

LA JOLLA PHARMACEUTICAL CO

Form PRE 14A

June 16, 2010

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
SCHEDULE 14A**

Proxy Statement Pursuant to Section 14(a) of the Securities  
Exchange Act of 1934 (Amendment No. \_\_)

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

LA JOLLA PHARMACEUTICAL COMPANY

(Name of Registrant as Specified In Its Charter)

N/A

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

Payment of Filing Fee (Check the appropriate box):

No fee required.

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

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

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

(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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(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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**LA JOLLA PHARMACEUTICAL COMPANY**  
**4365 Executive Drive, Suite 300**  
**San Diego, CA 92121**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**  
**To Be Held On [date]**

You are cordially invited to attend an Annual Meeting (the *Annual Meeting*) of Stockholders of La Jolla Pharmaceutical Company (the *Company*). The meeting will be held at the Company's offices, located at 4365 Executive Drive, Suite 300, San Diego, California on [date] at [time], local time. The Annual Meeting will be held for the following purposes:

1. To elect (A) one Class I director to serve until the Company's 2012 Annual Meeting of Stockholders; and (B) one Class II director to serve until the Company's 2013 Annual Meeting of Stockholders;
2. To approve up to two amendments to the Company's Restated Certificate of Incorporation to implement up to two reverse stock splits, each within a range from 2-for-1 to 100-for-1, with the exact ratio(s) of the reverse stock split(s) to be determined by the Board of Directors of the Company;
3. To approve an amendment to the Company's Restated Certificate of Incorporation to (A) increase the number of shares of Common Stock authorized for issuance thereunder from 225,000,000 to 6,000,000,000 and (B) decrease the par value of the capital stock of the Company from \$0.01 to \$0.0001;
4. To approve an amendment to each of the Company's (A) Restated Certificate of Incorporation and (B) Amended and Restated Bylaws to reduce the permitted size of the Board of Directors to a range of three to nine directors;
5. To approve and adopt the Company's 2010 Equity Incentive Plan;
6. To approve and adopt an amendment to the Company's 1995 Employee Stock Purchase Plan to extend the term thereof and to increase the number of shares of Common Stock authorized for issuance thereunder from 850,000 to 4,850,000;
7. To ratify Ernst & Young LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2010; and
8. To transact any other business that may properly come before the meeting or any adjournment or postponement of the meeting.

The foregoing items of business are more fully described in the proxy statement accompanying this notice. Only stockholders of record at the close of business on June 18, 2010 will be entitled to notice of and to vote at the Annual Meeting or any adjournment or postponement thereof.

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The Company's Board of Directors has carefully reviewed and considered the foregoing proposals and has concluded that each proposal is in the best interests of the Company and its stockholders. **Therefore, the Company's Board of Directors has approved each proposal and recommends that you vote FOR all of the foregoing proposals. It is very important that your shares be represented at the Annual Meeting, regardless of the size of your holdings.** Accordingly, whether or not you expect to attend the Annual Meeting, the Company urges you to vote promptly by completing, dating, signing and returning the enclosed proxy card in the enclosed postage prepaid envelope, or by voting via the telephone or the Internet as instructed in these materials. This will not limit your right to attend or vote at the Annual Meeting. You may revoke your proxy at any time before it has been voted at the meeting.

By Order of the Board of Directors,

Gail A. Sloan  
Secretary

San Diego, California

[date]

This proxy statement is being made available via the Internet on [date] and the mailing date of the Notice Regarding the Availability of Proxy Materials to our stockholders will be on or about [date].

