000 shares of common stock to each director upon first joining our Board of Directors and subsequent grants of options to purchase 30,000 shares upon each anniversary of such director's appointment and an additional 15,000 option grant for serving as Lead Director. Additionally, directors will be granted 7,500 options for each committee chairmanship and 7,500 options for each committee membership. Such options are granted at an exercise price equal to the fair market value of the common stock on the grant date and immediately vest.

Options and warrants to purchase 8,582,661 shares of our common stock at prices ranging from \$0.001 to \$6.63 are outstanding at December 31, 2007. None of our options have been granted at less than the fair market value at the time of grant. Options issued during 2007 to employees and directors totaled 1,402,917 shares, at exercise prices ranging from \$2.42 to \$6.63. In addition, during 2007, we issued warrants to purchase 833,871 shares of common stock at an exercise price of \$5.00 to Laurus related to the principal note payment deferral. We issued warrants to purchase 1,000,000 shares of common stock at an exercise price of \$3.80 to CDC in conjunction with a license agreement with them. And finally we issued warrants to purchase 475,000 shares of common stock at an exercise price of \$5.55 to HCG II in conjunction with the termination of a royalty option agreement.

**Table of Contents****Compensation of Directors Summary Table****DIRECTOR COMPENSATION**

Name (a)	Fees Earned or Paid in Cash (\$)	Stock Awards (\$)	Option Awards (\$)	Non-Equity Incentive Plan Compensation (\$)	Non-Qualified Deferred Compensation Earnings (\$)	All Other Compensation (\$)	Total (\$)
Francis E. O. Donnell, Jr. <sup>(1)</sup>	0	0	0	\$ 55,963	0	0	\$ 55,963
William B. Stone <sup>(2)</sup>	\$ 9,000	0	0	\$ 123,118	0	0	\$ 123,118
John J. Shea <sup>(3)</sup>	\$ 8,000	0	0	\$ 100,733	0	0	\$ 100,733
William S. Poole <sup>(4)</sup>	\$ 6,000	0	0	\$ 89,540	0	0	\$ 89,540
Thomas W. D. Alonzo <sup>(5)(6)</sup>	\$ 6,000	0	0	\$ 78,348	0	0	\$ 78,348

(1) As of December 31, 2007, the outstanding stock options held by Dr. O. Donnell total 145,000, all of which have vested.

(2) As of December 31, 2007, the outstanding stock options held by Mr. Stone total 205,000, all of which have vested.

(3) As of December 31, 2007, the outstanding stock options held by Mr. Shea total 148,700, all of which have vested.

(4) As of December 31, 2007, the outstanding stock options held by Mr. Poole total 110,000, all of which have vested.

(5) As of December 31, 2007, the outstanding stock options held by Mr. D. Alonzo total 65,000 of which have vested.

(6) Resigned as director on June 4, 2008 to pursue retirement plans.

**Narrative to Director Compensation**

As compensation for their duties, directors receive \$1,000 for appearing in person at a Board of Directors meeting. Compensation also includes 30,000 options to purchase common stock for each year served as a director and an additional 15,000 options to purchase common stock per year for serving as Lead Director. Additionally, each director is granted 7,500 options to purchase common stock per year for serving on a committee of the Board of Directors and an additional 7,500 options to purchase common stock per year for serving as chairman of a committee of the Board of Directors. Dr. O. Donnell declined cash compensation due to him for serving of Chairman of the Board of Directors.

*Recommendation of the Board of Directors*

**THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE ELECTION OF EACH OF; FRANCIS E. O. DONNELL, JR., M.D.; MARK A. SIRGO, PHARM.D; WILLIAM B. STONE; JOHN J. SHEA, AND WILLIAM S. POOLE TO SERVE ON THE COMPANY S BOARD OF DIRECTORS, EACH TO HOLD OFFICE UNTIL HIS SUCCESSOR IS ELECTED AND QUALIFIED OR UNTIL HIS EARLIER RESIGNATION OR REMOVAL.**



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**PROPOSAL 2**

**ADOPTION OF CLASSIFIED BOARD OF DIRECTORS**

Delaware law permits provisions in a company's certificate of incorporation or bylaws approved by stockholders that provide for a classified board of directors. The proposed classified board amendment to the Company's Certificate of Incorporation, which amendment is provided as *Exhibit A* to this Proxy Statement (the **Classified Board Provision**), would provide that directors will be classified into three classes as nearly equal in number as possible. One class would hold office initially for a term expiring at the 2009 annual meeting of stockholders; another class would hold office initially for a term expiring at the 2010 annual meeting of stockholders; and another class would hold office initially for a term expiring at the 2011 annual meeting of stockholders. At each annual meeting following this initial classification and election, the successors to the class of directors whose terms expire at that meeting would be elected for a term of office to expire at the third succeeding annual meeting after their election and until their successors have been duly elected and qualified. Information concerning the current nominees for election as directors at the annual meeting is set forth below under Election of Directors.

