

LIGAND PHARMACEUTICALS INC  
Form DEF 14A  
April 23, 2010  
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**SCHEDULE 14A INFORMATION**

**(Rule 14a-101)**

**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 under 240.14a-12

**LIGAND PHARMACEUTICALS INCORPORATED**

**Name of Registrant as Specified In Its Charter**

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

Payment of Filing Fee (Check the appropriate box):

No fee required.

## Edgar Filing: LIGAND PHARMACEUTICALS INC - Form DEF 14A

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):

(4) Proposed maximum aggregate value of transaction:

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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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April 27, 2010

Dear Stockholder:

You are cordially invited to attend the annual meeting of the stockholders of Ligand Pharmaceuticals Incorporated, to be held on Tuesday, May 25, 2010 at 9:00 a.m. local time at Ligand Pharmaceuticals Incorporated, located at 11085 North Torrey Pines Road, Suite 300, La Jolla, CA 92037.

Details of the business to be conducted at the annual meeting are given in the attached notice of annual meeting and proxy statement.

*Your vote is important*, so even if you plan to attend the meeting, I encourage you to sign, date and return the enclosed proxy promptly in the accompanying reply envelope or, if you prefer, you may vote by telephone or on the internet. This will ensure your vote is counted whether or not you are able to attend. If you decide to attend the annual meeting and wish to change your proxy vote, you may do so automatically by voting in person at the annual meeting.

We look forward to seeing you at the annual meeting.

/s/ JOHN L. HIGGINS  
**John L. Higgins**  
*President and Chief Executive Officer*

San Diego, California

**YOUR VOTE IS IMPORTANT**

In order to assure your representation at the meeting, you are requested to complete, sign and date the enclosed proxy or vote by internet or telephone as described in the enclosed proxy materials as promptly as possible. If you are voting by mail, please return it in the enclosed envelope. You do not need to add postage if mailed in the United States.

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**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**TO BE HELD TUESDAY, MAY 25, 2010**

Dear Stockholder:

The annual meeting of stockholders of Ligand Pharmaceuticals Incorporated (the Company) will be held at Ligand Pharmaceuticals Incorporated, located at 11085 North Torrey Pines Road, Suite 300, La Jolla, CA 92037 on May 25, 2010 at 9:00 a.m. (PDT), for the following purposes:

1. To elect a board of directors for the following year. Our board of directors has nominated the following persons for election at the meeting: Jason M. Aryeh, Todd C. Davis, John L. Higgins, David M. Knott, John W. Kozarich and Stephen L. Sabba.
2. To ratify the selection of Grant Thornton LLP as the Company's independent registered accounting firm for the fiscal year ending December 31, 2010.

3. To transact such other business as may properly come before the meeting or any adjournment(s) thereof. Stockholders of record at the close of business on April 15, 2010 will be entitled to vote at the annual meeting. The stock transfer books of the Company will remain open between the record date and the date of the meeting. A list of stockholders entitled to vote at the annual meeting will be available for inspection at the offices of the Company and at the meeting. Whether or not you plan to attend the annual meeting in person, please sign, date and return the enclosed proxy in the envelope provided or, if you prefer, you may vote by telephone or on the internet. If you attend the annual meeting and vote by ballot, your proxy will be revoked automatically and only your vote at the annual meeting will be counted. The prompt return of your proxy will assist us in preparing for the annual meeting.

By Order of the Board of Directors

/s/ CHARLES S. BERKMAN  
**Charles S. Berkman**  
*Vice President, General Counsel & Secretary*

La Jolla, California

April 27, 2010

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**LIGAND PHARMACEUTICALS INCORPORATED**

**11085 North Torrey Pines Road, Suite 300,**

**La Jolla, CA 92037**

**PROXY STATEMENT**

**FOR THE ANNUAL MEETING OF STOCKHOLDERS**

**MAY 25, 2010**

On behalf of the board of directors of Ligand Pharmaceuticals Incorporated (the Company), we are asking for your proxy, to be used at the annual meeting of stockholders to be held on May 25, 2010. The annual meeting will be held at 9:00 a.m. at Ligand Pharmaceuticals Incorporated, located at 11085 North Torrey Pines Road, Suite 300, La Jolla, CA 92037. Stockholders of record on April 15, 2010 are entitled to notice of and to vote at the annual meeting. If you need directions to the location of the annual meeting, please contact us at (858) 550-7500. This proxy statement and accompanying proxy materials will be first mailed to stockholders on or about April 27, 2010.

**Important Notice Regarding the Availability of Proxy Materials for the Stockholder Meeting to Be Held on May 25, 2010**

This proxy statement and the Company's annual report are available electronically at <http://bnymellon.mobular.net/bnymellon/lgnd>.