**I M P O R T A N T**

**YOU ARE CORDIALLY INVITED TO ATTEND THE ANNUAL MEETING IN PERSON. WHETHER OR NOT YOU EXPECT TO ATTEND THE MEETING, PLEASE VOTE VIA THE INTERNET OR OVER THE TELEPHONE AS INSTRUCTED IN THE NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS AND ON THE PROXY CARD OR, IF YOU REQUESTED AND RECEIVED A PRINTED COPY OF THE PROXY STATEMENT, COMPLETE, DATE, SIGN AND RETURN THE ENCLOSED PROXY CARD USING THE ENCLOSED RETURN ENVELOPE, AS PROMPTLY AS POSSIBLE IN ORDER TO ENSURE YOUR REPRESENTATION AT THE MEETING. EVEN IF YOU HAVE VOTED BY PROXY, YOU MAY STILL VOTE IN PERSON IF YOU ATTEND THE MEETING. PLEASE NOTE, HOWEVER, THAT IF YOUR SHARES ARE HELD OF RECORD BY A BROKER, BANK OR OTHER NOMINEE AND YOU WISH TO VOTE AT THE MEETING, YOU MUST OBTAIN A PROXY CARD ISSUED IN YOUR NAME FROM THAT INTERMEDIARY. A MAJORITY IN VOTING POWER OF THE OUTSTANDING SHARES OF COMMON STOCK MUST BE REPRESENTED AT THE ANNUAL MEETING, EITHER IN PERSON OR BY PROXY, TO CONSTITUTE A QUORUM.**

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**PROXY STATEMENT FOR  
ANNUAL MEETING OF STOCKHOLDERS  
[date] at [time], local time**

**GENERAL INFORMATION**

This proxy statement is furnished in connection with the solicitation of proxies by the Board of Directors (the *Board*) of La Jolla Pharmaceutical Company (the *Company*) for use at the Annual Meeting, to be held on [date] at [time], local time. The Annual Meeting will be held at the Company's offices, located at 4365 Executive Drive, Suite 300, San Diego, California. This proxy statement is being made available via the Internet on [date] and the mailing date of the Notice Regarding the Availability of Proxy Materials (the *Notice*) to our stockholders will be on or about [date]. The Notice instructs you as to how you may access and review important information contained in the proxy materials. The Notice also instructs you on how you may submit your proxy on the Internet. If you receive a Notice by mail and would like to receive a printed copy of our proxy materials, you should follow the instructions for requesting such materials included in the Notice.

Only stockholders of record at the close of business on June 18, 2010 (the *Record Date*) are entitled to notice of, and to vote at, the Annual Meeting. At the close of business on the record date, [94,693,083] shares of Common Stock were issued and outstanding, held by [\_\_\_\_\_] holders of record. Each share of Common Stock is entitled to one vote on each matter to be voted upon at the Annual Meeting. Shares cannot be voted at the Annual Meeting unless the holder thereof is present or represented by proxy. The presence, in person or by proxy, of the holders of a majority in voting power of the outstanding shares of Common Stock on the Record Date will constitute a quorum for the transaction of business at the Annual Meeting and any adjournment or postponement thereof.

Our Board has selected Deirdre Y. Gillespie, M.D. and Gail A. Sloan to serve as proxies at the Annual Meeting. The shares of Common Stock represented by each executed and returned proxy will be voted in accordance with the directions indicated on the proxy. If you sign your proxy card without giving specific instructions, the Company will vote your shares **FOR** the proposals being made at the Annual Meeting. The proxy also confers discretionary authority to vote the shares authorized to be voted thereby on any matter that properly may be presented for action at the Annual Meeting; we currently know of no other business to be presented.

Any proxy given may be revoked by the person giving it at any time before it is voted at the Annual Meeting. If you have not voted through your broker, there are three ways for you to revoke your proxy and change your vote. First, you may send a written notice to the Company's secretary stating that you would like to revoke your proxy. Second, you may complete and submit a new proxy card, but it must bear a later date than the original proxy, or you may submit new proxy instructions via the telephone or the Internet. Third, you may vote in person at the Annual Meeting. However, your attendance at the Annual Meeting will not, by itself, revoke your proxy. If you have instructed a broker to vote your shares, you must follow the directions you receive from your broker to change your vote. Your last vote will be the vote that is counted.

We will provide copies of this proxy statement, notice of Annual Meeting and accompanying materials to brokerage firms, fiduciaries and custodians for forwarding to beneficial owners and will reimburse these persons for their costs of forwarding these materials. Our directors, officers and employees may solicit proxies by telephone, facsimile, or personal solicitation. We will not pay additional compensation for any of these services.