If this Proposal is adopted, the directors of the Company will be divided into classes as follows:

STANDING FOR ONE YEAR TERMS (CLASS I):

Frank E. O'Donnell, Jr., M.D.

STANDING FOR TWO YEAR TERMS (CLASS II):

John J. Shea

Mark A. Sirgo

STANDING FOR THREE YEAR TERMS (CLASS III):

William B. Stone

William S. Poole

By approving Proposal Two, stockholders will be approving the Classified Board Provision, the election of the same directors as would be elected to the Board of Directors of the Company in the event Proposal One is approved by the stockholders, and the initial classification of directors set forth above.

Our Board of Directors believes that staggered terms for directors provide stability and continuity in the Board of Directors' leadership and policies, ensuring that a majority of directors will always be familiar with the Company's long-term strategy and goals. This knowledge will assist the directors in fulfilling their duties to our stockholders, providing for greater effectiveness, which ultimately creates the potential for value for our stockholders. While management has not experienced any problems with such continuity in the past, it wishes to ensure that this experience will continue. The Board of Directors does not believe that electing directors to staggered terms will reduce their accountability to our stockholders. Regardless of their term, all directors will have the same duties and responsibilities to our stockholders.

The Board of Directors also believes that the classified board will assist the Board of Directors in protecting the interests of the Company's stockholders against potentially coercive takeover tactics where a party might attempt to acquire control of the Company on terms that do not offer the greatest value to all stockholders. The proposed Classified Board Provision will significantly extend the time required to effect a change in control of the Board of Directors and may discourage hostile takeover bids for the Company. Currently, a change in control of the Board of Directors can be made by stockholders holding a plurality of the votes cast at a single annual meeting. If the Company implements a classified board of directors, it will take at least two annual meetings for even a majority of stockholders to make a change in control of the

Board of Directors, because only a minority of the directors will be elected at each meeting.

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Seen as a disadvantage on the other hand, because of the additional time required to change control of the Board of Directors, the Classified Board Provision will tend to perpetuate present management. Without the ability to obtain immediate control of the Board of Directors, a takeover bidder will not be able to take action to remove other impediments to its acquisition of the Company. While the Classified Board Provision is not intended as a takeover-resistive measure in response to a specific threat, it may discourage the acquisition of large blocks of the Company's shares by causing it to take longer for a person or group of persons who acquire such a block of shares to effect a change in management. The Classified Board Provision will also make it more difficult for the stockholders to change the composition of the Board of Directors even if the stockholders believe such a change would be desirable.

**THE COMPANY'S BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS VOTING FOR THE APPROVAL OF THE CLASSIFIED BOARD PROVISION.**

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**PROPOSAL 3**

**RATIFICATION OF THE APPOINTMENT OF THE**

**COMPANY S INDEPENDENT AUDITORS FOR FISCAL 2008**

On January 23, 2008, the Audit Committee of the Board of Directors appointed the firm of Aidman Piser & Company, P.A. ( **AP** ) to serve as the Company s independent auditors for the Company s fiscal year ended December 31, 2008.

Effective May 1, 2008, AP s practice was acquired by Cherry, Bekaert & Holland, L.L.P. ( **CBH** ) in a transaction pursuant to which AP merged its operations into CBH and certain of the professional staff and partners of AP joined CBH either as employees or partners of CBH and will continue to practice as members of CBH. On June 5, 2008, AP resigned as the independent registered public accounting firm of the Company. Concurrently with the resignation of AP, the Company, through and with the approval of the Audit Committee of the Company s Board of Directors, engaged CBH as its independent registered public accounting firm.

The independent accountant s report of AP on the Company s consolidated financial statements for the year ended December 31, 2007 contained no adverse opinion or disclaimer of opinion and was not qualified or modified as to uncertainty, audit scope or accounting principles.