**What is the purpose of the annual meeting?**

At our annual meeting, stockholders will act on the items outlined in the notice of meeting that is attached to this proxy statement. These include the election of directors and the ratification of the selection of Grant Thornton LLP as the Company's independent registered public accounting firm. In addition, following the formal part of the meeting, management will respond to questions from our stockholders. An annual report on Form 10-K for the year ended December 31, 2009 is enclosed with this proxy statement.

**Who can vote at the meeting?**

Only stockholders of record as of the close of business on the record date, April 15, 2010, are entitled to vote the shares of stock they held on that date. Stockholders may vote in person or by proxy (see "How do I vote" below). Each holder of shares of common stock is entitled to one vote for each share of stock held on the proposals presented in this proxy statement. Our amended and restated bylaws provide that a majority of all of the shares of the stock entitled to vote, whether present in person or represented by proxy, will be a quorum for the transaction of business at the meeting. As of the record date, there were 117,579,101 shares of common stock outstanding (not including 6,607,905 shares held in treasury and not entitled to vote) and only shares of one class of common stock outstanding.

All votes will be counted by an inspector of elections appointed for the meeting. The inspector will count separately yes votes, no votes, abstentions and broker non-votes. Shares represented by proxies that reflect abstentions or broker non-votes (i.e., shares held by a broker or nominee which are represented at the annual meeting, but not empowered to vote on a particular proposal) will be counted as shares that are present and entitled to vote for purposes of determining the presence of a quorum.

**How are votes counted?**

Directors will be elected by a favorable vote of a plurality of the aggregate votes present, in person or by proxy, at the annual meeting. Accordingly, abstentions will not affect the outcome of the election of candidates for director. Absent instructions from the beneficial owner of such shares, a broker is not entitled to vote shares held for a beneficial owner on certain non-routine items, such as the election of directors. Thus, if the beneficial

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owner does not give a broker specific instructions, the beneficially owned shares may not be voted on the election of directors and will not be counted in determining the number of shares necessary for approval, although they will count for purposes of determining whether a quorum exists. Stockholders are not permitted to cumulate their shares for the purpose of electing directors or otherwise.

The proposal to ratify the selection of Grant Thornton LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2010 requires the affirmative vote of a majority of the aggregate votes present, in person or by proxy, and entitled to vote at the annual meeting. Abstentions will have the same effect as a vote against this proposal. However, ratification of the selection of Grant Thornton LLP is considered a routine matter on which a broker or other nominee is empowered to vote. Accordingly, no broker non-votes will result from this proposal.

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

#### *By Proxy Card*

If you complete and properly sign the enclosed proxy card and return it as instructed on the card, it will be voted as you direct. If you are a registered stockholder and you attend the meeting, you may deliver your completed proxy card in person. If you hold your shares in street name through a brokerage or other nominee, you will need to obtain a proxy card from the institution that holds your shares.

You may revoke your proxy at any time before it is voted. It may be revoked by sending a notice of revocation or another signed proxy with a later date to the Secretary of the Company at the Company's principal executive offices, located at 11085 North Torrey Pines Road, Suite 300, La Jolla, CA 92037. You may also revoke your proxy by attending the annual meeting and voting in person.

#### *By Telephone or Internet*

You may choose instead to vote by telephone or on the internet. To vote by telephone or internet, please follow the instructions on the proxy materials enclosed with this proxy statement.

**Table of Contents****ITEMS TO BE VOTED ON AT THE MEETING****PROPOSAL NO. 1****ELECTION OF DIRECTORS**

The persons named below have been nominated by our board of directors to serve as directors of the Company until the next annual meeting of stockholders and until their successors have been elected and qualified. Each person nominated for election has agreed to serve if elected. The proxies received by the proxyholders will be voted for the nominees named below. The six candidates receiving the highest number of affirmative votes of the shares entitled to vote at the annual meeting will be elected directors of the Company. As of the date of this proxy statement, our board of directors is not aware of any nominee who is unable to or will decline to serve as a director. If, however, any of those named are unable to serve at the time of the annual meeting, the proxyholders may exercise discretionary authority to vote for substitutes.

**Nominees**

<b>Name</b>	<b>Offices Held</b>	<b>Year First Elected Director</b>	<b>Age*</b>
John W. Kozarich(A)(N)	Chairman of the Board	2003	60
John L. Higgins	President, Chief Executive Officer and Director	2007	40
Jason M. Aryeh(C)(N)	Director	2006	41
Todd C. Davis(A)(C)	Director	2007	49
David M. Knott(A)(C)	Director	2007	65
Stephen L. Sabba(N)	Director	2008	50