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**QUESTIONS AND ANSWERS REGARDING THIS SOLICITATION  
AND VOTING AT THE ANNUAL MEETING**

**Q. Why am I receiving these proxy materials?**

A. You are receiving these proxy materials from us because you were a stockholder of record at the close of business on the Record Date. As a stockholder of record, you are invited to attend the Annual Meeting and are entitled to and requested to vote on the items of business described in this proxy statement.

**Q. Who is entitled to vote at the Annual Meeting?**

A. Only stockholders who owned our Common Stock at the close of business on the Record Date are entitled to notice of the Annual Meeting and to vote at the meeting, and at any postponements or adjournments thereof. At the close of business on the Record Date, there were [94,693,083] shares of Common Stock outstanding held by [\_\_\_\_\_] holders of record.

**Q. How many shares must be present to conduct business?**

A. The presence at the Annual Meeting, in person or by proxy, of the holders of a majority in voting power of the outstanding shares of our Common Stock at the close of business on the Record Date will constitute a quorum. A quorum is required to conduct business at the meeting.

**Q. What will be voted on at the Annual Meeting?**

A. The items of business scheduled to be voted on at the meeting are as follows:

1. Election of (A) one Class I director to serve until the Company's 2012 Annual Meeting of Stockholders; and (B) one Class II director to serve until the Company's 2013 Annual Meeting of Stockholders;
2. A proposal to approve up to two amendments to the Company's Restated Certificate of Incorporation to implement up to two reverse stock splits, each within a range from 2-for-1 to 100-for-1, with the exact ratio(s) of the reverse stock split(s) to be determined by the Board of Directors of the Company;
3. An amendment to the Company's Restated Certificate of Incorporation to (A) increase the number of shares of Common Stock authorized for issuance thereunder from 225,000,000 to 6,000,000,000 and (B) decrease the par value of the capital stock of the Company from \$0.01 to \$0.0001;
4. An amendment to each of the Company's (A) Restated Certificate of Incorporation and (B) Amended and Restated Bylaws to reduce the permitted size of the Board of Directors to a range of three to nine directors;
5. A proposal to approve and adopt the Company's 2010 Equity Incentive Plan;
6. A proposal to approve and adopt an amendment to the Company's 1995 Employee Stock Purchase Plan to extend the term thereof and to increase the number of shares of Common Stock authorized for issuance thereunder from 850,000 to 4,850,000; and
7. Ratification of Ernst & Young LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2010.

**Q. How does the Board recommend that I vote?**

A. Our Board recommends that you vote your shares FOR approval of all proposals set forth herein.

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**Q. What shares can I vote at the Annual Meeting?**

A. You may vote all shares of Common Stock owned by you as of the Record Date, including (1) shares held directly in your name as the stockholder of record, and (2) shares held for you as the beneficial owner through a broker, trustee or other nominee such as a bank.

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

A. Most of our stockholders hold their shares of Common Stock through a broker or other nominee rather than directly in their own name. As summarized below, there are some distinctions between shares held of record and those owned beneficially.

**Stockholders of Record.** If your shares are registered directly in your name with our transfer agent, American Stock Transfer and Trust Company, you are considered to be, with respect to those shares, the stockholder of record, and these proxy materials are being sent directly to you by us. As the stockholder of record, you have the right to vote in person at the Annual Meeting, vote by proxy using the enclosed proxy card, vote by proxy via the telephone, or vote by proxy on the Internet. We have enclosed a proxy card for you to use, which also contains instructions on how to vote via the telephone or on the Internet.

**Beneficial Owner.** If your shares are held in a brokerage account or by another nominee, you are considered the beneficial owner of shares held in street name, and these proxy materials are being forwarded to you from that organization together with a voting instruction card. As the beneficial owner, you have the right to direct your broker, trustee or nominee how to vote and are also invited to attend the Annual Meeting. Please note that since a beneficial owner is not the stockholder of record, you may not vote these shares in person at the meeting unless you obtain a legal proxy from the broker, trustee or nominee that holds your shares, giving you the right to vote the shares at the meeting. Your broker, trustee or nominee has enclosed or provided voting instructions for you to use in directing the broker, trustee or nominee how to vote your shares.