**Audit Fees.** The aggregate fees billed by AP for professional services rendered for the audit of our annual financial statements for the years ended December 31, 2007 and 2006 and the review of the financial statements included in our Forms 10-QSB totaled \$179,172 and \$100,400, respectively. The above amounts include interim procedures as audit fees as well as attendance at audit committee meetings.

**Audit-Related Fees.** The aggregate fees billed by AP for audit-related fees for the years ended December 31, 2007 and 2006 were \$18,725 and \$6,800, respectively.

**Tax Fees.** The aggregate fees billed by AP for professional services rendered for tax compliance, for the years ended December 31, 2007 and 2006 were \$31,353 and \$16,766, respectively.

**All Other Fees.** The aggregate fees billed by AP for products and services, other than the services described in the paragraphs captions Audit Fees , and Tax Fees above for the years ended December 31, 2007 and 2006 totaled zero for both years.

The Audit Committee of our Board of Directors has established its pre-approval policies and procedures, pursuant to which the Audit Committee approved the foregoing audit, tax and non-audit services provided by AP in 2007. Consistent with the Audit Committee s responsibility for engaging our independent auditors, all audit and permitted non-audit services require pre-approval by the Audit Committee. The full Audit Committee approves proposed services and fee estimates for these services. The Audit Committee chairperson has been designated by the Audit Committee to approve any audit-related services arising during the year that were not pre-approved by the Audit Committee. Any non-audit service must be approved by the full Audit Committee. Services approved by the Audit Committee chairperson are communicated to the full Audit Committee at its next regular meeting and the Audit Committee reviews services and fees for the fiscal year at each such meeting. Pursuant to these procedures, the Audit Committee approved the foregoing audit services provided by AP.

A representative of CBH is expected to attend the Meeting.

**THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE RATIFICATION OF THE AUDIT COMMITTEE S APPROVAL OF THE APPOINTMENT OF CHERRY BEKAERT & HOLLAND L.L.P. AS THE COMPANY S INDEPENDENT AUDITORS FOR THE FISCAL YEAR ENDED DECEMBER 31, 2008.**

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**OTHER INFORMATION**

**Proxy Solicitation**

All costs of solicitation of proxies will be borne by the Company. In addition to solicitation by mail, the Company's officers and regular employees may solicit proxies personally or by telephone. The Company does not intend to utilize a paid solicitation agent.

**Proxies**

A stockholder may revoke his, her or its proxy at any time prior to its use by giving written notice to the Secretary of the Company, by executing a revised proxy at a later date or by attending the Meeting and voting in person. Proxies in the form enclosed, unless previously revoked, will be voted at the Meeting in accordance with the specifications made thereon or, in the absence of such specifications in accordance with the recommendations of the Company's Board of Directors.

**Securities Outstanding; Votes Required**

As of the close of business on the Record Date there were 19,150,546 shares of Common Stock outstanding. As of the Record Date, no shares of Company preferred stock were issued or outstanding. Stockholders are entitled to one vote for each share of Common Stock owned. The affirmative vote of a majority of the shares of Common Stock present at the Meeting, in person or by proxy, is required for approval of the proposals. Shares of the Common Stock represented by executed proxies received by the Company will be counted for purposes of establishing a quorum at the Meeting, regardless of how or whether such shares are voted on any specific proposal.

**Other Business**

The Company's Board of Directors knows of no other matter to be presented at the Meeting. If any additional matter should properly come before the meeting, it is the intention of the persons named in the enclosed proxy to vote such proxy in accordance with their judgment on any such matters.

**Table of Contents****Beneficial Ownership of Principal Stockholders, Officers and Directors**

The following table sets forth, as of June 18, 2008, by: (i) each of our directors, (ii) all persons who, to our knowledge, are the beneficial owners of more than 5% of the outstanding shares of common stock, (iii) each of the executive officers, and (iv) all of our directors and executive officers, as a group. Each person named in this table has sole investment power and sole voting power with respect to the shares of common stock set forth opposite such person's name, except as otherwise indicated. Unless otherwise indicated, the address for each person listed below is in care of BioDelivery Sciences International, Inc., 801 Corporate Center Drive, Suite #210, Raleigh, North Carolina 27607.