\* as of April 15, 2010

(A) Member of the audit committee

(C) Member of the compensation committee

(N) Member of the nominating and corporate governance committee

**Business Experience of Director-Nominees**

**Jason M. Aryeh** has served as a member of our board of directors since September 2006. He is the founder and managing general partner of JALAA Equities, LP, a private hedge fund focused on the biotechnology and specialty pharmaceutical sector, and has served in such capacity since 1997. Mr. Aryeh serves on the board of directors of Nabi Biopharmaceuticals, a biotechnology company. Mr. Aryeh also serves as both a special advisor to the Cystic Fibrosis Foundation for Drug Discovery, and as honorary chairman of the New Mexico Chapter of the Cystic Fibrosis Foundation. Mr. Aryeh earned an A.B. in economics, with honors, from Colgate University, and is a member of the Omnicron Delta Epsilon Honor Society in economics. In selecting Mr. Aryeh to serve as a director, the board considered, among other things, his valuable capital markets experience, including his prior service as managing general partner of a hedge fund focused on the biotechnology and specialty pharmaceutical sector. Ligand also benefits from Mr. Aryeh's current involvement in the biotechnology industry through his position as a director of Nabi Biopharmaceuticals.

**Todd C. Davis** has served as a member of our board of directors since March 2007. Since December 2006, Mr. Davis has served as a managing director of Cowen Healthcare Royalty Management, LLC, the investment advisor to Cowen Healthcare Royalty Partners, L.P. Previously, from November 2004 to October 2006, Mr. Davis served as a partner at Paul Capital Partners, an investment firm. From 2001 to 2004, Mr. Davis served as a partner at Apax Partners. Mr. Davis has historically been employed in the health care industry in positions at Abbott Laboratories and Elan. Mr. Davis has historically served on the boards of several public and private companies, including Artes Medical, Inc., and currently serves on the board of Syneva Medical, Inc. Mr. Davis earned a B.S. from the U.S. Naval Academy and an M.B.A. from Harvard Business School. In selecting Mr. Davis to serve as a director, the board considered, among other things, his valuable prior experience as a

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director of several public and private companies. Ligand also benefits from Mr. Davis' financial and accounting expertise and leadership experience within the biotechnology industry.

**John L. Higgins** joined the Company in January 2007 as President and Chief Executive Officer and he was also appointed to the Board in March 2007. Prior to joining the Company, Mr. Higgins served as Chief Financial Officer at Connetics Corporation, a specialty pharmaceutical company, since 1997, and also served as Executive Vice President, Finance and Administration and Corporate Development at Connetics since January 2002 until its acquisition by Stiefel Laboratories, Inc. in December 2006. Before joining Connetics, he was a member of the executive management team at BioCryst Pharmaceuticals, Inc., a biopharmaceutical company. Currently, he is a Director of BioCryst and serves as Chairperson of its audit committee. Before joining BioCryst in 1994, Mr. Higgins was a member of the healthcare banking team of Dillon, Read & Co. Inc., an investment banking firm. Mr. Higgins serves as Chairman of CoMentis, Inc, a biopharmaceutical company, and serves on the board, audit and compensation committees of Techne Corporation, a company with a market capitalization of over \$2 billion. Mr. Higgins has served as a director of numerous public and private companies. He graduated Magna Cum Laude with an A.B. from Colgate University. In selecting Mr. Higgins to serve as a director, the board considered, among other things, his valuable experience operating and managing public biotechnology companies, including his prior service on the board of CoMentis Inc. and other biopharmaceutical companies and his financial transaction experience as an investment banker. Ligand also benefits from Mr. Higgins' financial experience in leadership roles at companies within the biopharmaceutical industry.

**David M. Knott** has served as a member of our board of directors since March 2007. Since 1987, Mr. Knott has served as chief investment manager of Knott Partners Management and Dorset Management, two related hedge fund entities. From 1983 to 1987, he served as general partner and analyst at Mandrakos Associates. Prior to that, Mr. Knott was a broker at Donaldson Lufkin & Jenrette (DLJ). Mr. Knott currently serves on the board of directors of Paramount Resources. He received a B.A. in political science from the University of Pennsylvania and an M.B.A. in finance from the Wharton School of the University of Pennsylvania. In selecting Mr. Knott to serve as a director, the board considered, among other things, his valuable experience as a director of Paramount Resources and several private organizations which provides the board with a broad leadership perspective. Ligand also benefits from Mr. Knott's financial and accounting expertise and his perspective as a significant stockholder.

**John W. Kozarich, Ph.D.** has served as a member of our board of directors since March 2003. Dr. Kozarich is chairman and president and a director of ActivX Biosciences, Inc., which he joined in January 2001. ActivX is a wholly owned subsidiary of KYORIN Pharmaceutical Co., Ltd., Tokyo, Japan. From 1992 to 2001, Dr. Kozarich was vice president at Merck Research Laboratories, where he was responsible for a number of research programs. Dr. Kozarich is also a biotechnology professor at the Scripps Research Institute, and previously held faculty positions at the University of Maryland and Yale University School of Medicine. Dr. Kozarich earned his B.S. in chemistry from Boston College, his Ph.D. in biological chemistry from the Massachusetts Institute of Technology, and was an NIH postdoctoral fellow at Harvard University. In selecting Dr. Kozarich to serve as a director, the board considered, among other things, his valuable pharmaceutical and international experience, including his service at Merck Research Laboratories, which is part of one of the world's largest pharmaceutical companies and his service as Chief Executive Officer of ActivX Biosciences, Inc., a subsidiary of a Japan-based, international pharmaceutical company. Ligand also benefits from Dr. Kozarich's financial and accounting experience in the pharmaceutical and biotechnology industries.