**Q. How can I vote my shares without attending the Annual Meeting?**

A. Whether you hold shares directly as the stockholder of record or beneficially in street name, you may direct how your shares are voted without attending the Annual Meeting. Stockholders of record of our Common Stock may vote by proxy using the enclosed proxy card, or vote over the telephone or Internet. Stockholders who hold shares beneficially in street name may cause their shares to be voted by proxy using the proxy card provided by the broker, trustee or nominee and mailing them in the accompanying pre-addressed envelope, or vote via the telephone, or on the Internet.

**Q. How can I vote my shares in person at the Annual Meeting?**

A. Shares held in your name as the stockholder of record may be voted in person at the Annual Meeting. Shares held beneficially in street name may be voted in person only if you obtain a legal proxy from the broker, trustee or nominee that holds your shares giving you the right to vote the shares. ***Even if you plan to attend the Annual Meeting, we recommend that you also submit your proxy card or voting instructions as described above so that your vote will be counted if you later decide not to, or are unable to, attend the meeting.***

**Q. Is my vote confidential?**

A. Proxy instructions, ballots and voting tabulations that identify individual stockholders are handled in a manner that protects your voting privacy. Your vote will not be disclosed either within the Company or to third parties, except: (1) as necessary to meet applicable legal requirements, (2) to allow for the tabulation of votes and certification of the vote, and (3) to facilitate a successful proxy solicitation. Occasionally, stockholders provide written comments on their proxy card, which are then forwarded to the Company's management.

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**Q. How are votes counted?**

A. If you provide specific instructions with regard to an item, your shares will be voted as you instruct on such item. If you sign your proxy card without giving specific instructions, your shares will be voted in accordance with the recommendations of the Board ( FOR each proposal, FOR the nominees identified herein and in the discretion of the proxy holders on any other matters that properly come before the Annual Meeting).

**Q. What is a broker non-vote ?**

A. A broker non-vote occurs when a beneficial owner of shares held in street name does not give instructions to the broker or nominee holding the shares as to how to vote on matters deemed non-routine. Generally, if shares are held in street name, the beneficial owner of the shares is entitled to give voting instructions to the broker or nominee holding the shares. If the beneficial owner does not provide voting instructions, the broker or nominee can still vote the shares with respect to matters that are considered to be routine, but not with respect to non-routine matters. Under the rules and interpretations of the New York Stock Exchange, non-routine matters are generally those involving a contest or a matter that may substantially affect the rights or privileges of stockholders, such as mergers, dissolutions or stockholder proposals. *Because of a change in the New York Stock Exchange rules, unlike previous annual meetings, your broker will NOT be able to vote your shares with respect to the election of directors if you have not provided directions to your broker. We strongly encourage you to submit your voting instruction card and exercise your right to vote as a stockholder.*

Broker non-votes will have the same effect as votes AGAINST the proposals to amend our Restated Certificate of Incorporation ( *Charter* ) (Proposals 2, 3 and 4(A)), and will have no effect on all other proposals (Proposal 1 and 4(B) through 7).

**Q. How are abstentions counted?**

A. If you return a proxy card that indicates an abstention from voting on all matters, the shares represented will be counted for the purpose of determining both the presence of a quorum and the total number of votes entitled to vote with respect to a proposal, but they will not be voted on any matter at the Annual Meeting.

With regard to the election of directors, votes may be cast in favor of a director nominee or withheld. Because directors are elected by plurality, abstentions will be entirely excluded from the vote and will have no effect on its outcome.

With regard to the amendment of the Company's Charter as set forth in Proposals 2, 3 and 4(A), the affirmative vote of the stockholders holding a majority of the outstanding shares of Common Stock is required. Accordingly, abstentions will not be voted in favor of amending the Charter and will have the same effect as a vote AGAINST the proposals. With regard to approval of the amendment of our Amended and Restated Bylaws ( *Bylaws* ), approval of the 2010 Equity Incentive Plan (the *2010 Plan* ), amendment of the 1995 Employee Stock Purchase Plan (the *ESPP* ) and ratification of Ernst & Young LLP as the Company's independent registered public accounting firm for the year ending December 31, 2010, the affirmative vote of a majority of the shares present in person or represented by proxy and entitled to vote at the meeting is required for approval. Accordingly, abstentions will not be voted in favor of approving the Amendment to the bylaws, the 2010 Plan, amending the ESPP or the ratification of Ernst & Young LLP and will have the same effect as a vote AGAINST the proposals.