Name of Beneficial Owner	Number of Shares of Common Stock Owned <sup>(1)</sup>	Percentage of Class as of June 18, 2008
Hopkins Capital Group II, LLC <sup>(2)</sup>	4,171,523	21.78%
Francis E. O'Donnell, Jr., M.D. <sup>(3)</sup>	4,478,788	23.39%
The Francis E. O'Donnell, Jr. Irrevocable Trust #1 <sup>(4)</sup>	4,339,023	22.66%
CDC IV, LLC <sup>(5)</sup>	4,505,120	23.52%
Laurus Master Fund. Ltd. <sup>(6)</sup>	955,137	4.99%
Mark A. Sirgo, Pharm.D. <sup>(7)</sup>	1,116,779	5.83%
Andrew L. Finn, Pharm.D. <sup>(8)</sup>	904,517	4.72%
Raphael J. Mannino, Ph.D. <sup>(9)</sup>	384,044	2.01%
James A. McNulty <sup>(10)</sup>	188,907	*
William B. Stone <sup>(11)</sup>	240,000	1.25%
John J. Shea <sup>(12)</sup>	175,000	*
William S. Poole <sup>(13)</sup>	118,190	*
All Directors and Officers as a group (8 persons)	7,606,225	39.72%

\* Less than 1%

<sup>(1)</sup> Based on 19,150,546 shares of common stock outstanding as of June 18, 2008.

<sup>(2)</sup> Includes 400,402 shares of our common stock which were converted from Series B Convertible Preferred Stock in January 2007.

<sup>(3)</sup> Dr. O'Donnell is our Chairman of the Board and a Director. Includes the shares owned by Hopkins Capital Group II, LLC (see Note 2) and 45,767 shares of common stock, owned by his wife, as to which Dr. O'Donnell disclaims beneficial interest. Excludes 167,000 shares owned by The Francis E. O'Donnell, Jr. Irrevocable Trust #1, of which Dr. O'Donnell's sister, Kathleen O'Donnell, is trustee, and as to which Dr. O'Donnell disclaims beneficial interest (see Note 4). The remaining 4,576 shares of common stock are owned by Dr. O'Donnell's sister. In addition, this number includes 157,689 shares owned personally by Dr. O'Donnell and options to purchase 145,000 shares of our common stock, all of which is currently exercisable. Dr. O'Donnell's address is 709 The Hamptons Lane, Chesterfield MO 63017.

<sup>(4)</sup> Includes the shares owned by Hopkins Capital Group II, LLC (see Note 3). The remaining 167,500 shares of common stock are held directly by this trust.

<sup>(5)</sup> Includes 2,000,000 shares of common stock owned by CDC IV, LLC and includes 1,505,120 warrants to purchase shares of our common stock. The address for CDC IV, LLC is 47 Hullfish Street, Suite 310, Princeton, NJ. 08542.

<sup>(6)</sup> Up to a maximum potential of 3,306,406 shares of common stock are issuable upon full conversion or exercise, as the case may be, of our February and May 2005 notes and warrants and our June and December 2005 and December 2006 warrants with Laurus. However, the terms of the convertible notes and warrants issued by us to Laurus provide that Laurus is not entitled to receive shares upon exercise of the warrants, upon payment of principal and interest on the notes, or upon conversion of the notes if such receipt would cause Laurus to be deemed to beneficially own in excess of 4.99% of the outstanding shares of our common stock on the date of issuance of such shares (such provision may be waived by Laurus upon 75 days prior written notice to us or without notice upon an event of default). Laurus' address is 335 Madison Avenue, 10th Floor, New York, NY 10017.