**Stephen L. Sabba, M.D.** has served as a member of our board of directors since August 2008. Dr. Sabba has been a leading Research Analyst and Bio Fund Manager for Knott Partners Management, an investment fund company, since November, 2006. Previously he was a Partner and Director of Research with Kilkenny Capital Management, a Chicago-based hedge fund. Prior to that, Dr. Sabba was Director of Research at Sturza's Medical Research, and previously was a gastroenterologist and internist in private practice at Phelps Memorial Hospital in North Tarrytown, New York. He received his medical degree from the New York University School of Medicine, and completed a residency in internal medicine and a fellowship in gastroenterology at the Veterans

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Administration Medical Center in New York City. He earned a Bachelor of Science degree with honors from Cornell University. In selecting Dr. Sabba to serve as a director, the board considered, among other things, his capital markets and accounting expertise gained from his prior experience working in the hedge fund and investment fund industries. Ligand also benefits from his background as a medical doctor and from his understanding of medicine.

## **Director Independence**

Our board of directors has determined that, with the exception of Mr. Higgins, each of the directors is an independent director under the NASDAQ Global Market listing standards. The independent directors have two or more regularly scheduled executive sessions per year at which only the independent directors are present.

## **Board Meetings and Committees**

Our board of directors held two in-person meetings and eight telephonic meetings, and acted by unanimous written consent four times during the fiscal year ended December 31, 2009. During such year, each incumbent director attended at least 90% of the aggregate number of meetings of our board of directors which were held during the periods in which he or she served. The Company does not have a policy regarding attendance of the directors at the annual meeting. At our 2009 annual meeting of stockholders, one of our then-current directors, John Higgins, was in attendance.

Our board of directors has an audit committee, a nominating and corporate governance committee and a compensation committee. Each committee is described below. Each of these committees has a written charter approved by our board of directors. A copy of each charter can be found under the Investor Relations Corporate Governance Corporate Charters section of our website at [www.ligand.com](http://www.ligand.com). Our board of directors has determined that each member of these committees meets the applicable rules and regulations regarding independence and that each member is free of any relationship that would interfere with his or her individual exercise of independent judgment with regard to the Company.

The audit committee was established in March 1992 and is primarily responsible for overseeing the Company's accounting and financial reporting processes, auditing of financial statements, systems of internal control, and financial compliance programs. The audit committee currently consists of Messrs. Davis and Knott (chair), and Dr. Kozarich, each of whom is independent as defined under Rule 4350 of the NASDAQ Global Market listing standards. The audit committee held two in-person meetings, held four telephonic meetings and acted by unanimous written consent one time during 2009. After reviewing the qualifications of all current committee members and any relationship they may have that might affect their independence from the Company, our board of directors has determined that (i) all current committee members are independent as defined under Section 10A of the Securities Exchange Act of 1934, as amended, (ii) all current committee members are independent as defined under the NASDAQ Global Market listing standards, (iii) all current committee members have the ability to read and understand financial statements and (iv) Mr. Davis qualifies as an audit committee financial expert. The latter determination is based on a qualitative assessment of his level of knowledge and experience based on a number of factors, including his formal education and experience.

The nominating committee was established in December 2001 and is responsible for identifying and recommending candidates for director of the Company. The nominating committee was reconstituted as the nominating and corporate governance committee in March 2007 and consists of Mr. Aryeh (chair) and Drs. Kozarich and Sabba. Each member of the nominating and corporate governance committee is an independent director under Rule 4200(a)(15) of the NASDAQ Global Market listing standards. The nominating and corporate governance committee held two telephonic meetings during 2009.

The nominating and corporate governance committee considers nominees recommended by stockholders, if submitted in writing to the Secretary at the Company's principal executive offices and accompanied by the author's full name, current address and telephone number. The nominating and corporate governance committee

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has set no specific minimum qualifications for candidates it recommends, but considers each individual's qualifications, such as high personal integrity and ethics, relevant expertise and professional experience, as a whole. The nominating and corporate governance committee and the Board as a whole consider it beneficial to the Company to have directors with a diversity of backgrounds and skills. The nominating and corporate governance committee and the Board as a whole have no formal policy with regard to the consideration of diversity in identifying director nominees. The nominating and corporate governance committee considers candidates throughout the year and makes recommendations as vacancies occur or the size of our board of directors expands. Candidates are identified from a variety of sources including recommendations by stockholders, current directors, management, and other parties. The nominating and corporate governance committee considers all such candidates in the same manner, regardless of source. Under its charter, the nominating and corporate governance committee may retain a search firm to identify and recommend candidates but has not done so to date.