**Q. Who will serve as inspector of election?**

A. We expect that Gail A. Sloan, our corporate secretary, will tabulate the votes and act as inspector of election at the Annual Meeting.

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**Q. What should I do if I receive more than one proxy?**

A. You may receive more than one set of these proxy solicitation materials, including multiple copies of this proxy statement and multiple proxy cards or voting instruction cards. For example, if you hold your shares in more than one brokerage account, you may receive a separate voting instruction card for each brokerage account in which you hold shares. In addition, if you are a stockholder of record and your shares are registered in more than one name, you may receive more than one proxy card. Please complete, sign, date and return each proxy card and voting instruction card that you receive to ensure that all your shares are voted.

**Q. Who is soliciting my vote and who is paying the costs?**

A. Your vote is being solicited on behalf of the Board, and the Company will pay the costs associated with the solicitation of proxies, including preparation, assembly, printing and mailing of this proxy statement.

**Q. How can I find out the results of the voting?**

A. We intend to announce preliminary voting results at the meeting and publish final results in a Current Report on Form 8-K within four business days following the meeting.

**Q. Whom should I contact if I have questions?**

A. If you have any additional questions about the Annual Meeting or the proposals presented in this proxy statement, you should contact:

Gail A. Sloan, Chief Financial Officer and Secretary  
La Jolla Pharmaceutical Company  
4365 Executive Drive, Suite 300  
San Diego, CA 92121  
(858) 452-6600



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**PROPOSAL 1: ELECTION OF DIRECTORS**

**Our Board of Directors**

Our Charter provides for a Board of Directors (the *Board* ) that is divided into three classes. The term for each class is three years, staggered over time. The total authorized number of directors is currently fixed at five directors, although if Proposals 4(A) and (B) are approved, this could be reduced to as few as three directors. Currently, the Class II directors (whose terms expire at the Annual Meeting) are Stephen M. Martin, Craig R. Smith, M.D. and Frank E. Young, M.D., Ph.D. Drs. Smith and Young have indicated that they are not standing for re-election at the Annual Meeting. The Class I director (whose term was to have expired at the 2009 annual meeting of stockholders had we held an annual meeting during 2009) is currently Dr. Gillespie. The Class III director, whose term will expire at the 2011 annual meeting of stockholders, is currently Robert A. Fildes, Ph.D. The Class I director elected at the Annual Meeting will hold office until the 2012 annual meeting of stockholders and the Class II director elected at the Annual Meeting will hold office until the 2013 annual meeting of stockholders, and in each case until their successors are elected and qualified, unless they resign or their seats become vacant due to death, removal, or other cause in accordance with our Bylaws.

All nominees for election as directors at the Annual Meeting are incumbent directors and have indicated their willingness to serve if elected. Unless authority to vote for any of the nominees is withheld in a proxy, shares represented by proxies will be voted FOR all such nominees. In the event that any of the nominees for director becomes unavailable for re-election as a result of an unexpected occurrence, such shares will be voted for the election of such substitute nominee, if any, as the Board may propose. Proxies cannot be voted for more than two directors, the number of nominees identified herein.

The biographies of our directors and their ages as of June 15, 2010 are set forth below.