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- (7) Includes 851,843 shares owned by Dr. Sirgo, our President and Chief Executive Officer. Includes options to purchase 264,936 shares of common stock, all of which are currently exercisable. Excludes options to purchase 384,209 shares of common stock which are not currently exercisable. Dr. Sirgo's address is 1203 Clematis Street Knightdale, North Carolina 27545.
- (8) Includes 802,413 shares owned by Dr. Finn, our Executive Vice President of Clinical Development and Regulatory Affairs. Includes options to purchase 102,104 shares of common stock, all of which are currently exercisable. Excludes options to purchase 148,066 shares of common stock which are not currently exercisable. Dr. Finn's address is 200 Royal Kings Lane, Raleigh, NC 27615.
- (9) Dr. Mannino is our Executive Vice President and Chief Scientific Officer. He was a Director from October 2001 until June 4, 2008. Includes 212,609 shares owned and options to purchase 171,435 shares of our common stock, all of which are currently exercisable. Excludes options to purchase 38,655 shares of common stock which are not currently exercisable. Dr. Mannino's address is 518 Lannon Lane, Glen Gardner, NJ 08826.
- (10) Mr. McNulty is our Chief Financial Officer, Secretary and Treasurer. Includes 81,659 shares owned and options to purchase 107,248 shares of our common stock, all of which are currently exercisable. Includes 2,288 shares owned by his wife, as to which he disclaims beneficial interest. Excludes options to purchase 132,912 shares of common stock which are not currently exercisable. Mr. McNulty's address is 4419 W. Sevilla Street, Tampa, FL 33629.
- (11) Mr. Stone is the Lead Director. Includes 35,000 shares owned and options to purchase 205,000 shares of our common stock, all of which are currently exercisable. Mr. Stone's address is 11120 Geyer Down Lane, Frontenac MO 63131.
- (12) Mr. Shea is a Director. Includes 26,300 shares owned and options to purchase 148,700 shares of our common stock, all of which are currently exercisable. Mr. Shea's address is 290 Wax Myrtle Trail, Southern Shores, NC 27949.
- (13) Mr. Poole is a Director. Includes 8,190 shares owned and options to purchase 110,000 shares of our common stock, all of which are currently exercisable. Mr. Poole's address is 7813 Hardwick Drive, Raleigh, NC 27615.

**Table of Contents****Certain Relationships and Related Transactions***CDC*

Pursuant to agreements that the Company has previously entered into with CDC IV, LLC, a significant stockholder of the Company ( **CDC** ), the Company has granted CDC a right of first refusal on Company financings (the **ROFR** ). Pursuant to the ROFR, if the Company desires to enter into a transaction with any third party to offer and sell debt and/or equity securities of the Company for cash other than in connection with: (i) a bona fide commercial partnering transaction relating to the Company's BEMAM Fentanyl product or (ii) any debt financing from a federal or state accredited bank, provided the annualized interest rate thereunder will not exceed 18% (a **Financing Transaction** ), the Company shall first provide CDC a written notice containing all of the terms and conditions pursuant to which it would enter the Financing Transaction (the **Definitive Terms** ). For a period of ten (10) days following CDC's receipt of the Definitive Terms (the **Acceptance Period** ), CDC shall have the right, but not the obligation (the **Acceptance Right** ), to elect in writing to engage in the Financing Transaction on the Definitive Terms. If, during the Acceptance Period, CDC elects to exercise its Acceptance Right, the Company and CDC will then exclusively negotiate definitive documentation relating to the Financing Transaction for a period not to exceed thirty (30) days from the date of CDC's exercise of its Acceptance Right. The definitive documentation shall be based upon, and shall be consistent in all material respects with, the Definitive Terms, without modification. If, during the Acceptance Period, CDC does not elect to exercise its Acceptance Right, or, in the event the Acceptance Right is exercised but a closing of the Financing Transaction does not occur within the thirty (30) day period referred to above, then the Company shall have sixty (60) days in which to consummate a Financing Transaction with any third party with no further action or approval required by the CDC; provided, however, that the terms and conditions of such transaction shall be not less favorable to the Company than the terms and conditions set forth in the Definitive Terms. The ROFR will cease at any time the Company maintains a volume weighted average stock price of \$9.00 per share (as adjusted for stock splits, reverse stock splits, stock dividends and such similar transactions) for ten (10) trading days during any twenty (20) consecutive trading day period.

On July 15, 2005, the Company entered into a clinical development and licensing agreement (the **CDLA** ) with CDC pursuant to which CDC provided funding for the development of the Company's BEMA Fentanyl product. On February 16, 2006, the Company announced that, as a result of our achievement of certain milestones called for under our CDLA, CDC made an initial \$2 million payment to the Company. On May 16, 2006, the Company issued CDC 2 million shares of Company common stock in return for accelerating the funding of the \$4.2 million balance of \$7 million of aggregate commitment under the CDLA and for eliminating the then required \$7 million milestone repayment to CDC upon the approval by the FDA of BEMA Fentanyl. Under the CDLA, CDC is entitled to receive a single digit royalty based on net sales of BEMA Fentanyl (including minimum royalties). In addition, the Company granted CDC a warrant exercisable for up to 500,000 shares of Company common stock at an exercise price of \$3.50 per share. As a result of the anti-dilution provisions of the CDC warrant and the pricing of the Company's October 2005 public offering, the warrants is for 601,120 shares and the conversion price of the CDC warrant is now \$2.91. The Company also issued to CDC a warrant to purchase 904,000 shares of Company common stock in connection with the May 2006 amendment to the CDLA. Such warrant is exercisable at \$3.00 per share. In addition, the Company issued CDC a warrant to purchase 1,000,000 shares of Company common stock at an exercise price of \$3.80 in March 2007. All of the shares of common stock issued to CDC (as well as the shares underlying CDC's warrants) as described above have been registered with the SEC.