The compensation committee was established in March 1992 and reviews and approves the Company's compensation policies, sets executive officers' compensation and administers the Company's stock option and stock purchase plans. The compensation committee consists of Messrs. Aryeh, Davis (chair) and Knott. Each member is an independent director under Rule 4200(a)(15) of the NASDAQ Global Market listing standards. The compensation committee held two telephonic meetings and acted by unanimous written consent two times during 2009.

## **Board Leadership Structure**

Our board of directors has nominated six persons to serve as directors of the Company until the next annual meeting of stockholders, five of whom are independent. We separate the roles of chief executive officer and chairman of our board of directors in recognition of the differences between the two roles. The chief executive officer is responsible for setting the strategic direction for the Company and the day-to-day leadership and performance of the Company, while the chairman of our board of directors provides guidance to the chief executive officer and presides over meetings of the full board of directors. We believe that this separation of responsibilities provides a balanced approach to managing the board of directors and overseeing the Company.

## **Board's Role in Risk Oversight**

Our board of directors is actively involved in oversight of risks that could affect the Company. The board's role in our risk oversight process includes receiving regular reports from members of senior management on areas of material risk to the Company, including risks associated with our operational, financial, legal and regulatory functions. The full board (or the appropriate board committee in the case of risks that are under the purview of a particular committee) receives these reports from the appropriate risk owner within the organization to enable it to understand our risk identification, risk management and risk mitigation strategies. When a board committee engages in a discussion related to areas of material risk to the Company, the chairman of the relevant committee reports on the discussion to the full board during the committee reports portion of the next board meeting. This enables the board and its committees to coordinate the risk oversight role.

## **Communicating with the Board of Directors**

Stockholders may communicate with our board of directors or individual directors by mail, in care of the Secretary, at the Company's principal executive offices. Letters are distributed to the board of directors, or to any individual director or directors as appropriate, depending on the content of the letter. However, items that are unrelated to the duties and responsibilities of the board of directors will be excluded. In addition, material that is illegal, inappropriate or similarly unsuitable will be excluded. Any letter that is filtered out under these standards, however, will be made available to any director upon request.

## **Recommendation of the Board of Directors**

The Board of Directors unanimously recommends a vote **FOR** the nominees listed above.

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You are being asked to ratify the selection of Grant Thornton LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2010. Neither the firm nor any of its members has any relationship with the Company or any of its affiliates, except in the firm's capacity as the Company's independent registered public accounting firm.

Stockholder ratification of the selection of Grant Thornton LLP as the Company's independent registered public accounting firm is not required by Delaware law, the Company's certificate of incorporation, the Company's amended and restated bylaws, or otherwise. However, the audit committee is submitting the selection of Grant Thornton LLP to the stockholders for ratification as a matter of good corporate practice. In the event the stockholders fail to ratify the selection, the board of directors will reconsider its selection. Even if the selection is ratified, the board of directors or its audit committee, in its discretion, may direct the appointment of a different independent auditing firm at any time during the year if such a change would be in the Company's and its stockholders' best interests.

Representatives of Grant Thornton LLP are expected to be present at the annual meeting, and will have the opportunity to make a statement if they desire to do so and are expected to be available to respond to appropriate questions. The affirmative vote of the holders of a majority of the shares represented and voting at the annual meeting will be required to ratify the selection of Grant Thornton LLP.

**Independent Auditor's Fees**

The following is a summary of the fees incurred by the Company from Grant Thornton LLP, the Company's independent registered public accounting firm for the fiscal years ended December 31, 2009 and 2008 (in thousands):

Fee Category	Fiscal 2009 Fees	Fiscal 2008 Fees
Audit Fees(1)	\$ 430.0	\$ 428.6
Audit-Related Fees(2)	90.8	55.9
Tax Fees(3)	65.0	
All Other Fees		
<b>Total Fees</b>	<b>\$ 585.8</b>	<b>\$ 484.5</b>

- (1) Audit fees consist of fees for professional services rendered for the audit of the Company's consolidated annual financial statements and review of the interim consolidated financial statements included in quarterly reports and services that are normally provided in connection with statutory and regulatory filings or engagements. In 2009 and 2008, audit fees included fees for professional services rendered for the audits of (i) management's assessment of the effectiveness of internal control over financial reporting and (ii) the effectiveness of internal control over financial reporting.
  - (2) Audit-Related fees consist of fees billed for professional services that are reasonably related to the performance of the audit or review of our consolidated financial statements but are not reported under Audit Fees. Such fees include, among other things, employee benefit plan audits and certain consultations concerning financial accounting and reporting standards.
  - (3) Tax fees consist of fees for professional services rendered for assistance with federal, state and international tax compliance.
- In considering the nature of the services provided by Grant Thornton LLP during the 2009 fiscal year, the audit committee determined that such services are compatible with the provision of independent audit services. The audit committee discussed these services with Grant Thornton LLP and the Company's management to determine that they are permitted under the rules and regulation concerning auditor independence promulgated by the SEC to implement the Sarbanes-Oxley Act of 2002, as well as the American Institute of Certified Public Accountants.