**Nominees for Director**

***Class I:***

The person listed below is nominated for election to Class I of the Board to serve a two-year term ending at the 2012 annual meeting of stockholders and until her successor is elected and qualified. **Our Board recommends that you vote FOR the following nominee.**

*Deirdre Y. Gillespie, M.D.*, 54, President, Chief Executive Officer and Assistant Secretary, joined us in March 2006 as a director, and as President and Chief Executive Officer. She was appointed Assistant Secretary in February 2007. Dr. Gillespie previously served as the President and Chief Executive Officer of Oxxon Therapeutics, Inc., a privately held pharmaceutical company, from 2001 to 2005. Prior to that, she served as Chief Operating Officer of Vical, Inc., from 2000 to 2001, and Executive Vice President & Chief Business Officer, from 1998 to 2000. Dr. Gillespie also held a number of positions at DuPont Merck Pharmaceutical Company, including Vice President of Marketing, from 1991 to 1996. Dr. Gillespie is currently a director of NexMed, Inc., a publicly held contract research organization. Dr. Gillespie received her M.B.A. from the London Business School and her M.D. and B.Sc. from London University. The Board has concluded that Dr. Gillespie should serve on our Board based on her deep knowledge of our Company gained from her positions as President and Chief Executive Officer, as well as her substantial experience in the pharmaceutical industry.

***Class II:***

The person listed below is nominated for election to Class II of the Board to serve a three-year term ending at the 2013 annual meeting of stockholders and until his successor is elected and qualified. **Our Board recommends that you vote FOR the following nominee.**

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*Stephen M. Martin*, 64, has been a director since April 2000. Mr. Martin is currently CEO Partner of Hi Tech Partners, LLC, a privately held consulting firm for executive management of early stage technology businesses. In April 2009, he joined QSpex Technologies, Inc., an early-stage private Ophthalmic (Spectacle) Lens manufacturing company as Chief Business Officer and was promoted to Chief Executive Officer in June 2009. In June 2001, Mr. Martin retired from CIBA Vision Corporation, a Novartis Company engaged in the research, manufacture and sale of contact lenses, lens care products and ophthalmic pharmaceuticals. Mr. Martin founded CIBA Vision in 1980. Mr. Martin was President of CIBA Vision Corporation, USA from 1995 to 1998 and President of Ciba Vision Ophthalmics, USA, the company's ophthalmic pharmaceutical division, which he founded, from 1990 until 1998. He served as CIBA Vision's Vice President of Venture Opportunities from 1998 until his retirement in 2001. Mr. Martin currently serves as a director of QSpex Technologies, Inc., a privately held spectacle manufacturing company, OcuCure Therapeutics, Inc., a privately held ophthalmic pharmaceutical development company and NeoVista, Inc., a privately held medical device company. From 2003 to 2005, Mr. Martin served as a director of Alimera Sciences, Inc., a publicly held ophthalmic pharmaceutical company. Mr. Martin is the inventor on six issued U.S. patents and a number of European patents. Mr. Martin holds a B.A. degree from Wake Forest University and attended the Woodrow Wilson College of Law. Based on Mr. Martin's executive experience, including his experience in senior management positions in business development, as well as his service on other boards of directors, the Board believes Mr. Martin has the appropriate set of skills to serve as a member of our Board.

**Continuing Directors*****Class III: Currently Serving Until the 2011 Annual Meeting***

*Robert A. Fildes, Ph.D.*, 72, has been a director since 1991. Since January 1998, Dr. Fildes has served as President of SB2, Inc., a privately held company that licenses antibody technology. From June to December 1998, Dr. Fildes served as Chief Executive Officer of Atlantic Pharmaceuticals, a publicly held company in the field of biotechnology. From 1993 to 1997, Dr. Fildes was the Chairman and Chief Executive Officer of Scotgen Biopharmaceuticals, Inc., a privately held company in the field of human monoclonal antibody technology. From 1990 to 1993, Dr. Fildes was an independent consultant in the biopharmaceutical industry. He was the President and Chief Executive Officer of Cetus Corporation, a publicly held biotechnology company, from 1982 to 1990. From 1980 to 1982, Dr. Fildes was the President of Biogen, Inc., which merged with IDEC Pharmaceuticals Corporation in 2003 to form Biogen Idec, a publicly held biopharmaceutical company, and from 1975 to 1980, he was the Vice President of Operations for the Industrial Division of Bristol-Myers Squibb Company. From April 2002 to April 2003, Dr. Fildes was a director of Polymerat Pty. Ltd., a privately held company (now Anteo Diagnostics Ltd., a publicly held company) that develops surfaces for carrying out biological reactions. Dr. Fildes is currently a director of Inimex Pharmaceuticals, Inc., a privately held Canadian biotechnology company. Dr. Fildes holds a D.C.C. degree in Microbial Biochemistry and a Ph.D. in Biochemical Genetics from the University of London. Based on Dr. Fildes' executive experience, specifically his experience as Chief Executive Officer at numerous companies in the biotechnology industry, as well as his service on other boards of directors in the biotechnology industries, the Board believes Dr. Fildes has the appropriate set of skills to serve as a member of our Board.

**Vote Required**

The nominees for each of Class I and Class II directors who receive the greatest number of affirmative votes of the shares present in person or by proxy will be elected as directors for that class. Any shares that are not voted, whether by abstention, broker non-votes or otherwise, will not affect the election of directors, except to the extent that the failure to vote for an individual will result in another individual receiving a larger proportion of the votes cast. Proxies solicited by the Board will be voted for this proposal unless you specify otherwise in your proxy.

*Because of a change in the New York Stock Exchange rules, unlike previous annual meetings, your broker will NOT be able to vote your shares with respect to the election of directors if you have not provided directions to your broker. We strongly encourage you to submit your voting instruction card and exercise your right to vote as a stockholder.*

**Recommendation of the Board of Directors**

**The Board of Directors unanimously recommends that you vote FOR the nominees identified above.**



Table of Contents**PROPOSAL 2: APPROVAL OF UP TO TWO AMENDMENTS OF THE COMPANY S RESTATED CERTIFICATE OF INCORPORATION TO EFFECT UP TO TWO REVERSE STOCK SPLITS****General**

Our Board is proposing that our stockholders approve a proposal to authorize our Board to effect up to two reverse stock splits of all outstanding shares of our Common Stock, at any ratio at its discretion, from 2-for-1 up to 100-for-1; however, please note that any specific ratio set by our Board will require, pursuant to the Securities Purchase Agreement, dated as of May 24, 2010, by and among the Company and the investors named therein (the *Purchase Agreement*), the prior approval of the holders (the *Requisite Holders*) holding at least 66 2/3% of the then outstanding shares of our Series C-1 Preferred Stock, Series C-2 Preferred Stock, Series D-1 Preferred Stock and Series D-2 Preferred Stock (collectively, the *Preferred Stock*). If this proposal is approved, our Board will have the authority to effect up to two reverse stock splits at any time; *provided, however*, that the Requisite Holders must approve the date upon which any reverse stock split shall be effective. Our Board believes that approval of a proposal providing the Board with this generalized grant of authority with respect to setting the split ratio, rather than mere approval of a pre-defined reverse stock split, will give the Board flexibility to set the ratio in accordance with current market conditions and therefore allow the Board to act in the best interests of the Company and our stockholders.

If our stockholders grant the Board the authority to effect up to two reverse stock splits, we would have the ability to file up to two Certificates of Amendment to the Company s Charter with the Delaware Secretary of State to effect each of the proposed reverse stock splits. The form of Certificate of Amendment is attached to this proxy statement as *Appendix A*, the text of which may be altered for any changes required by the Delaware Secretary of State and changes deemed necessary or advisable by the Board. Our Board has approved and declared advisable the proposed Certificates of Amendment. If the proposed reverse stock splits are implemented, then the number of issued and outstanding shares of our Common Stock would be reduced.

**Purpose of Proposed Reverse Stock Splits**

On May 24, 2010, we entered into the Purchase Agreement for the sale of approximately \$6 million of shares of our Common Stock, Preferred Stock and warrants to purchase Preferred Stock. The closing took place on May 26, 2010 (the *Closing*). At the Closing, the purchasers purchased (i) an aggregate of 28,970,435 shares of our Common Stock, at a price of \$0.03 per share, (ii) 5,134 shares of our Series C-1 Preferred Stock, at a price of \$1,000 per share, (iii) warrants (the *Series D-1 Warrants*) to purchase 5,134 shares of our Series D-1 Preferred Stock, at an exercise price of \$1,000 per share, which warrants may be exercised on a net or cashless basis, and (iv) warrants (the *Series C-2 Warrants*) to purchase 10,268 units, at an exercise price of \$1,000 per unit, with each unit consisting of one share of our Series C-2 Preferred Stock, and an additional warrant (the *Series D-2 Warrant*) to purchase one share of our Series D-2 Preferred Stock. The Series D-1 Warrants, Series C-2 Warrants and Series D-2 Warrants are collectively referred to herein as the *Warrants*. The Common Stock, Preferred Stock and Warrants are referred to collectively herein as the *Securities*.

The purchasers of the Securities included selected institutional investors, as well as Company officers Deirdre Y. Gillespie, M.D. (President and Chief Executive Officer) and Gail A. Sloan (Chief Financial Officer) as well as one additional Company employee.

According to the terms of the Purchase Agreement, we must file a proxy statement relating to at least two separately proposed reverse stock splits of our Common Stock.

In addition, the Board is also proposing the reverse stock splits to attempt to reduce the number of issued and outstanding shares and to increase the per share trading value of our Common Stock. Our Board believes that the reverse stock splits would be beneficial in this regard because they would increase the price of our Common Stock and decrease the number of issued and outstanding shares of our Common Stock.

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An increase in the per share trading value of our Common Stock would be beneficial because it would:

- improve the perception of our Common Stock as an investment security;
- reset our stock price to more normalized trading levels in the face of potentially extended market dislocation;
- appeal to a broader range of investors to generate greater investor interest in us; and
- reduce stockholder transaction costs because investors would pay lower commission to trade a fixed dollar amount of our stock if our stock price were higher than they would if our stock price were lower.

A decrease in the number of issued and outstanding shares of our Common Stock would be beneficial for the Company because we would have more shares available for future issuance. Specifically, as we are required to reserve for future issuance any shares underlying the conversion of the Preferred Stock into Common Stock, effecting the proposed reverse stock splits will reduce the number of issued and outstanding shares without affecting the number of authorized shares, thereby increasing the number of shares available for future issuance upon conversion of the Preferred Stock.

You should consider that, although our Board believes that a reverse stock split will in fact increase the price of our Common Stock, in many cases, because of variables outside of a company's control (such as market volatility, investor response to the news of a proposed reverse stock split and the general economic environment), the market price of a company's shares of common stock may in fact decline in value after a reverse stock split. You should also keep in mind that the implementation of a reverse stock split does not have an effect on the actual or intrinsic value of our business or a stockholder's proportional ownership in our Company. However, should the overall value of our Common Stock decline after any proposed reverse stock split, then the actual or intrinsic value of the shares of our Common Stock held by you will also proportionately decrease as a result of the overall decline in value.

**Potential Effects of the Proposed Reverse Stock Splits**

The immediate effect of a reverse stock split would be to reduce the number of shares of our Common Stock outstanding and to increase the trading price of our Common Stock. Notwithstanding the decrease in the number of outstanding shares following any proposed reverse stock split, our Board does not intend for this transaction to be the first step in a going private transaction within the meaning of Rule 13e-3 of the Securities Exchange Act of 1934, as amended (the *Exchange Act*).

However, we cannot predict the effect of any reverse stock split upon the market price of our Common Stock over an extended period, and in many cases, the market value of a company's common stock following a reverse stock split declines. We cannot assure you that the trading price of our Common Stock after any reverse stock split will rise in inverse proportion to the reduction in the number of shares of our Common Stock outstanding as a result of such reverse stock splits. Also, we cannot assure you that a reverse stock split would lead to a sustained increase in the trading price of our Common Stock. The trading price of our Common Stock may change due to a variety of other factors, including our operating results and other factors related to our business and general market conditions.

*Examples of Potential Reverse Stock Splits at Various Ratios.* The table below provides examples of reverse stock splits at various ratios up to 100-for-1:

<b>Shares Outstanding at June 1, 2010</b>	<b>Reverse Stock Split Ratio</b>	<b>Shares Outstanding After Reverse Stock Split</b>	<b>Reduction in Shares Outstanding</b>
94,693,083	2-for-1	47,346,541	47,346,542
94,693,083	10-for-1	9,469,308	85,223,775
94,693,083	25-for-1	3,787,723	90,905,360
94,693,083	50-for-1	1,893,861	