*Accentia Biopharmaceuticals and Hopkins Capital Group II, LLC*

We have had several business relationships with Accentia Biopharmaceuticals, Inc. ( **Accentia** ) and its affiliates. Hopkins Capital Group II, LLC ( **HCG II** ), which is controlled by Dr. Frank O. Donnell, our Chairman of the Board and a director and which owns a significant percentage of our common stock as of the date of this proxy statement, is a significant stockholder of Accentia. In addition, Dr. Donnell is also the



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Chairman and CEO of Accentia. James A. McNulty, our Secretary, Treasurer and CFO, is the Secretary and Treasurer of Accentia. Dr. Raphael J. Mannino, our Executive Vice President and Chief Scientific Officer, is a director of Biovest International, Inc. (OTC BB:BVTI), a subsidiary of Accentia. Mr. McNulty is also the CFO of HCG II.

*Amphotericin B License.* On April 12, 2004, we licensed a topical formulation of our encochleated Amphotericin B to Accentia. Accentia is commercializing technology licensed from the Mayo Foundation for the treatment of CRS and asthma on a worldwide basis. The license agreement was amended effective June 1, 2004, then modified in September 2004 by our asset purchase agreement with Accentia, and was amended with three separate letter amendments in March, April and June 2005, respectively, to make certain clarifications. Accentia is responsible for all expenses related to the development of an encochleated BioNasal<sup>®</sup> Amphotericin B for the indication of CRS and asthma on a worldwide basis, including expenses associated with, and the actual provision of, supplies, the submission of an IND and clinical trials. We shall retain world-wide rights to the oral and intravenous formulations of encochleated Amphotericin B.

*Arius/TEAMM Distribution Agreement.* On March 17, 2004, Arius granted exclusive marketing and sales rights in the United States to TEAMM Pharmaceuticals, Inc. with respect to our Emezine<sup>®</sup> product for the treatment of nausea and vomiting. TEAMM was renamed Accentia Pharmaceuticals, Inc. in 2007 and is a wholly-owned subsidiary of Accentia. As part of this agreement, TEAMM has agreed to pay for the development costs of Emezine<sup>®</sup>. We received development cost reimbursements of \$1.0 million in 2004 from Accentia in connection with this agreement and an additional \$300,000 in 2005 upon the acceptance of the Emezine<sup>®</sup> NDA for filing. Given the FDA non-approvable decision on this product in 2006 and our focus on other products in our pipeline, we plan to meet with our partners, including Accentia, in 2008 to make a final determination regarding the future of the Emezine<sup>®</sup> project.

On April 2, 2007, we obtained a \$1.0 million financing from HCG II in the form of an unsecured, non-interest bearing note, due June 30, 2007. The note was repaid in September 2007.

During 2001, we entered into agreements with RetinaPharma, Inc. (now called RetinaPharma Technologies, Inc.) and Tatton Technologies, LLC (now a part of RetinaPharma). Both are biotechnology companies which are developing nutraceutical neuroprotective therapies for treating neurodegenerative disease such as macular degeneration and Parkinson's disease. To the extent that such drugs utilize Bioral<sup>®</sup> cochleate technology, we will support drug development and will share in ten percent (10%) of all net revenue from such sales of Bioral<sup>®</sup> encapsulated drugs. HCG II, one of our significant stockholders, and Dr. Francis E. O'Donnell, Jr., our Chairman of the Board and a director, are affiliated as stockholders and a director of RetinaPharma Technologies, Inc. Dr. O'Donnell is the managing director of HCG II.

We have also entered into an agreement with Biotech Specialty Partners, LLC, an emerging alliance of early stage biotechnology and specialty pharmaceutical companies. Biotech Specialty Partners, LLC is in its formative stage and to date has not distributed any pharmaceutical products. Under this agreement, BSP will serve as a nonexclusive distributor of our Bioral<sup>®</sup> drugs in consideration of a ten (10%) discount to the wholesale price, which our Board of Directors has determined to be commercially reasonable. BSP has waived its rights under this agreement with respect to Arius products. HCG II, which is affiliated with Dr. Francis E. O'Donnell, Jr., our Chairman of the Board and a director, is affiliated as a member of Biotech Specialty Partners, LLC and Dr. O'Donnell is a member of the management of Biotech Specialty Partners, LLC.