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The services performed by Grant Thornton LLP in 2009 and 2008 were pre-approved in accordance with the requirements of the audit committee charter adopted on November 13, 2006.

Except as stated above, there were no other fees charged by Grant Thornton for 2009 and 2008. The audit committee considers the provision of these services to be compatible with maintaining the independence of Grant Thornton LLP. None of the fees paid to Grant Thornton LLP under the categories Audit-Related Fees and Tax Fees described above were approved by the audit committee after services were rendered pursuant to the *de minimus* exception established by the SEC.

### **Audit Committee Policy Regarding Pre-Approval of Audit and Permissible Non-Audit Services of Our Independent Registered Public Accounting Firm**

Our audit committee has established a policy that all audit and permissible non-audit services provided by our independent registered public accounting firm will be pre-approved by the audit committee. These services may include audit services, audit-related services, tax services and other services. The audit committee considers whether the provision of each non-audit service is compatible with maintaining the independence of our auditors. Pre-approval is detailed as to the particular service or category of services and is generally subject to a specific budget. Our independent registered public accounting firm and management are required to periodically report to the audit committee regarding the extent of services provided by the independent registered public accounting firm in accordance with this pre-approval, and the fees for the services performed to date.

### **Recommendation of the Board of Directors**

Our board of directors unanimously recommends that the stockholders vote **FOR** the ratification of the selection of Grant Thornton LLP to serve as the Company's independent registered public accounting firm for the year ending December 31, 2010.

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### EXECUTIVE OFFICERS

The names of the executive officers of the Company and their ages, titles and biographies as of April 16, 2010 are set forth below.

**John L. Higgins, 40**, is being considered for the position of director of the Company. See Election of Directors for a discussion of Mr. Higgins business experience.

**Charles S. Berkman, J.D.**, 41, has served as our Vice President, General Counsel and Secretary since April 2007. Mr. Berkman joined the Company in November 2001 and previously served as Associate General Counsel and Chief Patent Counsel for the Company (and Secretary since March 2007). Prior to joining the Company, Mr. Berkman was an attorney at the international law firm of Baker & McKenzie from November 2000 to November 2001. Before that he served as an attorney at the law firm of Lyon & Lyon from 1993 to November 2000, where he specialized in intellectual property law. Mr. Berkman earned a B.S. in chemistry from the University of Texas and a J.D. from the University of Texas School of Law.

**Syed Kazmi, Ph.D., MBA**, 53, has served as our Vice President, Business Development & Strategic Planning since July 2007. Dr. Kazmi has more than 20 years of Pharmaceutical R&D and Business development experience. From 1995 until June 2007, he held various positions at Ligand, including Senior Scientist in Molecular Endocrinology, Director of Project Management and leader of multiple drug development teams, and Senior Director of Business Development. Prior to joining Ligand, Dr. Kazmi worked in discovery research at Johnson & Johnson from 1988 to 1995, where his most recent position was Principal Scientist in endocrinology and inflammation drug development programs. From 1985 to 1988, he held his postdoctoral research positions at McMaster University, Hamilton. Dr. Kazmi received a Ph.D. in biochemistry from J.N. University, New Delhi, and an executive MBA from San Diego State University.

**Martin D. Meglasson, Ph.D.**, 60, joined the Company in February 2004 as Vice President, Discovery Research. Prior to joining the Company, Dr. Meglasson was Director of Preclinical Pharmacology at Pharmacia, Inc. where he engaged in research and development of drugs for central nervous system and infectious diseases from 1998 to 2003. From 1996 to 1998, Dr. Meglasson served as Director of Endocrine and Metabolic Research, engaged in diabetes and obesity research, and was a member of the Exploratory Development Committee at Pharmacia & Upjohn. From 1988 to 1996, he was a researcher in the fields of diabetes and obesity at The Upjohn Co. Dr. Meglasson has participated in the discovery and development of two marketed drugs, is an inventor of 18 U.S. patents, and author of 70 scientific publications. Dr. Meglasson received his Ph.D. in pharmacology from the University of Houston and post-doctoral training at the University of Pennsylvania School of Medicine.