*Other and Generally*

On July 19, 2002, we issued Ellenoff Grossman & Schole LLP, our outside legal counsel, 25,000 options to purchase shares of our common stock at \$7.00 per share. In 2003, we issued Ellenoff Grossman & Schole LLP 19,607 options to purchase shares of our common stock at \$2.55 per share as compensation for services rendered. In 2004, we issued Ellenoff Grossman & Schole LLP 44,509 shares of our common stock as

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compensation for services rendered. Ellenoff Grossman & Schole LLP has acted as counsel to our inactive subsidiary, Bioral Nutrient Delivery, LLC. During 2003, Bioral Nutrient Delivery, LLC issued 37,500 Class B Shares of BND to Ellenoff Grossman & Schole LLP. These Class B Shares were issued at the inception of Bioral Nutrient Delivery, LLC at nominal value.

As a matter of corporate governance policy, we have not and will not make loans to officers or loan guarantees available to promoters as that term is commonly understood by the SEC and state securities authorities.

We believe that the terms of the above transactions with affiliates were as favorable to us or our affiliates as those generally available from unaffiliated third parties. At the time of certain of the above referenced transactions, we did not have sufficient disinterested directors to ratify or approve the transactions; however, the present Board of Directors includes three independent directors which constitute a majority as required by the rules of the Nasdaq Stock Market. We believe that William B. Stone, John J. Shea, and William S. Poole qualify as independent directors for Nasdaq Stock Market purposes.

All future transactions between us and our officers, directors or five percent stockholders, and respective affiliates will be on terms no less favorable than could be obtained from unaffiliated third parties and will be approved by a majority of our independent directors who do not have an interest in the transactions and who had access, at our expense, to our legal counsel or independent legal counsel.

To the best of our knowledge, other than as set forth above, there were no material transactions, or series of similar transactions, or any currently proposed transactions, or series of similar transactions, to which we were or are to be a party, in which the amount involved exceeds \$60,000, and in which any director or executive officer, or any security holder who is known by us to own of record or beneficially more than 5% of any class of our common stock, or any member of the immediate family of any of the foregoing persons, has an interest.

### **Deadline for Submission of Stockholder Proposals for 2009 Annual Meeting of Stockholders**

Stockholders may present proposals for inclusion in the Proxy Statement for the 2009 Annual Meeting of Stockholders provided that such proposals are received by the Secretary of the Company in accordance with the time schedules set forth in, and otherwise in compliance with, applicable SEC regulations. Proposals submitted not in accordance with such regulations will be deemed untimely or otherwise deficient, however, the Company will have discretionary authority to include such proposals in the 2009 Proxy Statement.

### **Stockholder Communications**

Stockholders wishing to communicate with the Board of Directors may direct such communications to the Board of Directors c/o the Company, Attn: James A. McNulty. Mr. McNulty will present a summary of all stockholder communications to the Board of Directors at subsequent Board of Directors meetings. The directors will have the opportunity to review the actual communications at their discretion.

### **Additional Information**

Accompanying this Proxy Statement is a copy of the Company's 2007 Annual Report to Stockholders, which includes the Company's Annual Report on Form 10-K for the year ended December 31, 2007. Such Report constitutes the Company's Annual Report to its Stockholders for purposes of Rule 14a-3 under the Securities Exchange Act of 1934. Such Report includes the Company's audited financial statements for the 2007 fiscal year and certain other financial information, which is incorporated by reference herein.

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The Company is subject to the informational requirements of the Securities Exchange Act of 1934 and in accordance therewith files reports, proxy statements and other information with the SEC. Such reports, proxy statements and other information are available on the SEC's website at [www.sec.gov](http://www.sec.gov).

Stockholders who have questions in regard to any aspect of the matters discussed in this Proxy Statement should contact James McNulty, Chief Financial Officer of the Company, at (813) 864-2562.

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**Exhibit A**

**Certificate of Amendment for Classified Board Provision**

**CERTIFICATE OF AMENDMENT TO THE**

**CERTIFICATE OF INCORPORATION OF**

**BIODELIVERY SCIENCES INTERNATIONAL, INC.**

Under Section 242 of the Delaware General Corporation Law

IT IS HEREBY CERTIFIED THAT:

1. The name of the corporation is BioDelivery Sciences International, Inc. (the Corporation ). The original Certificate of Incorporation of the Corporation (the Certificate of Incorporation ) was filed with the Secretary of the State of Delaware on April 18, 2002.

2. The amendment of the Certificate of Incorporation effected by this Certificate of Amendment is to create a classified board of directors comprised of three classes with staggered terms.

3. The Certificate of Incorporation is hereby amended by added thereto a new Article **TWELFTH** , and said Article shall read as follows:

**TWELFTH:** The Board of Directors shall be divided into three classes, each such class as nearly equal in number as the then-authorized number of Directors constituting the Board of Directors permits, with the term of office of one class expiring each year. At the annual meeting of stockholders following approval of amendment to the Certificate of Incorporation, the stockholders shall elect the one class of Directors for a term expiring at the annual meeting of stockholders to be held in 2009, another class of Directors for a term expiring at the annual meeting of stockholders to be held in 2010, and another class of Directors for a term expiring at the annual meeting of stockholders to be held in 2011. Thereafter, each Director shall serve for a term ending at the third annual meeting of stockholders of the Corporation following the annual meeting at which such Director was elected. Members of each class shall hold office until their successors are elected and qualified. At each succeeding annual meeting of the stockholders of the Corporation, the successors of the class of Directors whose term expires at that meeting shall be elected by a plurality vote of all votes cast at such meeting to hold office for a term expiring at the annual meeting of stockholders held in the third year following the year of their election.

4. The amendment of the Certificate of Incorporation herein certified has been duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the Corporation has caused this certificate to be signed by its duly authorized officer signatory below this day of , 2008.

BIODELIVERY SCIENCES INTERNATIONAL, INC.

By:

Name:

Title:

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**Proxy**

**BioDelivery Sciences International, Inc.**

**801 Corporate Center Drive, Suite #210**

**Raleigh, North Carolina 27607**

**THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS**

THE UNDERSIGNED HEREBY APPOINTS MARK A. SIRGO AND JAMES A. MCNULTY, AND EACH OF THEM, AS PROXIES OF THE UNDERSIGNED, WITH FULL POWER OF SUBSTITUTION, TO VOTE ALL THE SHARES OF COMMON STOCK OF BIODELIVERY SCIENCES INTERNATIONAL, INC. HELD OF RECORD BY THE UNDERSIGNED ON JUNE 18, 2008, AT THE ANNUAL MEETING OF STOCKHOLDERS TO BE HELD ON THURSDAY, JULY 24, 2008, OR ANY ADJOURNMENT THEREOF.

1. To elect five (5) directors, each to hold office until his successor is elected and qualified or until his earlier resignation or removal.

FOR all nominees listed (except as marked to the contrary below)

WITHHOLD AUTHORITY to vote for all nominees listed below

Francis E. O' Donnell, Jr. (Class I)

Mark A. Sirgo (Class II)

John J. Shea (Class II)

William B. Stone (Class III)

William S. Poole (Class III)

**(Instruction: To withhold authority to vote for any individual nominee, place a line through the nominee's name.)**

2. To adopt an amendment to the Company's Certificate of Incorporation to create a classified board of directors comprised of three classes with staggered terms;

FOR  AGAINST  ABSTAIN

3. To ratify the appointment by the Audit Committee of the Company's Board of Directors of Cherry, Bekaert & Holland, L.L.P. (as the successor to Aidman Piser & Company, P.A.'s practice as the result of the acquisition of such practice on May 1, 2008) as the Company's independent auditors for the fiscal year ending December 31, 2008; and

4. In their discretion, upon the transaction of any other matters which may properly come before the meeting or any adjournment thereof.

FOR  AGAINST  ABSTAIN

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The shares represented by this proxy, when properly executed, will be voted as specified by the undersigned shareholder(s). If this card contains no specific voting instructions, the shares will be voted **FOR** each of the proposals described on this card.

**Signature(s) of Stockholder(s)**

**Dated \_\_, 2008**

Please sign exactly as the name appears below. When shares are held by joint tenants, both should sign. When signing as attorney, executor, administrator, trustee or guardian, please give full title as such. If a corporation, please sign the corporate name by the president or other authorized officer. If a partnership, please sign in the partnership name by an authorized person.