**John Sharp, CPA**, 45, joined the Company in April 2007 as our Vice President, Finance and Chief Financial Officer. From November 2004 to April 2007, Mr. Sharp served as Vice President of Finance of Sequenom, Inc. and served as its Principal Accounting Officer since October 2005. From August 2000 to November 2004, Mr. Sharp served as Director of Accounting at Diversa Corporation, a publicly traded biotech company, where he was responsible for managing the overall accounting function, including financial reporting, internal controls, and corporate governance, during a period of significant company growth. From January 1994 until August 2000, Mr. Sharp was at the public accounting firm PricewaterhouseCoopers, most recently as a Senior Audit Manager. He received a B.S. from San Diego State University, and is a certified public accountant and a member of the Association of BioScience Financial Officers.

**Table of Contents****SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS, DIRECTORS AND MANAGEMENT**

The following table shows, based on information we have, the beneficial ownership of our common stock as of April 15, 2010, by:

all persons who are beneficial owners of 5% or more of our outstanding common stock;

each of our current directors, including our president and chief executive officer, Mr. Higgins;

each of our named executive officers (as defined below in Compensation Discussion and Analysis Summary Compensation Table ); and

all of our executive officers and directors as a group.

Unless otherwise indicated, each of the stockholders has sole voting and investment power with respect to the shares beneficially owned, subject to community property laws, where applicable. Percentage of ownership is based on approximately 117,579,101 shares of common stock outstanding on April 15, 2010 (not including 6,607,905 shares held in treasury and not entitled to vote). Shares of common stock underlying options include options which are currently exercisable or will become exercisable within 60 days after April 15, 2010, are deemed outstanding for computing the percentage of the person or group holding such options, but are not deemed outstanding for computing the percentage of any other person or group. The address for individuals for whom an address is not otherwise indicated is 11085 Torrey Pines Road, Suite 300, La Jolla, CA 92037.

Beneficial Owner	Number of Shares Beneficially Owned	Shares Beneficially Owned via Options, Warrants or Convertible Notes	Percent of Class Owned
Wellington Management Company, LLC(1) 75 State Street Boston, MA 02109	15,798,019		13.44%
BVF Partners(2) 900 N. Michigan Ave, Suite 1100 Chicago, IL 60611	11,155,486	145,000	9.61%
BlackRock Inc.(3) 40 East 52nd Street New York, NY 10022	7,754,707		6.60%
David M. Knott(4) 485 Underhill Blvd., Ste. 205 Syosset, NY 11791-3419	7,008,237	35,000	5.99%
<b>Directors and Executive Officers</b>			

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Jason M. Aryeh(5)	1,629,518	38,781	1.42%
Steven J. Burakoff	15,000	15,000	*
Todd C. Davis	15,000	35,000	*
John L. Higgins	439,276	320,125	*
David M. Knott(4)	7,008,237	35,000	5.99%
John W. Kozarich	30,378	75,227	*
Stephen L. Sabba	10,000	15,000	*
Charles S. Berkman	92,677	160,000	*
Syed M.I. Kazmi	81,710	138,917	*
Martin D. Meglasson	96,000	223,042	*
John P. Sharp	82,000	127,792	*
Directors and executive officers as a group (10 persons)	9,499,796	1,183,884	9.09%

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- \* Less than 1%
- (1) Based solely on a review of a Schedule 13G filed on February 12, 2010, which reported that Wellington Management Company, LLP had sole voting and dispositive power over 15,798,019 shares.
  - (2) Based solely on a review of a Schedule 13G filed on February 12, 2010, which reported that BVF Partners (on behalf of Biotechnology Value Fund, L.P., Biotechnology Value Fund II, L.P., BVF Investments, L.L.C., Investment 10, L.L.C., BVF Partners L.P., BVF Inc. and Mark N. Lampert) had sole voting and dispositive power over 11,300,486 shares.
  - (3) Based solely on a review of a Schedule 13G filed on January 29, 2010, which reported that BlackRock Inc. had sole voting and dispositive power over 7,754,707 shares.
  - (4) Based solely on a review of a Form 4 filed on March 16, 2010 by David M. Knott.
  - (5) Includes 1,572,668 shares held by JALAA Equities, LP., of which Mr. Aryeh is the founder and general partner, 44,700 held directly by Mr. Aryeh and 12,150 held in a family trust.

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**COMPENSATION DISCUSSION AND ANALYSIS**

**Philosophy and Overview of Compensation**

The Company's executive compensation philosophy is intended to provide compensation opportunities that:

attract, motivate and retain individuals of superior ability and managerial talent critical to its long-term success;

align executives' interests with the Company's corporate strategies, business objectives and the long-term interests of the Company's stockholders;

create incentives to achieve key strategic and financial performance measures; and

enhance the executives' incentive to increase the Company's stock price and maximize stockholder value.

**Total Compensation**

The compensation package offered to each executive officer is comprised of four elements:

base salary;

annual variable performance bonus awards payable in cash;

long-term stock-based incentive awards; and

employee benefits and perquisites.

These are described in more detail below.

**The Role of the Compensation Committee**

The compensation committee has the primary authority to determine the Company's compensation philosophy and to establish compensation for the Company's executive officers. In determining each level of compensation and the total package, the compensation committee reviewed a variety of sources, to determine and set compensation.

The chief executive officer aids the compensation committee by providing annual recommendations regarding the compensation of all executive officers, other than himself. Each named executive officer and senior executive management team member, in turn, participates in an annual performance review with the chief executive officer to provide input about his or her contributions to the Company's success for the period being assessed. The performance of our chief executive officer and senior executive management team as a group is reviewed annually by the compensation committee.

As in prior years, the compensation committee and the Company's management consulted several independent compensation surveys to assist them in determining market pay practices for compensating executive officers. These surveys were reviewed to compare the Company's compensation levels to the market compensation levels, taking into consideration the other companies' size, the industry, the individual executive's level of responsibility and his or her years of experience. The current executive salaries were benchmarked against the Radford

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Global Life Sciences Compensation Report using data from companies with 50-149 employees and the Biotech Employee Development Coalition (BEDC) Survey for companies with 50-149 employees. These surveys were used due to the competitiveness in hiring employees within the biotechnology industry as well as in our geographic location and we believe they represent the types of companies with which we compete for executive talent. With respect to the foregoing survey data, the identities of the individual companies included in the surveys were not provided to the compensation committee, and the compensation

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committee did not refer to individual compensation information for such companies. Instead, the compensation committee only referred to the statistical summaries of the compensation information for the companies included in such surveys.

Additionally, each year the compensation committee consults surveys of the compensation practices of a peer group of companies in the United States. This is necessary so the Company can offer compensation that is competitive within that group of companies. The peer group companies for 2009 compensation purposes included Acadia Pharmaceuticals, Affymax, Anadys Pharmaceuticals, Arena Pharmaceuticals, Cytokinetics, Dynavax Technologies, Exelixis, Geron, Incyte, Isis Pharmaceuticals, Metabasis Therapeutics, Momenta Pharmaceuticals, Neurocrine Biosciences, NPS Pharmaceuticals, Progenics Pharmaceuticals, Rigel, Sunesis Pharmaceuticals, Telik, and Xenoport.

The selected companies in our peer group are companies that fall within a reasonable range of comparison factors and/or that we may compete with for executive talent. Criteria used in the identification and selection of the peer group included business/labor market competitors in the biotechnology industry similar in size and complexity and companies with market values generally between \$200 million and \$800 million and involved in various stages of clinical trials. The peer group was not selected on the basis of executive compensation levels. The peer group compensation data is limited to publicly available information and therefore does not provide precise comparisons by position as offered by more comprehensive survey data. The survey data, however, can be used to provide pooled compensation data for positions closely akin to those held by each named executive officer. In addition, the pool of senior executive talent from which the company draws and against which it compares itself extends beyond the limited community of our immediate peer group and includes a wide range of other organizations in the communications sector outside of the company's traditional competitors, which range is represented by such surveys. As a result, the compensation committee uses peer group data on a limited basis to analyze the overall competitiveness of the company's compensation with its direct publicly traded peers in the United States and its general compensation philosophy but continues to primarily rely on industry survey data in determining actual executive compensation. For purposes of this compensation discussion and analysis, references to our peer group include both the peer group of companies listed above and the survey data reviewed by our compensation committee.

The compensation committee benchmarks total compensation, as well as annual cash and long-term performance compensation to the median (i.e. 50<sup>th</sup> percentile) of executive officers performing similar job functions at companies in our peer group, adjusted to reflect relative company size and performance. However, we strongly believe in retaining the best talent among our senior executive management team and while we believe that comparisons to market data are a useful tool, we do not believe that it is appropriate to establish executive compensation levels based solely a comparison to data from these companies. Therefore, the compensation committee may approve total compensation packages for senior executive management that vary from the peer group median based on several principal factors. Specifically, officers with relatively less overall experience, less tenure with the Company and/or lower performance ratings over several years will have total compensation set at or below the peer group median. Conversely, if an officer consistently receives favorable performance ratings over successive years, accumulates years of service and expertise with the Company and/or has significant other experience his or her total compensation will typically be above the peer group median.

The compensation levels of our named executive officers reflect to a significant degree their varying roles and responsibilities. Mr. Higgins, in his role as chief executive officer, has the greatest level of responsibility among our named executive officers and, therefore, receives the highest level of pay. This is also consistent with the practices of the companies in our peer group and the summary compensation data included in the summaries of comparable companies reviewed by our compensation committee.

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**Base Compensation**

As discussed above, the Company provides its named executive officers with a base salary that is structured around the median of base salaries offered by our peer group, but will vary from such level based on: