FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

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FILER

CUBIST PHARMACEUTICALS INC
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UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

☒ QUARTERLY REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

FOR THE QUARTERLY PERIOD ENDED MARCH 31, 2006

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission file number: 0-21379

CUBIST PHARMACEUTICALS, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	**22-3192085**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)

65 Hayden Avenue, Lexington, MA 02421
(Address of Principal Executive Offices and Zip Code)

(781) 860-8660
(Registrant' s Telephone Number, Including Area Code)

Securities registered pursuant to Section 12(b) of the Act:
None

Securities registered pursuant to Section 12(g) of the Act:
Common Stock, $0.001 Par Value

Series A Junior Participating Preferred Stock Purchase Rights
(Title of Each Class)

Nasdaq National Market
(Name of Each Exchange on Which Registered)

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

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

Large accelerated filer ☐ Accelerated filer ☒ Non-accelerated filer ☐

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

Number of shares of the registrant' s Common Stock, $0.001 par value, outstanding on April 30, 2006: 54,299,886.

Cubist Pharmaceuticals, Inc.
Form 10-Q
For the Quarter Ended March 31, 2006

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PART I. Financial Information

Item 1. Condensed Consolidated Financial Statements

CUBIST PHARMACEUTICALS, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS

UNAUDITED
(in thousands, except share data)

	March 31, 2006	December 31, 2005
ASSETS		
Current assets:		
Cash and cash equivalents	$ 27,000	$ 29,149
Short-term investments	63,844	68,046
Accounts receivable, net	14,805	14,701
Inventory	19,582	16,695
Prepaid expenses and other current assets	4,591	5,629
Total current assets	129,822	134,220
Property and equipment, net	46,528	46,027
Intangible assets, net	28,512	30,480
Long-term investments	2,026	4,553
Other assets	2,417	2,785
Total assets	$ 209,305	$ 218,065
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 5,255	$ 8,543
Accrued liabilities	19,146	26,595
Current portion of capital lease obligations	49	78
Total current liabilities	24,450	35,216
Long-term deferred revenue	1,250	1,250
Other long-term liabilities	1,132	–
Long-term debt	165,000	165,000
Total liabilities	191,832	201,466
Commitments and contingencies	–	–
Stockholders' equity:		
Preferred stock, non-cumulative; convertible, $.001 par value; authorized 5,000,000 shares; no shares issued and outstanding	–	–
Common stock, $.001 par value; authorized 100,000,000 shares; 54,213,538 and 53,883,581 shares issued and outstanding as of March 31, 2006 and December 31, 2005, respectively	54	54
Additional paid-in capital	507,114	500,360
Accumulated deficit	(489,695)	(483,815)
Total stockholders' equity	17,473	16,599
Total liabilities and stockholders' equity	$ 209,305	$ 218,065

The accompanying notes are an integral part of the condensed consolidated financial statements.

CUBIST PHARMACEUTICALS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
UNAUDITED

(in thousands, except share and per share data)

	Three months ended March 31,	
	2006	2005
Revenues:		
Product revenues, net	$ 37,941	$ 20,889
Other revenues	2,114	2,793
Total revenues, net	40,055	23,682
Costs and expenses:		
Cost of product revenues	10,132	6,925
Research and development	13,581	13,743
Sales and marketing	14,068	9,545
General and administrative	6,668	4,762
Total costs and expenses	44,449	34,975
Operating loss	(4,394)	(11,293)
Other income (expense):		
Interest income	939	760
Interest expense	(2,459)	(2,459)
Other income	34	110
Total other expense, net	(1,486)	(1,589)
Net loss	$ (5,880)	$ (12,882)
Basic and diluted net loss per common share	$ (0.11)	$ (0.25)
Basic and diluted weighted average number of common shares	54,079,305	51,506,878

The accompanying notes are an integral part of the condensed consolidated financial statements.

Cubist Pharmaceuticals, Inc.
Condensed Consolidated Statements of Cash Flows
(Unaudited)

	Three months ended March 31,	
	2006	2005
	(in thousands)	
Cash flows from operating activities:		
Net loss	$ (5,880)	$ (12,882)
Adjustments to reconcile net loss to net cash used for operating activities:		
Depreciation and amortization	1,773	1,758
Amortization of debt issuance costs	190	190
Amortization of premium on investments	17	93

Charge for 401k company stock match	566	316
Stock-based compensation	2,575	–
Other non-cash charges	114	63
Changes in assets and liabilities:		
Accounts receivable	(104)	425
Inventory	(1,522)	(1,857)
Prepaid expenses and other current assets	1,038	(1,957)
Other assets	107	138
Accounts payable and accrued liabilities	(9,741)	2,699
Other long-term liabilities	1,132	(449)
Total adjustments	(3,855)	1,419
Net cash used in operating activities	(9,735)	(11,463)
Cash flows from investing activities:		
Purchases of property and equipment	(1,493)	(472)
Purchases of investments	(148,688)	(228,242)
Maturities of investments	155,400	240,411
Net cash provided by investing activities	5,219	11,697
Cash flows from financing activities:		
Issuance of common stock, net	2,395	822
Repayments of capital lease obligations	(29)	(29)
Net cash provided by financing activities	2,366	793
Net increase/(decrease) in cash and cash equivalents	(2,150)	1,027
Effect of changes in foreign exchange rates on cash balances	1	(5)
Cash and cash equivalents, beginning of period	29,149	20,572
Cash and cash equivalents, end of period	$ 27,000	$ 21,594
Supplemental disclosures of cash flow information:		
Non-cash investing activities:		
Issuance of common stock to Eli Lilly	$ –	$ 20,000

The accompanying notes are an integral part of the condensed consolidated financial statements.

CUBIST PHARMACEUTICALS, INC.
NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

A. BASIS OF PRESENTATION

The accompanying condensed consolidated financial statements are unaudited and have been prepared by Cubist Pharmaceuticals, Inc. (“Cubist” or the “Company”) in accordance with accounting principles generally accepted in the United States of America and pursuant to the instructions to Form 10-Q and Article 10 of Regulation S-X. Certain information and footnote disclosures normally included in the Company’ s annual consolidated financial statements have been condensed or omitted. The year-end condensed balance sheet data was derived from audited financial statements, but does not include all disclosures required by accounting principles generally accepted in the United States of America. The condensed consolidated financial statements, in the opinion of management, reflect

all adjustments (consisting only of normal recurring accruals) necessary for a fair statement of the financial position and results of operations for the interim periods ended March 31, 2006 and 2005.

The results of operations for the interim periods are not necessarily indicative of the results of operations to be expected for any future period or the entire fiscal year. These interim condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements for the year ended December 31, 2005, which are contained in Cubist' s Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 1, 2006.

B. ACCOUNTING POLICIES

Revenue Recognition

Cubist recognizes revenue in accordance with SEC Staff Accounting Bulletin No. 101 (SAB 101), as amended by SAB 104, and Emerging Issues Task Force (EITF) Issue No. 00-21. Principal sources of revenue are sales of CUBICIN, license fees and milestone payments that are derived from collaborative agreements with other biotechnology companies. The Company has followed the following principles in recognizing revenue:

Multiple Element Arrangements

Cubist analyzes its multiple element arrangements to determine whether the elements can be separated and accounted for individually as separate units of accounting in accordance with EITF No. 00-21, *"Revenue Arrangements with Multiple Deliverables."* An element of a contract can be accounted for separately if the delivered elements have stand-alone value and the fair value of any undelivered elements is determinable. If an element is considered to have standalone value but the fair value of any of the undelivered items cannot be determined, all elements of the arrangement are recognized as revenue over the period of performance for such undelivered items or services.

Product Revenues, net

Cubist recognizes revenue from product sales when persuasive evidence of an arrangement exists, title to product and associated risk of loss has passed to the customer, the price is fixed or determinable, collection from the customer is reasonably assured and the Company has no further performance obligations. All revenues from product sales are recorded net of applicable provisions for returns, chargebacks, rebates, wholesaler management fees and discounts in the same period the related sales are recorded.

Certain product sales qualify for rebates or discounts from standard list pricing due to government sponsored programs or other contractual agreements. Reserves for rebate programs are included in accrued liabilities and were $354,000 and $356,000 at March 31, 2006 and December 31, 2005, respectively. The Company allows customers to return product within a specified period prior to and subsequent to the expiration date. Reserves for product returns are based upon many factors, including industry data of product return rates, historical experience of actual returns, analysis of the level of inventory in the distribution channel and reorder rates of end-users. Reserves for returns, discounts, chargebacks and wholesaler management fees are netted against accounts receivable and were $1.5 million and $1.4 million at March 31, 2006 and December 31, 2005, respectively.

Product Revenues from International Distribution Partners

Under agreements with international distribution partners, Cubist sells its product to international distribution partners based upon a transfer price arrangement. The transfer price is generally established annually. Once Cubist' s distribution partner sells the product to a third party, Cubist is owed a royalty based on a percentage of the net selling price to the third party, less the transfer price previously paid on such product. Under no circumstances would the subsequent royalty adjustment result in a refund to the distributor. Cubist recognizes revenue related to product shipped to international distribution partners when persuasive evidence of an arrangement exists, title to product and associated risk of loss has passed to the distribution partner, the price is fixed or determinable, collection from the distribution partner is reasonably assured and the Company has no further performance obligations.

License Revenues

Non-refundable license fees are recognized depending on the provisions of each agreement. License fees with ongoing involvement or performance obligations are recorded as deferred revenue once received and are generally recognized ratably over the period of such performance obligation only after both the license period has commenced and the technology has been delivered.

Research services

Revenues from SBIR grants to conduct research and development are recognized as the eligible costs are incurred up to the granted funding limit.

Milestones

Revenue from milestone payments related to arrangements under which the Company has continuing performance obligations are recognized as revenue upon achievement of the milestone only if all of the following conditions are met: the milestone payments are non-refundable; achievement of the milestone was not reasonably assured at the inception of the arrangement; substantive effort is involved in achieving the milestone; and the amount of the milestone is reasonable in relation to the effort expended or the risk associated with the achievement of the milestone. If any of these conditions are not met, the milestone payments are deferred and recognized as revenue over the term of the arrangement as the Company completes its performance obligations. Contingent payments under license agreements that do not involve substantial effort on the part of the Company are not considered substantive milestones. Such payments are recognized as revenue when the contingency is met only if there are no remaining performance obligations or any remaining performance obligations are priced at fair value. Otherwise, the contingent payment is recognized as the Company completes its performance obligations under the arrangement.

Net Loss Per Common Share

Basic net loss per share is computed using the weighted average number of shares of common stock outstanding. Diluted net loss per share does not differ from basic net loss per share since potential common shares from stock options, warrants and notes payable are antidilutive for all periods presented and are therefore excluded from the calculation. Potential common shares excluded from the calculation of diluted net loss per share as their inclusion would have been antidilutive were:

	March 31,	
	2006	**2005**
Options to purchase shares of common stock	7,868,350	6,529,330
Notes payable convertible into shares of common stock	3,495,763	3,495,763

Comprehensive Loss

Comprehensive loss is comprised of only net loss, as there was no other comprehensive income (loss) for the quarters ended March 31, 2006 and 2005.

Stock-Based Compensation

In December 2004, the FASB issued SFAS No. 123 (revised 2004), *"Share-Based Payment,"* or SFAS 123(R), which would require all companies to measure compensation cost for all share-based payments (including employee stock options) at fair value. SFAS 123(R) supersedes APB Opinion No. 25, *"Accounting for Stock Issued to Employees"* and amends SFAS No. 95, "*Statement of Cash Flows."* In March 2005, the Securities and Exchange Commission issued Staff Accounting Bulletin No. 107 ("SAB 107") relating to SFAS 123(R). The Company has applied the provisions of SAB 107 in its adoption of SFAS 123(R). SFAS 123(R) requires the determination of the fair value of

the share-based compensation at the grant date and the recognition of the related expense over the requisite service period. The Company elected to adopt the modified prospective application method as provided by SFAS 123(R). As a result, the Company recognized compensation expense associated with awards granted after January 1, 2006, and the unvested portion of previously granted awards that remain outstanding as of January 1, 2006, in the Company' s condensed consolidated statement of income for the first quarter of 2006. See Note C. for additional information.

Recent Accounting Pronouncements

In May 2005, the FASB issued SFAS No. 154, *"Accounting Changes and Error Correction,"* or SFAS 154, which replaces APB Opinion No. 20, *"Accounting Changes,"* and FASB Statement No. 3, *"Reporting Accounting Changes in Interim Financial Statements–an amendment of APB Opinion No. 28."* SFAS 154 changes the requirements of the accounting for and reporting of a change in accounting principle and also provides guidance on the accounting for and reporting of error corrections. Prior to SFAS 154, most voluntary changes in accounting principle were recognized by including in net income of the period of change the cumulative effect of changing to the new accounting principle. SFAS 154 requires retrospective application to prior periods' financial statements of changes in accounting principle and to changes required by an accounting pronouncement in the instance that the pronouncement does not include specific transition provisions, unless it is impracticable to determine either the period specific effects or the cumulative effect of the change. SFAS 154 is effective for accounting changes and corrections of errors made in fiscal years beginning after December 15, 2005. The adoption of SFAS 154 did not have a significant impact on the Company' s results of operations.

In December 2004, the FASB issued SFAS No. 151, *"Inventory Costs,"* or SFAS 151. SFAS 151 requires abnormal amounts of inventory costs related to idle facility, freight handling and wasted material expenses to be recognized as current period charges. Additionally, SFAS 151 requires that allocation of fixed production overheads to the costs of conversion be based on the normal capacity of the production facilities. The standard is effective for fiscal years beginning after June 15, 2005. The adoption of SFAS 151 did not have a material impact on the Company' s consolidated financial statements.

C. EMPLOYEE STOCK BENEFIT PLANS

Summary of Stock Option Plans

Cubist has several stock-based compensation plans. Under the Cubist Amended and Restated 1993 Stock Option Plan, options to purchase 5,837,946 shares of common stock were available for grant to employees, directors, officers or consultants. The options were generally granted at fair market value on the date of the grant, vested ratably over a four-year period and expired ten years from the date of grant. There are no shares available for future grant under this plan as it terminated in accordance with plan terms in 2003.

Under the Cubist Amended and Restated 2000 Equity Incentive Plan, or the 2000 Equity Incentive Plan, options are generally granted with exercise prices equal to the fair market value on the date of the grant, vest ratably over a four-year period and expire ten years from the date of grant. The 2000 Equity Incentive Plan includes an evergreen formula pursuant to which the maximum number of shares of Cubist common stock that shall be made available for sale under the 2000 Equity Incentive Plan shall be 1,630,000 shares as of June 13, 2002 plus an annual increase to be added on January 1st of each year, beginning on January 1, 2003 until and including January 1, 2006, equal to five percent (5%) of the total number of shares of common stock and stock equivalents issued and outstanding as of the close of business on the immediately preceding December 31st. As of January 1, 2006, options to purchase 11,535,764 shares of common stock may be granted to employees, officers or consultants under this plan. At March 31, 2006, there were 5,426,369 shares available for future grant under this plan.

Under the Cubist Amended and Restated 2002 Directors Stock Option Plan, options to purchase 525,000 shares of Common Stock may be granted to members of the Board of Directors. The options are granted at fair market value on the date of the grant, vest ratably over a three-year period and expire ten years from the date of grant. At March 31, 2006, there were 312,500 shares available for future grant under this plan.

Summary of Employee Stock Purchase Plan

Qualifying employees are eligible to participate in Cubist' s Amended and Restated 1997 Employee Stock Purchase Plan. Under this plan, participants purchase Cubist common stock, after a pre-determined six-month period, at 85% of the lower of the fair market value at the beginning or end of the purchase period. Shares are purchased through payroll deductions of up to 15% of each participating employee' s annual compensation, subject to certain limitations. The current plan allows for the issuance of 500,000 shares of common stock to eligible employees.

Stock-Compensation Expense Prior to the Adoption of FAS 123(R)

Prior to the adoption of SFAS 123(R), the Company provided the disclosures required under SFAS No. 123, *"Accounting for Stock-Based Compensation,"* as amended by SFAS No. 148, *"Accounting for Stock-Based Compensation – Transition and Disclosures."* No employee stock-based compensation was reflected in net loss for the period ended March 31, 2005, as all options granted under those plans had an exercise price equal to the market value of the underlying common stock on the date of grant. The pro-forma information for the three months ended March 31, 2005 was as follows:

	Three months ended March 31, 2005 (in thousands, except per share data)
Net loss, as reported	$ (12,882)
Add: Stock-based employee compensation recorded in net loss, as reported	–
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effects	(3,636)
Pro forma net loss	$ (16,518)
Loss per share:	
Basic and diluted – as reported	$ (0.25)
Basic and diluted – pro forma	$ (0.32)

Impact of the Adoption of SFAS 123(R)

The effect of recording stock-based compensation in the Consolidated Statement of Operations for the three month period ended March 31, 2006 was as follows:

	Three months ended March 31, 2006 (in thousands, except per share data)
Stock-based compensation expense by type of award:	
Employee stock options	$ 2,472
Employee stock purchase plan	103
Total stock-based compensation	$ 2,575
Effect on earnings per share:	
Basic and diluted	$ 0.05

Valuation Assumptions

The fair value of each share-based award was estimated on the date of grant using the Black-Scholes option-pricing model and expensed under the accelerated method for option grants prior to the first quarter of 2006 and under the straight-line method for option grants commencing in the first quarter of 2006. The following weighted-average assumptions were used:

	Three months ended March 31,	
	2006	2005
Stock option plans:		
Expected stock price volatility	52%	100%
Risk free interest rate	4.5%	3.9%
Dividend yield	–	–
Expected life	4 years	5 years
Stock purchase plan:		
Expected stock price volatility	45%	–
Risk free interest rate	4.4%	–
Dividend yield	–	–
Expected life	6 months	–

Cubist' s expected stock-price volatility assumption is based on both current and historical volatilities of the Company' s stock which is obtained from public data sources. The risk-free interest rate is a less subjective assumption as it is based on factual data derived from public sources. Cubist uses a dividend yield of zero as it has never paid cash dividends and has no intention of paying cash dividends in the immediate future. The expected life represents the weighted average period of time that share-based awards are expected to be outstanding giving consideration to vesting schedules and the Company' s historical exercise pattern. Cubist determines the expected life assumption based on the exercise behavior that has been exhibited historically, adjusted for specific factors that may influence future exercise patterns. The Company estimates forfeitures based on its historical experience of share-based pre-vesting cancellations. The Company believes that its estimates are based on outcomes that are reasonably likely to occur. To the extent actual forfeitures differ from its estimates, such amounts will be recorded as a cumulative adjustment in the period estimates are revised.

Stock-based compensation expense recognized in the Consolidated Statement of Operations for the quarter ended March 31, 2006 is based on awards ultimately expected to vest and it has been reduced for estimated forfeitures. SFAS 123(R) requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Forfeitures were estimated based on historical experience.

General Option Information

A summary of option activity for the quarters ended March 31, 2006 and 2005 are as follows:

	2006		2005	
	Number	Weighted Average Exercise Price	Number	Weighted Average Exercise Price
Outstanding at beginning of period	6,836,077	$ 14.14	5,850,156	$ 15.25
Granted	1,341,050	$ 21.96	966,919	$ 10.95
Exercised	(207,213)	$ 9.15	(53,327)	$ 9.50
Canceled	(101,564)	$ 11.97	(225,418)	$ 23.33
Outstanding at end of period	7,868,350	$ 15.63	6,538,330	$ 14.39
Options exercisable as of March 31,	3,679,206	$ 16.66	3,239,813	$ 17.20

Weighted average grant-date fair value of options granted during the year	$ 10.27	$ 6.97

The total intrinsic value of options exercised during the quarters ended March 31, 2006 and 2005, was $2.9 million and $0.1 million, respectively. The aggregate intrinsic value of outstanding options as of March 31, 2006 was $57.7 million.

The following table summarizes information about stock options outstanding at March 31, 2006:

	Options Outstanding			Options Exercisable	
Range of Exercise Prices	Number Outstanding	Weighted-Average Remaining Contractual Life	Weighted-Average Exercise Price	Number Exercisable	Weighted-Average Exercise Price
$0.42 - $6.34	219,595	2.4	$ 3.62	215,843	$ 3.60
$6.35 - $12.68	4,413,478	7.5	10.22	2,050,024	9.89
$12.69 - $19.01	778,328	7.8	14.03	368,180	13.60
$19.02 - $25.35	1,417,000	9.8	21.93	5,210	21.38
$25.36 - $31.69	361,372	3.5	29.24	361,372	29.24
$31.70 - $38.03	651,301	4.7	35.13	651,301	35.13
$50.70 - $57.04	1,526	2.7	53.08	1,526	53.08
$57.05 - $63.38	25,750	3.9	61.79	25,750	61.79
	7,868,350	7.4	$ 15.63	3,679,206	$ 16.66

The weighted average remaining contractual life of options exercisable as of March 31, 2006 was 5.6 years. The aggregate intrinsic value of options exercisable as of March 31, 2006 was $23.2 million.

D. GUARANTEES

In connection with the Company' s efforts to reduce the number of facilities that it occupies, the Company has vacated some of its leased facilities or sublet them to third parties. When the Company sublets a facility to a third party, it remains the primary obligor under the master lease agreement with the owner of the facility. As a result, if a third party vacates the sublet facility, the Company would be obligated to make lease or other payments under the master lease agreement. The Company believes that the financial risk of default by sublessors is individually and in the aggregate not material to the Company' s financial position or results of operations.

E. ACCRUED LIABILITIES

Accrued liabilities consisted of the following at:

	March 31, 2006	December 31, 2005
	(in thousands)	
Accrued payroll	$ 216	$ 551
Accrued incentive compensation	746	2,296
Accrued bonus	1,217	4,316
Accrued benefit costs	2,216	2,675
Accrued clinical trials	1,251	1,787
Accrued interest	3,781	1,512
Accrued manufacturing costs	1,575	1,722

Accrued royalty	3,863	6,208
Other accrued costs	4,281	5,528
	$ 19,146	$ 26,595

F. INVENTORY

Inventories are stated at the lower of cost or market. Cost is computed using standard cost, which approximates actual cost, on a first-in, first-out, or FIFO, basis. The Company analyzes its inventory levels quarterly, and writes-down inventory that has become obsolete, inventory that has a cost basis in excess of its expected net realizable value and inventory in excess of expected sales requirements to cost of product revenues. Expired inventory is disposed of and the related costs are written off to cost of product revenues.

Inventories consisted of the following at:

	March 31, 2006	December 31, 2004
	(in thousands)	
Raw materials	$ 11,472	$ 9,019
Work in process	3,993	3,146
Finished goods	4,117	4,530
	$ 19,582	$ 16,695

G. INTANGIBLE ASSETS

Intangible assets consisted of:

	March 31, 2006	December 31, 2005
	(in thousands)	
Patents	$ 2,674	$ 2,627
Manufacturing rights	11,590	11,590
Acquired technology rights	28,500	28,500
Intellectual property and processes and other intangibles	5,388	5,388
	48,152	48,105
Less: accumulated amortization – patents	(2,015)	(1,998)
accumulated amortization - manufacturing rights	(8,943)	(7,559)
accumulated amortization - acquired technology rights	(3,309)	(2,695)
accumulated amortization - intellectual property	(5,373)	(5,373)
Intangible assets, net	$ 28,512	$ 30,480

In March of 2005, Cubist issued to Eli Lilly $20.0 million of its common stock in exchange for a 2% reduction in the royalties payable to Eli Lilly. Cubist is amortizing the $20.0 million over approximately eleven years, which was the remaining life of the license agreement with Eli Lilly on the date of the transaction. In 2003, Cubist issued to Eli Lilly $8.0 million of its common stock in exchange for a 1% reduction in the royalties payable to Eli Lilly. The Company also issued 38,922 shares of its common stock valued at $0.5 million in 2003 as a milestone payment to Eli Lilly. The $8.5 million is being amortized over approximately thirteen years, which was the remaining life of the license agreement with Eli Lilly on the dates of the transactions. The amortization of the Eli Lilly intangible assets are included in cost of product revenues.

In November 2005, Cubist announced that it had selected ACS Dobfar SpA, or ACS, as the single source supplier of Active Pharmaceutical Ingredient, or API, for CUBICIN. Cubist provided notice to DSM Capua SpA, or DSM, in accordance with contract agreement terms to terminate its manufacturing and supply agreement with DSM for API. The useful life of the DSM manufacturing rights was adjusted to coincide with the revised termination date of May 2006. Amortization of these assets is allocated to inventory and expensed to cost of product revenues as the related inventory lots are sold. The manufacturing rights associated with the ACS agreement are being amortized to inventory over the contractual term of six years and expensed to cost of product revenues as the related inventory lots are sold.

Amortization expense was $2.0 million and $0.7 million for the quarters ended March 31, 2006 and 2005, respectively. The estimated aggregate amortization of intangible assets as of March 31, 2006, for each of the five succeeding years is as follows:

	(in thousands)
Remainder of 2006	$ 2,872
2007	2,941
2008	2,941
2009	2,941
2010	2,941
2011	2,524
2012 and thereafter	11,352
	$ 28,512

H. SEGMENT INFORMATION

Cubist operates in one business segment, the research, development and commercialization of novel antiinfective drugs. The Company' s entire business is managed by a single management team, which reports to the Chief Executive Officer. Substantially all of the Company' s revenues are currently generated within the U.S.

Sales of CUBICIN to three wholesalers, Cardinal Health, Inc. and its subsidiaries, or Cardinal, AmerisourceBergen Drug Corporation, or AmerisourceBergen, and McKesson Corporation, or McKesson, collectively comprised 82% of total net revenues for quarter ended March 31, 2006. Sales of CUBICIN to Cardinal, AmerisourceBergen and McKesson collectively comprised 84% of total net revenues for the quarter ended March 31, 2005. Revenue related to Cubist' s international commercialization agreement with Chiron Corporation, or Chiron, represented approximately 5% and 11% of total net revenues for the quarters ended March 31, 2006 and 2005, respectively.

I. LEGAL PROCEEDINGS

As previously reported in the Company' s filings with the SEC, in May 2004 the Staff of the Boston Office of the SEC informed Cubist that it was considering whether the Company or its former Chairman had a duty under the federal securities laws to disclose information about the results of the Company' s Community Acquired Pneumonia trial, or CAP trial, prior to the Company' s January 16, 2002 press release regarding the results of the CAP trial. Although the Company cannot predict the outcome of the SEC investigation, it believes that the January 16, 2002 disclosure was timely.

ITEM 2. MANAGEMENT' S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

FORWARD-LOOKING STATEMENTS

This document contains and incorporates by reference "forward-looking statements" within the meaning of section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. In some cases, these statements can be identified by the use of forward-looking terminology such as "may," "will," "could," "should," "would," "expect," "anticipate," "continue" or other similar words. These statements discuss future expectations, contain projections of results of operations or of financial condition, or state trends and known uncertainties or other forward-looking information. You are cautioned that forward-looking statements are based on current expectations and are inherently uncertain. Actual performance and results of operations may differ materially from those projected or suggested in the forward-looking statements due to certain risks and uncertainties, including the risks and uncertainties described or discussed in the section entitled "Risk Factors" in this Quarterly Report. The forward-looking statements contained and incorporated herein represent our judgment as of the date of this Quarterly Report, and we caution readers not to place undue reliance on such statements. The information contained in this Quarterly Report is provided by us as of the date of this Quarterly Report, and we do not undertake any obligation to update any forward-looking statements contained in this document as a result of new information, future events or otherwise.

Forward-looking statements include information concerning possible or assumed future results of our operations, including statements regarding:

the acceptance of CUBICIN by physicians, patients, third-party payors and the medical community;

our expectations regarding the future market demand and medical need for CUBICIN;

our expectations regarding the effectiveness of our expanded sales force;

our expectations regarding the launch of CUBICIN in Europe and other countries;

our expectations regarding clinical trials, development time lines and regulatory authority approval for CUBICIN or other product candidates;

our expectations regarding our ability to continue to manufacture sufficient quantities of CUBICIN in accordance with current Good Manufacturing Practices;

our ability to use our research and development and technology platforms and methods to identify potential product candidates;

our expectations regarding selection of clinical development candidates;

our expectations regarding our ability to further identify, develop and commercialize products in the coming years;

the continuation of our collaborations and our ability to establish and maintain successful manufacturing, sales and marketing, distribution and development collaborations;

our future capital requirements and our ability to finance our operations; and

our expectations regarding general business conditions and growth in the biopharmaceutical industry and the overall economy.

Many factors could affect our actual financial results and could cause these actual results to differ materially from those in these forward-looking statements. These factors include the following:

whether we will receive, and the potential timing and scope of, regulatory approvals or clearances to market CUBICIN in other countries and for additional indications in the United States and other countries pursuant to our currently-planned filings and any filings we determine to make in the future, which filings are subject to approval by the applicable regulatory agency or agencies, regardless of our confidence in the results of the clinical trials supporting such filings;

the level of acceptance of CUBICIN by physicians, patients, third-party payors and the medical community;

any changes in the current or anticipated market demand or medical need for CUBICIN;

competition, particularly with respect to CUBICIN;

whether the U.S. Food and Drug Administration, or FDA, accepts proposed clinical trial protocols that may be achieved in a timely manner;

our ability to conduct successful clinical trials in a timely manner;

the ability of our third party manufacturers, including our single source provider of API to manufacture sufficient quantities of CUBICIN in accordance with Good Manufacturing Practices and at an acceptable cost;

our dependence upon pharmaceutical and biotechnology collaborations with our partners;

our ability to finance our operations;

the effectiveness of our expanded sales force;

potential costs resulting from product liability or other third party claims;

our ability to protect our proprietary technologies;

our ability to integrate successfully the operations of any business we may acquire and the potential impact of any future acquisition on our financial results;

our ability to discover, acquire or in-license drug candidates and develop and achieve commercial success for drug candidates; and

a variety of risks common to our industry, including ongoing regulatory review, litigation relating to intellectual property, and legislative or regulatory changes.

Overview

Cubist is a biopharmaceutical company headquartered in Lexington, Massachusetts, focused on the research, development and commercialization of antiinfective products that address unmet medical needs. We have one marketed product, CUBICIN. Net product sales of CUBICIN were $37.9 million in the three months ended March 31, 2006 as compared to $20.9 million in the three months ended March 31, 2005. Net loss for the three months ended March 31, 2006 was $5.9 million or $0.11 per share as compared to $12.9 million or $0.25 per share for the three months ended March 31, 2005.

On March 24, 2006 we announced that we had received an Approvable Letter from the FDA related to our supplemental New Drug Application, or sNDA, for CUBICIN for the treatment of infective endocarditis and bacteremia caused by *Staphylococcus aureus,* or *S. aureus*. We announced on March 27, 2006 that we had submitted an amendment to the sNDA in response to the FDA Approvable Letter. On April 19, 2006 we announced that the FDA determined our amendment to be a complete response, and that they established a new action date for the sNDA of May 26, 2006. In order to be prepared if the FDA approves our sNDA, in the first quarter of 2006 we hired an additional 36 sales professionals with the objective of increasing both depth and breadth of our sales force.

In January 2006, the EMEA granted Chiron Healthcare Ireland Ltd., or Chiron, marketing approval for CUBICIN in the European Union, or EU, for the treatment of complicated skin and soft tissue infections, or cSSTI, where the presence of susceptible Gram-positive bacteria is confirmed or suspected. Chiron launched CUBICIN in the UK and Netherlands in late March, while proceeding with pricing negotiations necessary in other EU markets, which are planned to be phased in throughout 2006 and 2007. Chiron' s parent company, Chiron Corporation, was acquired by Novartis AG, or Novartis, in April 2006.

We continue to sell CUBICIN in accordance with our drop-ship program under which orders are processed through wholesalers but shipments are sent directly to our end-users. This provides us with greater visibility into end-user ordering and reordering trends. We outsource many of our supply chain activities, including: manufacturing and supplying CUBICIN API; converting CUBICIN API into its finished, vialed and packaged formulation; managing warehousing and distribution of CUBICIN to our customers; and performing the order processing, order fulfillment, shipping, collection and invoicing services related to our CUBICIN product sales.

We have focused our pipeline building efforts on opportunities that leverage our antiinfective and acute-care discovery, development, and commercialization expertise. Currently, our research and development priorities include our lipopeptide program, the product candidate HepeX-B™, and our natural products screening program.

We have incurred net losses since our inception, principally as a result of research and development efforts, preclinical testing and clinical trials. As of March 31, 2006, we had an accumulated deficit of $489.7 million.

RESULTS OF OPERATIONS FOR THE THREE MONTHS ENDED MARCH 31, 2006 AND 2005

Revenues

The following table sets forth revenues for the quarter ended March 31, 2006 and 2005:

	Three months ended March 31,		
	2006	2005	% Change
	(in millions)		
Product revenues, net	$ 37.9	$ 20.9	82%
Other revenues	2.1	2.8	-24%
Total revenues, net	$ 40.0	$ 23.7	69%

Product Revenues, net

Net sales of CUBICIN were $37.9 million and $20.9 million for the quarters ended March 31, 2006 and 2005, respectively. Gross sales of CUBICIN totaled $39.7 million and $21.7 million for the quarters ended March 31, 2006 and 2005, respectively, and are offset by $1.8 million and $0.8 million of allowances for sales returns, Medicaid rebates, chargebacks, prompt-pay discounts and wholesaler management fees. The increase in revenue was primarily due to increased customer demand. Also impacting net product revenues was a 6.6% price increase in October 2005. Included in net product revenues for the quarter ended March 31, 2006 is approximately $0.6 million of international sales.

We generally do not allow wholesalers to stock CUBICIN. We have a drop-ship program in place through which orders are processed through wholesalers, but shipments are sent directly to our end-users. This results in sales trends closely tracking actual hospital and out-patient administration location purchases of our product. In the future, we may shift from the drop-ship program to a program that may allow wholesalers to stock CUBICIN, however, we have not determined if or when the change will occur. If we discontinue the drop-ship program and allow wholesalers to stock CUBICIN, our net product sales may be impacted by the timing of wholesaler inventory stocking purchases and provisions for returns based on estimated product in the distribution channel. Leading wholesalers have begun to seek various fees for data supply and administration services. Net product revenue is reduced by any such fees paid to the wholesalers.

Other Revenues

Other revenues for the quarter ended March 31, 2006 were $2.1 million as compared to $2.8 million for the quarter ended March 31, 2005. Included in other revenues for the quarter ended March 31, 2006 is revenue related to a payment of $2.0 million under our commercialization agreement with Chiron. The payment was received as a result of Chiron receiving marketing approval for CUBICIN in the EU from the EMEA. Included in other revenues for the quarter ended March 31, 2005 is $1.4 million of revenue related to our 2003 license agreement with Chiron, which included up-front payments totaling $11.3 million, including a $3.3 million premium paid upon purchasing our common stock. This $11.3 million was recorded as deferred revenue and was being amortized to license fee revenues over the estimated development period of the agreement of two years, which completed in September 2005. Also included in other revenues for the quarter ended March 31, 2005 is $1.2 million of development revenue from our commercialization agreement with Chiron.

Costs and Expenses

The following table sets forth costs and expenses for the quarter ended March 31, 2006 and 2005:

	Three months ended March 31,		
	2006	2005	% Change
	(in millions)		
Cost of product revenues	$ 10.1	$ 6.9	46%
Research and development	13.6	13.7	-1%
Sales and marketing	14.1	9.5	47%
General and administrative	6.7	4.8	40%
Total costs and expenses	$ 44.5	$ 34.9	27%

Cost of Product Revenues

Cost of product revenues were $10.1 million and $6.9 million in the quarter ended March 31, 2006 and 2005, respectively. Our gross margin for the quarter ended March 31, 2006, was 73% as compared to 67% for the quarter ended March 31, 2005, primarily due to reduced overall pricing from our manufacturing vendors as well as higher volume resulting in lower cost per unit sold. Included in our cost of product revenues are royalties owed to Eli Lilly on net sales of CUBICIN under our license agreement with Eli Lilly. In March of 2005, we issued to Eli Lilly $20.0 million of our common stock in exchange for a 2% reduction in the royalties payable to Eli Lilly. In 2003, we issued to Eli Lilly $8.0 million of our common stock in exchange for a 1% reduction in the royalties payable to Eli Lilly. We also issued 38,922 shares of our common stock valued at $0.5 million in 2003 as a milestone payment to Eli Lilly. These amounts have been capitalized on our balance sheet as intangible assets and are amortized to cost of product revenues over the remaining life of our license agreement with Eli Lilly. Amortization included in cost of product revenues related to these expenses was $0.6 million and $0.2 million for the quarter ended March 31, 2006 and 2005, respectively.

As our production volumes increase, there is the potential for our gross margin to increase as we work to develop manufacturing process improvements. Whether that potential can be realized and the extent to which such potential can be realized are uncertain.

Research and Development Expense

Total research and development expense in the quarter ended March 31, 2006 was $13.6 million as compared to $13.7 million in the quarter ended March 31, 2005. Within research and development expense are costs associated with the FDA Antiinfective Drugs Advisory Committee meeting which took place in early March 2006 as well as an increase of $2.4 million in payroll, benefits and other employee related expenses due to increased headcount and the non-cash stock-based compensation charges associated with the implementation of FAS 123R. These increases were offset by a decrease of $2.2 million in clinical expenses due primarily to the completion of our clinical trial of CUBICIN in the treatment of bacteremia with known or suspected endocarditis caused by *S. aureus*. and a decrease of $0.8 million in costs related to the establishment of a second API manufacturer and a second fill-finish manufacturer for our CUBICIN product, which both became fully operational in the first quarter of 2005.

Additionally, $0.8 million of manufacturing development costs associated with our license agreement with Chiron were incurred in the first quarter of 2005 and were not repeated in the first quarter of 2006.

We expect to continue incurring substantial research and development expenses related to: i) Phase 3b and Phase 4 clinical trials for CUBICIN; ii) pre-clinical and clinical testing of other products under development, such as our lipopeptide program, the product candidate HepeX-B and potential compounds under our natural products screening program; iii) manufacturing and formulation development costs related to HepeX-B; iv) regulatory matters; and v) medical affairs activities.

Sales and Marketing Expense

Sales and marketing expense in the quarter ended March 31, 2006 was $14.1 million as compared to $9.5 million in the quarter ended March 31, 2005, an increase of $4.6 million or 47%. The increase in sales and marketing expense is primarily related to $3.3 million of increased payroll, benefits, travel, and other employee related expenses due to the expansion of our sales force in the first quarter of 2006 and the non-cash stock-based compensation charges associated with the implementation of FAS 123R. Also included in sales and marketing expense is an increase of $1.1 million in marketing expenses for CUBICIN.

General and Administrative Expense

General and administrative expense in the quarter ended March 31, 2006 was $6.7 million as compared to $4.8 million in the quarter ended March 31, 2005, an increase of $1.9 million or 40%. This increase is primarily due to an increase of $1.7 million in payroll, benefits and other employee related expenses due to headcount growth and the non-cash stock-based compensation charges associated with the implementation of FAS 123R.

Other Expense, net

The following table sets forth other expense, net for the quarter ended March 31, 2006 and 2005:

	Three months ended March 31,		
	2006	2005	% Change
	(in millions)		
Interest income	$ 0.9	$ 0.8	24%
Interest expense	(2.5)	(2.5)	0%
Other income	–	0.1	-69%
Total other expense, net	$ (1.6)	$ (1.6)	-6%

Interest income in the quarter ended March 31, 2006, was $0.9 million as compared to $0.8 million in the quarter ended March 31, 2005, an increase of $0.1 million or 24%. The increase in interest income was due primarily to the Company holding more cash in higher interest yielding auction rate notes in the first quarter of 2006 as compared to the first quarter of 2005. Also impacting interest income is an overall increase in interest rates in the first quarter of 2006 as compared to the first quarter of 2005.

Interest expense was $2.5 million for the quarters ended March 31, 2006 and 2005. Our debt obligation as of March 31, 2006 and 2005, relates to our $165.0 million aggregate principal amount of our 5½% subordinated convertible notes due in 2008. Interest expense related to our $165.0 million aggregate principal amount of our 5½ % subordinated convertible notes was approximately $2.3 million for both quarters ended March 31, 2006 and 2005. Included in interest expense is $0.2 million of expense related to the amortization of debt issuance costs for both the quarters ended March 31, 2006 and 2005.

Other Income

Other income in the quarter ended March 31, 2006 was zero as compared to $0.1 million in the quarter ended March 31, 2005. Other income for the quarter ended March 31, 2005 primarily consisted of a gain of $0.1 million due to the merger of Syrrx, Incorporated, or Syrrx, and Takeda Pharmaceutical Company Limited which resulted in the return of our original investment in Syrrx.

Liquidity and Capital Resources

Currently, we require cash to fund our working capital needs, to purchase capital assets, and to pay our debt service, including principal, interest and capital lease obligations. We fund our cash requirements primarily through the following methods:

sales of CUBICIN;

payments from our strategic collaborators including license fees, sponsored research funding and research grants;

equity and debt financings; and

interest earned on invested capital.

We have incurred net losses since our inception, principally as a result of research and development efforts including pre-clinical testing and clinical trials. As of March 31, 2006, we had an accumulated deficit of $489.7 million. We expect to incur significant expenses in the future for the continued development and commercialization of CUBICIN for additional indications, the development of our other drug candidates, as well as investments in other product opportunities. Our total cash, cash equivalents and investments at March 31, 2006, were $92.9 million as compared to $101.7 million at December 31, 2005. Based on our current business plan, we believe that our existing cash, cash equivalents, investments and projected cash inflows from revenues will be sufficient to fund our operating expenses, debt obligation and capital requirements under our current business plan through at least the first half of 2008. Certain economic or strategic factors may require that we seek to raise additional cash by selling debt or equity securities. However, such funds may not be available when needed, or, we may not be able to obtain funding on favorable terms, or at all.

Net cash used in operating activities was $9.7 million and $11.5 million in the quarter ended March 31, 2006 and 2005, respectively. Net cash used in operating activities in the first quarter of 2006 includes our net loss for the quarter of $5.9 million offset by non-cash charges of $5.2 million that primarily consists of $2.6 million of stock-based compensation expenses, depreciation and amortization expense of $1.8 million and $0.6 million in expense associated with our 401(k) company match that is made in the form of common stock shares. Inventory increased $1.5 million primarily due to increased purchases from our manufacturing vendors as we build a sufficient supply of CUBICIN to meet projected sales requirements. Accounts payable and accrued liabilities decreased $9.7 million primarily due to the timing of bonus and incentive compensation payouts, royalties paid to Eli Lilly related to sales of CUBICIN as well as amounts paid to our manufacturing vendors for inventory purchases. These uses of cash were offset by a $1.0 million increase in operating cash flows primarily due to the timing of prepayments made for inventory purchases as well amortization of prepaid insurance amounts.

Net cash provided by investing activities in the first quarter of 2006 was $5.2 million, compared to $11.7 million in the first quarter of 2005. Purchases of property and equipment during the first quarter of 2006 were $1.5 million compared to $0.5 million in the first quarter of 2005. Property and equipment additions in the first quarter of 2006 consisted primarily of lab equipment, expenditures related to building out additional space at 55 Hayden Avenue, as well as various IT upgrades. In the remainder of 2006, we plan to continue to invest in the build-out of the 55 Hayden Avenue space as well as invest in additional computer hardware and software and development equipment related to our fermentation pilot plant. Net cash used in investing activities may fluctuate significantly from period to period due to the timing of our capital expenditures and other investments.

Net cash of $2.4 million was provided by financing activities in the quarter ended March 31, 2006 as compared to $0.8 million provided by financing activities in the quarter ended March 31, 2005. Proceeds from financing activities for the three months ended March 31,

2006 primarily consisted of $2.4 million of cash received from employees' exercise of stock options and purchases of common stock through our employee stock purchase plan.

Commitments

Contractual Obligations

Contractual obligations represent future cash commitments and liabilities under agreements with third parties and exclude contingent liabilities, such as royalties on future sales above the contractual minimums or known accrued royalty balance, for which we cannot reasonably predict future payment. The following summarizes our significant contractual obligations at March 31, 2006, and the effects such obligations are expected to have on our liquidity and cash flows in future periods.

	Payments due by period				
	1 year or less	2-3 Years	4-5 Years	More than 5 Years	Total
			(in millions)		
Subordinated convertible notes	$ –	$ 165.0	$ –	$ –	$ 165.0
Interest on subordinated convertible notes	9.1	18.2	–	–	27.3
Operating leases, net of sublease income	0.8	2.1	2.5	6.7	12.1
Inventory purchase obligations	17.7	19.2	12.2	–	49.1
External collaborations	3.9	–	–	–	3.9
Total contractual cash obligations	$ 31.5	$ 204.5	$ 14.7	$ 6.7	$ 257.4

The subordinated convertible notes consist of $165.0 million aggregate principal amount of our 5½% convertible subordinated notes, due in 2008. These notes require semi-annual interest payments through maturity.

Our operating leases consist of approximately 47,000 square feet of office and data center space at 45/55 Hayden Avenue in Lexington, Massachusetts, pursuant to a term lease that expires in April 2016, 24,000 square feet of commercial space at 24 Emily Street in Cambridge, Massachusetts, pursuant to a term lease that expires in September 2008 and 15,000 square feet of commercial space at 148 Sidney Street in Cambridge Massachusetts, pursuant to a term lease that expires in December 2010. In September 2005, we amended our lease for the space at 45/55 Hayden Avenue to increase the space from approximately 15,000 square feet to approximately 47,000 square feet and to extend the term to April 2016. We have subleased the space located at 24 Emily Street for a term that coincides with the September 2008 lease expiration. We have subleased the space located at 148 Sidney Street through October 2010.

The inventory purchase obligations listed above represent minimum volumes that we are required to purchase from our contract manufacturers. The external collaboration listed above represents minimum royalties owed on sales of CUBICIN product.

Critical Accounting Policies, Significant Judgments and Estimates

We prepare our consolidated financial statements in conformity with accounting principles generally accepted in the United States of America. The preparation of consolidated financial statements requires estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. Actual results may differ from these estimates. The accounting policies that we believe are most critical to fully understand our consolidated financial statements include: revenue recognition; inventories; accrued clinical research costs; investments; long-lived assets; income taxes and accounting for stock-based compensation.

Stock-based compensation

Effective January 1, 2006, our accounting policy related to stock option accounting changed upon our adoption of SFAS 123(R). SFAS 123(R) requires us to expense the fair value of employee stock options and other

forms of share-based compensation. Under the fair value recognition provisions of SFAS 123(R), share-based compensation cost is estimated at the grant date based on the value of the award and is recognized as expense ratably over the requisite service period of the award (generally the vesting period of the equity award). Determining the appropriate fair value model and calculating the fair value of share-based awards requires judgment, including estimating the expected life of the share-based award, the expected stock price volatility over the expected life of the share-based award and forfeiture rates.

In order to determine the fair value of share-based awards on the date of grant, we use the Black-Scholes option-pricing model. Inherent in this model are assumptions related to expected stock price volatility, option life, risk-free interest rate and dividend yield. The risk-free interest rate is a less subjective assumption as it is based on factual data derived from public sources. We use a dividend yield of zero as we have never paid cash dividends and have no intention to pay cash dividends in the immediate future. The expected stock price volatility and option life assumptions require a greater level of judgment which makes them critical accounting estimates. Estimating forfeitures also requires significant judgment.

Our expected stock-price volatility assumption is based on both current and historical volatilities of our stock which is obtained from public data sources. The expected life represents the weighted average period of time that share-based awards are expected to be outstanding giving consideration to vesting schedules and our historical exercise pattern. We determine the expected life assumption based on the exercise behavior that has been exhibited historically, adjusted for specific factors that may influence future exercise patterns. We estimate forfeitures based on our historical experience of share-based pre-vesting cancellations. We believe that our estimates are based on outcomes that are reasonably likely to occur. To the extent actual forfeitures differ from our estimates, such amounts will be recorded as a cumulative adjustment in the period estimates are revised.

For more information on our other critical accounting policies, refer to our Annual Report on Form 10-K for the year ended December 31, 2005. There have been no changes to these policies since December 31, 2005. Readers are encouraged to review these disclosures in conjunction with the review of this Form 10-Q.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

There have been no material changes in information affecting our market risk since the end of the fiscal year ended December 31, 2005, as described in Item 7A of our Annual Report on Form 10-K for the year ended December 31, 2005.

ITEM 4. CONTROLS AND PROCEDURES

Cubist maintains disclosure controls and procedures designed to ensure that it is able to collect the information it is required to disclose in the reports it files with the Securities and Exchange Commission, or the SEC, and to process, summarize and disclose this information within the time periods specified in the rules of the SEC. Based on their evaluation of Cubist' s disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) as of March 31, 2006, the Chief Executive and Chief Financial Officers have concluded that such disclosure controls and procedures are effective to ensure that information required to be disclosed in our periodic reports filed under the Exchange Act is recorded, processed, summarized and reported within the time periods specified by the SEC' s rules and regulations.

There has been no change in the Company' s internal control over financial reporting during the quarter ended March 31, 2006 that has materially affected, or is reasonably likely to materially affect, the Company' s internal control over financial reporting.

PART II – OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

As previously reported in the Company' s filings with the SEC, in May 2004 the Staff of the Boston Office of the SEC informed us that it was considering whether the Company or its former Chairman had a duty under the federal securities laws to disclose information about the results of the Company' s Community Acquired Pneumonia

trial, or CAP trial, prior to the Company' s January 16, 2002 press release regarding the results of the CAP trial. Although the Company cannot predict the outcome of the SEC investigation, it believes that the January 16, 2002 disclosure was timely.

ITEM 1A. RISK FACTORS

Investing in our company involves a high degree of risk. You should consider carefully the risks described below, together with the other information in and incorporated by reference into this quarterly report. If any of the following risks actually occur, our business, operating results or financial condition could be materially adversely affected. This could cause the market price of our common stock to decline, and could cause you to lose all or part of your investment.

Risks Related to Our Business

We depend heavily on the success of our lead product CUBICIN, which may not continue to be widely accepted by physicians, patients, third-party payors, or the medical community in general.

We have invested a significant portion of our time and financial resources in the development of CUBICIN. We anticipate that in the near term our ability to generate revenues will depend solely on the continued commercial success of CUBICIN, which depends upon its continued acceptance by the medical community and the potential for future market demand and medical need for CUBICIN. CUBICIN was approved by the FDA in September 2003 for the treatment of complicated skin and skin structure infections, or cSSSI, and launched in the United States in November 2003. In September 2005, we filed a sNDA with the FDA seeking priority review for approval to add the treatment of bacteremia including known or suspected endocarditis caused by *S. aureus* to the indication statement for CUBICIN. On March 24, 2006, we announced that we had received an Approvable Letter from the FDA related to our sNDA. Although the FDA has established an action date of May 26, 2006 for our sNDA, there can be no assurance that our sNDA will be approved on or before that date or that any approval will be on terms that we or the medical community view as favorable.

We do not have extensive experience as to the sales of this product. Accordingly, we cannot be sure that CUBICIN will continue to be accepted by purchasers in the pharmaceutical market in its current indication. In addition, we cannot be sure that CUBICIN will be accepted at all in any additional approved indications, should we receive approval by the FDA of our sNDA or any future sNDAs. Further, CUBICIN currently competes with a number of existing antiinfective drugs manufactured and marketed by major pharmaceutical companies and potentially against new antiinfective drugs that are not yet marketed. The degree of continued market acceptance of CUBICIN, and our ability to grow revenues from the sale of CUBICIN, depends on a number of factors, including:

- demonstration of the clinical efficacy and safety of CUBICIN;
- the scope and likelihood of regulatory approval of any new indications for CUBICIN, including, but not limited to, an indication for bacteremia including known or suspected endocarditis caused by *S. aureus* pursuant to our September 2005 sNDA filing, as amended;
- the advantages and disadvantages of CUBICIN compared to alternative therapies;
- our ability to educate the medical community about the safety and efficacy of CUBICIN;
- the reimbursement policies of government and third-party payors; and

the market price of CUBICIN and alternative therapies.

We cannot be sure that physicians, patients, third-party payors, or the medical community in general will continue to accept and utilize CUBICIN. Even if the medical community accepts that CUBICIN is safe and efficacious for its approved indication and any future approved indications, physicians may choose to restrict the use of CUBICIN due to antibiotic resistance concerns and both physicians and pharmacy departments may choose other antibiotics on the basis of cost.

Our ability to grow revenues from the commercialization and sale of CUBICIN will be limited if we do not obtain approval to market CUBICIN for additional therapeutic uses, obtain approval in additional countries outside of the United States, or fulfill certain post-approval requirements of the FDA relating to CUBICIN.

We intend to seek regulatory approval for additional indications. To do so, we will need to successfully conduct additional clinical trials and then apply for and obtain the appropriate regulatory approvals. Our revenues may not grow as expected and our business and operating results may be harmed if additional indications are not approved in the United States.

While we expect to hear from the FDA by May 26, 2006 regarding our sNDA to add the treatment of bacteremia, including known or suspected endocarditis, caused by *S. aureus* to the indication statement for CUBICIN, we have no guarantee that the FDA will act by this date, or that the FDA will act favorably. The FDA has substantial discretion in the approval process and may decide that our data are insufficient for approval, or they may approve our sNDA for a narrower indication than we are seeking. A failure to obtain an approval by the FDA of our sNDA or the receipt of an approval for a narrower indication than we are seeking could have a material adverse effect upon our operating results and business.

In September 2003, the FDA granted approval for CUBICIN for the treatment of cSSSI caused by certain Gram-positive microorganisms in the United States, and in January 2006, the EMEA granted final approval to Chiron for marketing CUBICIN in the EU for the treatment of cSSTI where the presence of susceptible Gram-positive bacteria is confirmed or suspected. Chiron and our other collaborators have submitted or plan on submitting applications for approvals to market CUBICIN in other territories, however, we cannot be sure that any regulatory authority will approve these or any future submissions on a timely basis or at all.

In addition, the FDA approval to market CUBICIN in the United States for the treatment of cSSSI requires that we conduct a Phase IV clinical trial to assess the safety, efficacy and pharmacokinetics of CUBICIN in renal impairment patients with cSSSI who also have various degrees of renal impairment, including those that require dialysis. Clinical sites began screening for eligible subjects for this study in February 2005. Enrollment of eligible subjects in this study has been difficult and slower than expected. It is possible that the FDA may require modifications to this study to address the issue of slower than expected enrollment of eligible subjects. Our business would be seriously harmed if we do not complete this study and the FDA, as a result, requires us to change the marketing label for CUBICIN in respect to patients with renal impairment. In addition, adverse medical events that occur during the Phase IV clinical trial or during commercial marketing could result in the temporary or permanent withdrawal of CUBICIN from commercial marketing, which could seriously harm our business and cause our stock price to decline.

If we are unable to generate revenues from any drug products other than CUBICIN, our ability to create long-term shareholder value may be limited.

Apart from CUBICIN, we have no other drug products that have been approved by the FDA, and our current pipeline does not include any drug candidates that will generate revenues in the near term. Unless and until we are able to develop, in-license or acquire other successful drug products, we will continue to rely solely on CUBICIN for our sales revenues. If we are unable to bring any of our current or future drug candidates to market, or to acquire any marketed drug products, our ability to create long-term shareholder value may be limited.

We have only one drug candidate, HepeX-B, in clinical development. Based on HepeX-B' s current stage of clinical development, there is still a significant risk that HepeX-B will never be approved for commercialization. Even if we are able to commercialize HepeX-B, the anticipated market potential for HepeX-B is much smaller than that for CUBICIN. While we are researching other drug candidates for potential clinical development, including a second generation lipopeptide, most drug candidates never make it to the clinical development stage. Even those that do make it into clinical development have only a small chance of gaining regulatory approval and becoming a drug product. We also seek out opportunities to partner with other companies to acquire rights to other drug candidates or drug products, but there is no guarantee that we will be successful in these efforts. In fact, the market to acquire rights to promising drug candidates and drug products is highly competitive, and we are often competing for such rights against companies with significantly more resources and experience.

We will need to obtain regulatory approvals for our other drug candidates, and our ability to generate revenues from the commercialization and sale of products resulting from our development efforts will be limited by any failure to obtain these approvals.

The FDA and comparable regulatory agencies in foreign countries impose substantial requirements for the development, production and commercial introduction of drug products. These include lengthy and detailed pre-clinical, laboratory and clinical testing procedures, sampling activities and other costly and time-consuming procedures. All of our drug candidates will require governmental approvals for commercialization. To date, we have not obtained government approval for any drug product other than CUBICIN for the indication of cSSSI in the United States. Our collaborator, Chiron, has received approval for marketing CUBICIN in the EU for the indication of cSSTI and in Argentina for cSSSI, and our collaborator, Medison Pharma, Ltd, has received approval for marketing CUBICIN in Israel for the indication of cSSSI. Pre-clinical testing, clinical trials and manufacturing of our drug candidates will be subject to rigorous and extensive regulation by the FDA and corresponding foreign regulatory authorities. In addition, such authorities, including the FDA, may impose more stringent requirements than currently in effect, which may adversely affect our planned drug development efforts. Satisfaction of the requirements of the FDA and of foreign regulatory agency requirements typically takes a significant number of years and can vary substantially based upon the type, complexity and novelty of the drug candidate. The approval procedure and the time required to obtain approval also varies among countries. Approval by one regulatory authority does not ensure approval by regulatory authorities in other jurisdictions.

No product can receive FDA approval unless human clinical trials show both safety and efficacy for each target indication in accordance with FDA standards. We have limited experience conducting clinical trials. The majority of drug candidates that begin human clinical trials fail to demonstrate the desired safety and efficacy characteristics. Failure to demonstrate the safety and efficacy of our drug candidates for each target indication in clinical trials would prevent us from obtaining required approvals from regulatory authorities, which would prevent us from commercializing those drug candidates. The results of our clinical testing of a drug candidate may cause us to suspend, terminate or redesign our clinical testing program for that drug candidate. We cannot be sure when we, independently or with our collaborators, might be in a position to submit additional drug candidates for regulatory review. Negative or inconclusive results from the clinical trials or adverse medical events during them could cause the clinical trials to be repeated, extended, or a program to be terminated, even if other studies or trials relating to the program are successful. In addition, data obtained from clinical trials are susceptible to varying interpretations that could delay, limit or prevent regulatory approval. In addition, we cannot be sure that regulatory approval will be granted for drug candidates that we submit for regulatory review. Moreover, if regulatory approval to market a drug product is granted, the approval may impose limitations on the indicated use for which the drug product may be marketed as well as additional post-approval requirements.

Our ability to generate revenues from the commercialization and sale of additional drug products will be limited by any failure to obtain these approvals.

If clinical trials for our drug candidates are unsuccessful or delayed, we will be unable to meet our anticipated development and commercialization timelines, which could harm our business.

Before we receive regulatory approvals for the commercial sale of any of our drug candidates, our drug candidates are subject to extensive pre-clinical testing and clinical trials to demonstrate their safety and efficacy in humans. Conducting pre-clinical testing and clinical trials is a lengthy, time-consuming and expensive process that often takes many years. Furthermore, we cannot be sure that pre-clinical testing

or clinical trials of any drug candidates will demonstrate the safety and efficacy of our drug candidates at all or to the extent necessary to obtain regulatory approvals. Companies in the biotechnology and pharmaceutical industries, including companies with greater experience in pre-clinical testing and clinical trials than we have, have suffered significant setbacks in advanced clinical trials, even after demonstrating promising results in earlier trials. In our own case, clinical trials of CUBICIN for the treatment of community acquired pneumonia failed to demonstrate sufficient efficacy despite promising results in pre-clinical and early clinical trials.

Our clinical trials must be carried out under protocols that are acceptable to regulatory authorities and to the committees responsible for clinical studies at the sites at which the studies are conducted. There may be delays in preparing protocols or receiving approval for them that may delay either or both of the start and finish of our clinical trials. Feedback from regulatory authorities or results from earlier stage clinical studies might require modifications or

delays in later stage clinical trials. These types of delays can result in increased development costs and delayed regulatory approvals. Our ability to secure clinical trial insurance at a reasonable cost could also cause delays.

Furthermore, there are a number of additional factors that may cause delays in our clinical trials. We have limited experience in conducting pre-clinical testing or clinical trials. We currently have one drug candidate, HepeX-B, in clinical development, and CUBICIN is being studied in additional clinical trials. The rate of completion of our clinical trials is also dependent in part on the rate of patient enrollment. There may be limited availability of patients who meet the criteria for certain clinical trials. Delays in planned patient enrollment can result in increased development costs and delays in regulatory approvals. For example, our clinical trial to determine the safety and efficacy of using CUBICIN to treat bacteremia with known or suspected endocarditis experienced delays attributable to slow enrollment. In addition, our clinical trials may be delayed by one or more of the following factors:

- inability to manufacture sufficient quantities of acceptable materials for use in clinical trials;
- inability to adequately follow patients after treatment;
- the failure of third-party clinical trial managers to perform their oversight of the trials;
- the failure of our clinical investigational sites and related facilities and records to be in compliance with the FDA' s Good Clinical Practices;
- inability to enroll study subjects; or
- the FDA placing a trial on "clinical hold" or temporarily or permanently stopping a trial for a variety of reasons, principally for safety concerns.

We plan to change the method of manufacture and method of delivery of HepeX-B prior to conducting future clinical trials for this drug candidate. We also plan to meet with the FDA in the first half of 2006 to review the HepeX-B Phase II data and discuss a Phase III clinical trial design. Any problems encountered in the course of changing the method of manufacture or method of delivery for this drug candidate, or in designing our Phase III clinical trial, could delay further clinical development.

If clinical trials for our drug candidates are unsuccessful or delayed, we will be unable to meet our anticipated development and commercialization timelines, which could harm our business and cause our stock price to decline.

We face significant competition from other biotechnology and pharmaceutical companies, particularly with respect to CUBICIN, and our operating results will suffer if we fail to compete effectively.

The biotechnology and pharmaceutical industries are intensely competitive. We have competitors both in the United States and internationally, including major multinational pharmaceutical and chemical companies, biotechnology companies and universities and other research institutions. Many of our competitors have greater financial and other resources, such as larger research and development staffs and more experienced marketing and manufacturing organizations. Our competitors may succeed in developing , acquiring or licensing on an exclusive basis technologies and drug products that are more effective or less costly than CUBICIN or any drug candidate that we are currently developing or that we may have or develop, which could render our technology obsolete and noncompetitive.

The competition in the market for therapeutic products that address infectious diseases is intense. CUBICIN faces competition from commercially available drugs such as vancomycin, marketed generically by Abbott, Shionogi & Co., Ltd., and others, Zyvox, marketed by Pfizer, Inc., Synercid, marketed by King Pharmaceuticals, Inc., and Tygacil, marketed by Wyeth. In particular, vancomycin has been a widely used and well known antibiotic for over 40 years and is sold in a relatively inexpensive generic form. In addition, Pfizer could receive FDA approval for Dalbavancin after it resolves the drug candidate' s approvable status with the FDA. In addition, there are other drug candidates in development, examples of which are Ceftobiprole and Telavancin, which, if approved, would compete in the IV antibiotic market. If price competition inhibits the acceptance of CUBICIN, if the reluctance of physicians to switch from existing drug products to CUBICIN inhibits the acceptance of CUBICIN, or if physicians switch to new drug products, or choose to reserve CUBICIN for use in limited circumstances, we will not achieve our business plan. In addition, CUBICIN may face competition from drug candidates currently in clinical development, drug candidates that could receive regulatory approval before CUBICIN in countries outside the United States. The inability to compete

with existing drug products or subsequently introduced drug products would have a material adverse impact on our operating results.

We are completely dependent on third parties to manufacture CUBICIN, and our commercialization of CUBICIN could be stopped, delayed, or made less profitable if those third parties fail to provide us with sufficient quantities of CUBICIN or fail to do so at acceptable prices.

We do not have the capability to manufacture our own CUBICIN API. We have entered into manufacturing and supply agreements with both ACS and DSM to manufacture and supply us with CUBICIN drug substance for commercial purposes. In November 2005, we selected ACS to be our single source provider of CUBICIN API. Our manufacturing and supply agreement with DSM will terminate on May 27, 2006. After that date, ACS will be the sole provider of our commercial supply of CUBICIN drug substance. Pursuant to our agreements with ACS and DSM, ACS and DSM currently store some CUBICIN API at their facilities in Italy.

In addition, we do not have the capability to manufacture our own CUBICIN finished drug product. We have entered into manufacturing and supply agreements with both Hospira and Cardinal to manufacture and supply to us finished product. We began to sell product finished by Cardinal in the third quarter of 2005.

If DSM, Cardinal, Hospira, or, in particular, ACS experiences any significant difficulties in its manufacturing processes for CUBICIN API or finished product, we could experience significant interruptions in the supply of CUBICIN. Our inability to coordinate the efforts of our third party manufacturing partners, or the lack of capacity available at our third party manufacturing partners, could impair our ability to supply CUBICIN at required levels.

Because both the ACS and DSM manufacturing facilities are located in Italy, we may also experience interruption or significant delay in the supply of CUBICIN API due to natural disasters, acts of war or terrorism, shipping embargoes, labor unrest or political instability in Italy. In any such event, the supply of CUBICIN API stored at ACS and DSM could also be impacted.

If we are required to transfer manufacturing processes from our bulk or finished product manufacturers to other third-party manufacturers, we would be required to satisfy various additional regulatory requirements, and we could experience significant interruptions in the supply of CUBICIN.

We cannot guarantee that we will be able to reduce the costs of commercial scale manufacturing of CUBICIN over time. If the manufacturing costs of CUBICIN remain high, it may significantly delay or prevent Cubist from achieving profitability. In order to reduce costs, we may need to develop and implement process improvements. In order to implement such process improvements, we will need, from time to time, to notify or make submissions with regulatory authorities, and the improvements may be subject to approval by such regulatory authorities. We cannot be sure that such approvals will be granted or granted in a timely fashion. We cannot guarantee that we will be able to enhance and optimize output in our commercial manufacturing process. If we cannot enhance and optimize output, we may not be able to reduce our costs over time.

We have collaborative relationships that may expose us to a number of risks.

We have entered into, and anticipate continuing to enter into, collaborative arrangements with multiple third parties to discover, test, manufacture and market drug candidates and drug products. In October 2003, we entered into an international commercialization agreement with Chiron to seek regulatory approvals and commercialize CUBICIN in Europe, Australia, New Zealand, India and certain Central American, South American and Middle Eastern countries. In April 2006, Chiron' s parent corporation was acquired by Novartis. Novartis is now able to exercise control over our CUBICIN partner for Europe and Chiron' s other territories. We have also entered into agreements with partners for the commercialization of CUBICIN in Israel, Taiwan, Canada and South Korea. In addition to commercial collaborations, we collaborate with a variety of other companies for manufacturing, clinical trials, clinical and preclinical testing, and research activities. Collaborations such as these are necessary for us to research, develop, and commercialize drug candidates. We cannot be sure that we will be able to establish any additional collaborative relationships on terms acceptable to us or that we will be able to work successfully with our existing collaborators or their successors.

Reliance on collaborative relationships poses a number of risks including the following:

- our collaborators may not perform their obligations as expected;

- the focus of, amount and timing of resources dedicated by our collaborators to their respective collaborations with us is not under our control;
- some drug candidates discovered in collaboration with us may be viewed by our collaborators as competitive with their own drug candidates or drug products;
- our collaborators may not elect to proceed with the development of drug candidates that we believe to be promising;
- disagreements with collaborators, including disagreements over proprietary rights or contract interpretation, might cause delays or termination of the research, development or commercialization of drug candidates, might lead to additional responsibilities with respect to drug candidates, or might result in litigation or arbitration, any of which would be time-consuming and expensive; and
- some of our collaborators might develop independently, or with others, drug products that could compete with ours.

Collaborative arrangements with third parties are a critical part of our business strategy, and any inability on our part to be able to establish collaborations on terms favorable to us or to work successfully with our collaborators will have an adverse effect on our operations and financial performance.

We depend on third parties in the conduct of our clinical trials for CUBICIN and HepeX-B and expect to do so with respect to other drug candidates, and any failure of those parties to fulfill their obligations could adversely affect our development and commercialization plans.

We depend on independent clinical investigators, contract research organizations and other third party service providers in the conduct of our clinical trials for CUBICIN and HepeX-B and expect to do so with respect to other drug candidates. We rely heavily on these parties for successful execution of our clinical trials but do not control many aspects of their activities. For example, the investigators are not our employees. However, we are responsible for ensuring that each of our clinical trials is conducted in accordance with the general investigational plan and protocols for the trial. Third parties may not complete activities on schedule or may not conduct our clinical trials in accordance with regulatory requirements or our stated protocols. The failure of these third parties to carry out their obligations could delay or prevent the further development, approval and commercialization of CUBICIN and that of future drug candidates.

If we are unable to continue to develop satisfactory sales and marketing capabilities, we may not succeed in commercializing CUBICIN.

Until our launch of CUBICIN in November 2003, we had not previously marketed or sold a drug product. In connection with our launch of CUBICIN, we developed our own sales and marketing capabilities in the United States, and we continue to develop those capabilities. We added 36 sales representatives to our existing sales force in the first quarter of 2006. Therefore, our expanded U.S. sales and marketing team has worked together for a limited period of time. We cannot guarantee that we will continue to be successful in marketing CUBICIN on our own in the United States. Chiron began its launch of CUBICIN in the UK and the Netherlands in March 2006. Even if we obtain additional approvals to market CUBICIN in one or more of the countries in which we intend to commercialize CUBICIN pursuant to our collaboration agreement with Chiron or our other current or future collaborations, we cannot guarantee that we or our collaborators will be successful in marketing CUBICIN in international markets.

We have incurred substantial losses in the past and expect to incur additional losses.

Since we began operations, we have incurred substantial net losses in every fiscal period. We incurred a net loss of $5.9 million for the quarter ended March 31, 2006 and $31.9 million for the year ended December 31, 2005. At March 31, 2006, we had an accumulated deficit of $489.7 million. These losses have resulted from costs associated with conducting research and development, conducting clinical trials, commercialization efforts and associated administrative costs.

We expect to incur additional operating losses during 2006 related to the continued development and commercialization of CUBICIN, the development of our other drug candidates, as well as investments in other product opportunities. As a result, we cannot predict when we will become profitable, if at all, and if we do, we may not remain profitable for any substantial period of time. If we fail to achieve profitability within the time frame expected by investors, the market price of our common stock may decline.

We may require additional funds.

Currently, we are not a self-sustaining business, and certain economic and strategic factors may require us to seek additional funds. We believe that our existing cash, cash equivalents, investments and the anticipated cash flow from revenues will be sufficient to fund our operating expenses, debt obligations and capital requirements under our current business plan through at least the first half of 2008. We expect capital outlays and operating expenditures to increase over the next several years as we continue our commercialization of CUBICIN, actively seek to acquire, or in-license additional products or product candidates, and expand our research and development activities and infrastructure. We may need to spend more money than currently expected because of unforeseen circumstances or circumstances beyond our control. We have no committed sources of capital and do not know whether additional financing will be available when needed, or, if available, that the terms will be favorable to our shareholders or us.

We may seek additional funding through public or private financing or other arrangements with collaborators. If we raise additional funds by issuing equity securities, further dilution to existing stockholders may result. In addition, as a condition to providing additional funds to us, future investors may demand, and may be granted, rights superior to those of existing stockholders. We cannot be sure, however, that additional financing will be available from any of these sources or, if available, will be available on acceptable or affordable terms.

Our annual debt service obligations on our $165.0 million 5 ½% subordinated convertible notes due in November 2008 are approximately $9.1 million per year in interest payments. We may add additional lease lines to finance capital expenditures and may obtain additional long-term debt and lines of credit. If we issue other debt securities in the future, our debt service obligations will increase further. If we are unable to generate sufficient cash to meet these obligations and need to use existing cash or liquidate investments in order to fund our debt service obligations or to repay our debt, we may be forced to delay or terminate clinical trials or curtail operations. We may also be forced to obtain funds through collaborative and licensing arrangements that may require us to relinquish commercial rights or potential markets or grant licenses on terms that are not favorable to us. If we fail to obtain additional capital, we will not be able to execute our current business plan successfully.

We may not be able to obtain, maintain or protect certain proprietary rights necessary for the development and commercialization of CUBICIN, our other drug candidates and our research technologies.

Our commercial success will depend in part on obtaining and maintaining U.S. and foreign patent protection for CUBICIN, our drug candidates, and our research technologies and successfully enforcing and defending these patents against third party challenges. We consider that in the aggregate our unpatented proprietary technology, patent applications, patents and licenses under patents owned by third parties are of material importance to our operations. The patent positions of pharmaceutical and biotechnology companies can be highly uncertain and involve complex legal and factual questions. The actual protection afforded by a patent can vary from country to country and may depend upon the type of patent, the scope of its coverage and the availability of legal remedies in the country. Legal standards relating to the validity and scope of patents covering pharmaceutical and biotechnological inventions are continually developing, both in the United States and other important markets outside the United States. Our patent position is highly uncertain and involves complex legal and factual questions, and we cannot predict the scope and breadth of patent claims that may be afforded to our patents or to other companies' patents. We cannot assure you that the patents we obtain or the unpatented proprietary technology we hold will afford us significant commercial protection.

The primary composition of matter patent covering CUBICIN in the United States has expired. We own or have licensed a limited number of patents directed toward methods of administration and methods of manufacture of CUBICIN. We cannot be sure that patents will be granted with respect to any of our pending patent applications for CUBICIN, our other drug candidates, or our research technologies, or with respect to any patent applications filed by us in the future; nor can we be sure that any of our existing patents or any patents that may be granted to us in the future will be commercially useful in protecting CUBICIN, our other drug candidates or our other technology.

The degree of future protection for our proprietary rights is uncertain. We cannot be certain that the named applicants or inventors of the subject matter covered by our patent applications or patents, whether directly owned by us or licensed to us, were the first to invent or the first to file patent applications for such inventions. Third parties may challenge, infringe, circumvent or seek to invalidate existing or future patents owned by or licensed to us. A court or other agency with jurisdiction may find our patents invalid and/or unenforceable. Even if we have valid and enforceable patents, these patents still may not provide sufficient protection against competing products or processes.

If our collaborators or consultants develop inventions or processes independently that may be applicable to our products under development, disputes may arise about ownership of proprietary rights to those inventions and/or processes. Such inventions and/or processes will not necessarily become our property but may remain the property of those persons or their employers. Protracted and costly litigation could be necessary to enforce and determine the scope of our proprietary rights. Moreover, the laws of foreign countries in which we market our drug products may afford little or no effective protection of our intellectual property, thereby easing our competitors' ability to compete with us in such countries.

We may engage in collaborations, sponsored research agreements, and other arrangements with academic researchers and institutions that have received and may receive funding from U.S. government agencies. As a result of these arrangements, the U.S. government or certain third parties may have rights in certain inventions developed during the course of the performance of such collaborations and agreements as required by law or by such agreements.

We also rely on trade secrets and other unpatented proprietary information in our product development activities. To the extent that we maintain a competitive advantage by relying on trade secret and unpatented proprietary information, such competitive advantage may be compromised if others independently develop the same or similar technology, resulting in an adverse effect on our business, financial condition and results of operations. We seek to protect trade secrets and proprietary information in part through confidentiality provisions and invention assignment provisions in agreements with our collaborative partners, employees and consultants. It is possible that these agreements could be breached or that we might not have adequate remedies for any such breaches.

Our trademarks, CUBICIN, Cubist, and HepeX-B (licensed from XTLbio) in the aggregate are considered to be material to our business. All are covered by registrations or pending applications for registration in the U.S. Patent and Trademark Office and in other countries. Trademark protection continues in some countries for as long as the mark is used and, in other countries, for as long as it is registered. Registrations generally are for fixed, but renewable, terms. We cannot assure you that the trademark protection that we have pursued or will pursue in the future will afford us significant commercial protection.

Third-party patent and intellectual property rights may interfere with our ability to commercialize drug products and research technologies.

Because the patent positions of pharmaceutical and biotechnology companies can be highly uncertain and involve complex legal and factual questions, there can be no assurance that the patents owned and licensed by us, or any future patents, will ensure that others will not be issued patents that may prevent the sale of our drug products or require licensing and the payment of significant fees or royalties. Moreover, to the extent that any of our drug products or methods infringe the patents of a third party, or that our patents or future patents fail to give us an exclusive position in the subject matter claimed in those patents, we will be adversely affected. Patent disputes are frequent and can preclude the commercialization of products. If our drug candidates, drug products, or processes are found to infringe the patents of others or are found to impermissibly utilize the intellectual property of others, our development, manufacture and sale of our infringing drug candidates or drug products could be severely restricted or prohibited. We may be unable to avoid infringement of a third-party patent and may have to obtain a license, defend an infringement action, or challenge the validity of a patent in a court of law or agency of competent jurisdiction. A license may be unavailable on terms and conditions acceptable to us, if at all. Intellectual property litigation can be expensive and time-consuming, and we may be unable to prevail in any such litigation or devote sufficient resources to pursue such litigation. If we do not obtain an appropriate license, if we are found liable for patent infringement or trade secret misappropriation, or if we are not able to have such patents declared invalid and/or unenforceable, we may be liable for significant monetary damages, may encounter significant delays in bringing products to market,

and/or may be precluded from participating in the manufacture, use, or sale of products or methods of treatment requiring such licenses.

If we are unable to discover, in-license or acquire drug candidates, we will not be able to implement our current business strategy.

Our approach to drug discovery is unproven. We have not tested in humans any drug candidates developed from our drug discovery program, and we cannot assure you that we will test in humans any internally developed drug candidates or that there will be clinical benefits associated with any drug candidates that we do develop.

Our drug product, CUBICIN, and our other current and former drug candidates are the result of in-licensing patents and technologies from third parties. These in-licensing activities represent a significant expense for Cubist and generally require us to pay royalties to other parties on product sales. Unless we are able to use our drug discovery approach to identify suitable drug candidates, acquisition or in-licensing will be our only source of drug candidates. However, there can be no assurance that we will be able to acquire additional desirable drug candidates on acceptable terms, or at all.

If we are unable to develop successfully our drug candidates, we will not be able to implement our business strategy. Even if we succeed in discovering or acquiring drug candidates, there can be no assurance that we will be successful in developing them. For example in February 2004, we discontinued, due to observed adverse events, clinical development of CAB-175, a parenteral cephalosporin antibiotic that

we had in-licensed from Sandoz GmbH, and in April 2004, we discontinued, as a result of data from human clinical research studies, development of oral formulations of ceftriaxone, a broad-spectrum antibiotic for which we had licensed the underlying technology from International Health Management Associates and the University of Utah. Failure to develop new drug candidates successfully would have a material adverse effect on our business, operating results and financial condition.

A variety of risks associated with our international business relationships could materially adversely affect our business.

We have manufacturing, collaborative and clinical trial relationships outside the United States, and we expect CUBICIN to be marketed worldwide. Consequently, we are, and will continue to be, subject to additional risks related to operating in foreign countries. Associated risks of conducting operations in foreign countries include:

differing regulatory requirements for drug approvals in foreign countries;

the potential for so-called parallel importing;

unexpected changes in tariffs, trade barriers and regulatory requirements;

economic weakness, including inflation, or political instability in particular foreign economies and markets;

compliance with tax, employment, immigration and labor laws for employees living or traveling abroad;

foreign taxes, including withholding of payroll taxes;

foreign currency fluctuations, which could result in increased operating expenses and reduced revenues, and other obligations incident to doing business or operating a subsidiary in another country;

workforce uncertainty in countries where labor unrest is more common than in the United States;

production shortages resulting from any events affecting raw material supply or manufacturing capabilities abroad; and

business interruptions resulting from geo-political actions, including war and terrorism.

These and other risks associated with our international operations may materially adversely affect our ability to attain or maintain profitable operations.

If we are not successful in attracting and retaining highly qualified personnel, we may not be able to successfully implement our business strategy.

Our ability to compete in the highly competitive biotechnology and pharmaceuticals industries depends in large part upon our ability to attract and retain highly qualified managerial, scientific and medical personnel. Historically, we have been highly dependent on our management and scientific and medical personnel. In order to induce valuable employees to remain at Cubist, we have provided options that vest over time. The value to employees of options that vest over time is significantly affected by movements in our stock price that we cannot control and may at any time be insufficient to counteract more lucrative offers from other companies. We have also provided retention letters to a limited number of key employees. Despite our efforts to retain valuable employees, members of our management, scientific and medical teams may terminate their employment with us on short notice. The loss of the services of any of our executive officers or other key employees could potentially harm our business or financial results. Our success also depends on our ability to continue to attract, retain and motivate highly skilled junior, mid-level, and senior managers as well as junior, mid-level, and senior scientific and medical personnel. Other biotechnology and pharmaceutical companies with whom we compete for qualified personnel have greater financial and other resources,

different risk profiles, and a longer history in the industry than we do. They also may provide more diverse opportunities and better chances for career advancement. Some of these factors may be more appealing to high quality candidates than what we have to offer. If we are unable to continue to attract and retain high quality personnel, the rate and success at which we can discover, develop and commercialize drug candidates will be limited.

We may undertake additional strategic acquisitions in the future, and we may not realize the benefits of such acquisitions.

Although we have limited experience in acquiring businesses and have completed only one business acquisition since our inception, we may acquire additional businesses that we believe will complement or augment our existing business. If we acquire businesses with promising drug candidates or technologies, we may not be able to realize the benefit of acquiring such businesses if we are unable to move one or more drug candidates through pre-clinical and/or clinical development to regulatory approval and commercialization. Integrating any newly acquired businesses or technologies could be expensive and time-consuming, resulting in the diversion of resources from our current business. We may not be able to integrate any acquired business successfully. We cannot assure you that, following an acquisition, we will achieve revenues, specific net income or loss levels that justify the acquisition or that the acquisition will result in increased earnings, or reduced losses, for the combined company in any future period. Moreover, we may need to raise additional funds through public or private debt or equity financing to acquire any businesses, which would result in dilution for stockholders or the incurrence of indebtedness. We may not be able to operate acquired businesses profitably or otherwise implement our growth strategy successfully.

Our business may suffer if we fail to manage our growth effectively.

If our potential drug candidates continue to progress in development or we expand the commercialization of CUBICIN, we will continue to build our organization and require significant additional investment in personnel, management systems and resources. Our ability to expand the commercialization of our products, achieve our research and development objectives, and satisfy our commitments under our collaboration agreements depends on our ability to respond effectively to these demands and expand our internal organization to accommodate additional anticipated growth. If we are unable to manage our continued growth effectively, there could be a material adverse effect on our business.

Risks Related to Our Industry

Our products will be subject to ongoing regulatory review.

Regulatory approvals can be conditioned on certain factors that may delay the marketing of drug products and increase the cost of developing, manufacturing, or marketing drug products. Our company, our drug products and the

manufacturing facilities for our drug products are subject to continual review and periodic inspection by the FDA and other regulatory agencies for compliance with pre-approval and post-approval regulatory requirements, including GMP regulations, adverse event reporting, advertising and product promotion regulations, and other requirements. In addition, if there are any modifications to a drug product, further regulatory approval will be required. Failure to comply with manufacturing and other post-approval regulations of the FDA and other regulatory agencies can, among other things, result in fines, denial or withdrawal of regulatory approvals, product recalls or seizures, operating restrictions and criminal prosecution. Later discovery of previously unknown problems with a drug product, manufacturer or facility may result in restrictions on the drug product, us or our manufacturing facilities, including withdrawal of the drug product from the market. The cost of compliance with pre- and post-approval regulation may have a negative effect on our operating results and financial condition.

We could incur substantial costs resulting from product liability claims relating to our pharmaceutical products.

The nature of our business exposes us to potential liability risks inherent in the testing, manufacturing and marketing of pharmaceutical and biotechnology products. Our products and the clinical trials utilizing our products and drug candidates may expose us to product liability claims and possible adverse publicity. Product liability insurance is expensive, is subject to deductibles and coverage

limitations, and may not be available in the future. While we currently maintain product liability insurance coverage that we believe is adequate for our current operations, we cannot be sure that such coverage will be adequate to cover any incident or all incidents. In addition, we cannot be sure that we will be able to maintain or obtain insurance coverage at acceptable costs or in a sufficient amount, that our insurer will not disclaim coverage as to a future claim or that a product liability claim would not otherwise adversely affect our business, operating results or financial condition.

We may become involved in patent litigation or other intellectual property proceedings relating to our products or processes that could result in liability for damage or stop our development and commercialization efforts.

The pharmaceutical industry has been characterized by significant litigation and interference and other proceedings regarding patents, patent applications, trademarks and other intellectual property rights. The types of situations in which we may become parties to such litigation or proceedings include:

- We or our collaborators may initiate litigation or other proceedings against third parties to enforce our patent rights;
- We or our collaborators may initiate litigation or other proceedings against third parties to seek to invalidate the patents held by such third parties or to obtain a judgment that our products or processes do not infringe such third parties' patents;
- If our competitors file patent applications that claim technology also claimed by us, we or our collaborators may participate in interference or opposition proceedings to determine the priority of invention;
- If third parties initiate litigation claiming that our processes or products infringe their patent or other intellectual property rights, we and our collaborators will need to defend against such proceedings; or
- If third parties initiate litigation claiming that our brand names infringe their trademarks, we and our collaborators will need to defend against such proceedings.

An adverse outcome in any litigation or other proceeding could subject us to significant liabilities to third parties and require us to cease using the technology that is at issue or to license the technology from third parties. We may not be able to obtain any required licenses on commercially acceptable terms or at all.

The cost of any patent litigation or other proceeding, even if resolved in our favor, could be substantial. Some of our competitors may be able to sustain the cost of such litigation and proceedings more effectively than we can because of their substantially greater resources. Uncertainties resulting from the initiation and continuation of

patent litigation or other proceedings could have a material adverse effect on our ability to compete in the marketplace. Patent litigation and other proceedings may also absorb significant management time.

Revenues generated by products we currently market or that we successfully develop and for which we obtain regulatory approval depend on reimbursement from third-party payers such that if reimbursement for our products is reduced or is insufficient, there could be a negative impact on the utilization of our products.

Acceptable levels of reimbursement for costs of developing and manufacturing drug products and treatments related to those drug products by government authorities, private health insurers, and other organizations, such as HMOs, can have an affect on the successful commercialization of, and attracting collaborative partners to invest in the development of, our drugs and drug candidates. In both the United States and in foreign jurisdictions, legislative and regulatory actions can affect health care systems and reimbursement for our products.

For example, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and its implementing regulations, altered the manner in which Medicare sets payment levels for many prescription drugs, including CUBICIN. Under this legislation, beginning in 2005, Medicare reimbursement for CUBICIN was based on average sales price or the ASP rather than average wholesale price in both the physician office and hospital outpatient settings. This has resulted in lower payment rates in 2005 as compared to 2004. This payment methodology is relatively new and, as customers continue to adapt to it, sales of CUBICIN could be negatively impacted. In addition, further changes to this methodology are possible. There have been a number of legislative and regulatory actions affecting health care systems. The current uncertainty and the potential for adoption of additional changes could affect the timing and amount of our product revenue, our ability to raise capital, obtain additional collaborators and market our products. Non-Medicare third-party drug procurement organizations may also base the price they are willing to pay on the rate paid by drug procurement organizations for Medicare beneficiaries. Also, we cannot be sure that reimbursement amounts will not reduce the demand for, or the price of, our drug products. Any reduction in demand would adversely affect our business. If reimbursement is not available or is available only at limited levels, we may not be able to obtain collaborators to manufacture and commercialize drug products, and may not be able to obtain a satisfactory financial return on our own manufacture and commercialization of any future drug products.

Another potentially relevant aspect of this legislation is the establishment of an expanded, voluntary Medicare prescription drug benefit effective January 1, 2006, commonly known as Medicare Part D. Although this expanded benefit includes products that typically are dispensed by pharmacies and that were not previously covered by Medicare, it is possible that CUBICIN could be covered under this benefit. The benefit is implemented through private insurance companies that contract with Medicare to offer Part D plans. These companies have considerable discretion as to the drugs provided through such offerings. Although we do not expect many Medicare beneficiaries to obtain CUBICIN through Medicare Part D (and the preexisting Medicare coverage of CUBICIN will continue unchanged), products that are competitive with CUBICIN but were not previously covered by Medicare may now be covered by Medicare through Part D. If such new coverage causes physicians to prescribe products competitive with CUBICIN instead of CUBICIN, our product sales could suffer. Because Part D has been implemented just recently and due to the significant variations in drugs offered by plans and beneficiary cost sharing obligations among the plans, we cannot predict whether the establishment of Medicare Part D will have any impact on sales of CUBICIN.

Third-party payors are increasingly challenging prices charged for medical products and services. Also, the trend toward managed health care in the United States and the concurrent growth of organizations such as HMOs, as well as possible legislative changes to reform health care or reduce government insurance programs, may result in lower prices for pharmaceutical products, including any products that may be offered by us in the future. Cost-cutting measures that health care providers are instituting, and the effect of any health care reform, could materially adversely affect our ability to sell any drugs that are successfully developed by us and approved by regulators. Moreover, we are unable to predict what additional legislation or regulation, if any, relating to the health care industry or third-party coverage and reimbursement may be enacted in the future or what effect such legislation or regulation would have on our business. Outside the United States, certain countries set prices in connection with the regulatory process. We cannot be sure that such prices will be acceptable to us or our collaborators.

Our corporate compliance program cannot ensure that we are in compliance with all applicable laws and regulations, and a failure to comply with such regulations or prevail in litigation related to noncompliance could harm our business.

Our general operations, and the research, development, manufacture, sale and marketing of our products, is subject to extensive laws and regulation, including but not limited to health care "fraud and abuse" laws, such as the federal false claims act, the federal anti-kickback statute, and other state and federal laws and regulations. While we have developed and implemented a corporate compliance program based upon what we believe are current best practices, we cannot guarantee that this program will protect us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of significant fines or other sanctions.

Competitors may develop drug products that make our drug products obsolete.

Researchers are continually learning more about diseases, which may lead to new technologies for treatment. Even if we are successful in developing effective drug products, new drug products introduced after we commence marketing of any drug product may be safer, more effective, less expensive, or easier to administer than our drug products.

Our use of hazardous materials, chemicals, viruses and radioactive compounds exposes us to potential liabilities.

Our research and development involves the controlled use of hazardous materials, chemicals, viruses, bacteria and various radioactive compounds. We are subject to numerous environmental and safety laws and regulations. We are subject to periodic inspections for possible violations of any environmental or safety law or regulation. Any violation of, and the cost of compliance with, the regulations could adversely effect our operations. Although we believe that our safety procedures for handling and disposing of hazardous materials comply with the standards prescribed by state and federal regulations, we cannot completely eliminate the risk of accidental contamination or injury from these materials. In the event of an accident or a determination of non-compliance, we could be held liable for significant damages or fines.

Risks Related to Ownership of Our Common Stock

Our stock price may be volatile, and the value of our stock could decline.

The trading price of our common stock has been, and is likely to continue to be volatile. Our stock price could be subject to wide fluctuations in response to a variety of factors, including the following:

failure to meet or exceed revenue and financial projections we provide to the public;

actual or anticipated variations in quarterly operating results;

failure to meet or exceed the estimates and projections of the investment community;

failure of third party reporters of sales data to accurately report our sales figures;

adverse results or delays in clinical trials;

our decision to initiate a clinical trial, not to initiate a clinical trial or to terminate an existing clinical trial;

inability to obtain adequate product supply for any approved drug product or inability to do so at acceptable prices;

the termination of a collaboration or the inability to establish additional collaborations;

adverse regulatory decisions;

unanticipated serious safety concerns related to the use of CUBICIN or any product candidates currently in clinical trials;

introduction of new products or services offered by us or our competitors;

announcements of significant acquisitions, strategic partnerships, joint ventures or capital commitments by us or our competitors;

our failure to commercialize additional drug products;

issuances of debt or equity securities;

significant lawsuits, including stockholder litigation; and

other events or factors, many of which are beyond our control.

In addition, the stock market in general, and the Nasdaq National Market and biotechnology companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of these companies. Broad market and industry factors may negatively affect the market price of our common stock, regardless of our actual operating performance. In the past, following periods of volatility in the market price of a company' s securities, securities class action litigation has often been instituted against companies. This type of litigation, if instituted, could result in substantial costs and a diversion of management' s attention and resources, which would harm our business.

As previously reported in the Company' s filings with the SEC, an adverse outcome of the Securities and Exchange Commission' s investigation into trading in our common stock around the time we disclosed information about the results of our Community Acquired Pneumonia trial could cause our stock price to decline.

In May 2004, the staff of the SEC, advised our former Chairman and us that it was considering whether our former Chairman or we had a duty under the anti-fraud provisions of the federal securities laws to disclose information about the results of our Community Acquired Pneumonia trial, or CAP trial, prior to our January 16, 2002 press release. Prior to being notified in May 2004 that the SEC had decided to investigate the company, we had been aware that the staff of the SEC had been conducting a formal investigation captioned "In the Matter of Trading in the Securities of Cubist Pharmaceuticals, Inc." We had understood that the investigation was regarding whether there had been any trading in shares of our common stock while certain individuals were in possession of material nonpublic information about the results of the CAP trial. We had discussions, which were completed in 2004, with the Nasdaq National Market in connection with a 2002 NASD Regulation inquiry into trading in advance of the January 16, 2002 press release. The SEC filed a civil enforcement action against the wife of our former Chairman, her brother and her brother' s neighbor on January 12, 2005. This action alleges that the wife of our former Chairman transmitted material non-public information about the results of the CAP trial to her brother and her brother transmitted this information to his neighbor prior to our press release of January 16, 2002. Neither Cubist nor our former Chairman was named as a defendant in the SEC' s action.

We cannot predict what action, if any, the SEC staff may finally recommend. If the investigation results in a determination that we have failed to properly disclose information relating to the results of our CAP trial, we could be subject to class action lawsuits and derivative actions, substantial fines or penalties and other sanctions, which may adversely affect our stock price and our ability to raise capital. In addition, if the SEC institutes any other proceedings as a result of its investigation, our stock price may decline, even if we are not specifically named as a party to any of these proceedings.

We are exposed to potential risks from legislation requiring companies to evaluate controls under Section 404 of the Sarbanes-Oxley Act of 2002.

The Sarbanes-Oxley Act requires that we maintain effective internal controls over financial reporting and disclosure controls and procedures. Among other things, we must perform system and process evaluation and testing of our internal controls over financial reporting to allow management to report on, and our independent registered public accounting firm to attest to, our internal controls over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act. In future years, our testing, or the subsequent testing by our independent registered public accounting firm, may reveal deficiencies in our internal controls that we would be required to remediate in a timely manner so as to be able to comply with the requirements of Section 404 each year. If we are not able to comply with the requirements of Section 404 in a timely manner each year, we could be subject to sanctions or investigations by the SEC, the Nasdaq National Market or other regulatory authorities which would require additional financial and management resources and could adversely affect the market price of our common stock.

If our officers, directors and certain stockholders choose to act together, they may be able to significantly influence our management and operations, acting in their best interests and not necessarily those of other stockholders.

As of January 1, 2006, our directors, executive officers and greater than 5% stockholders and their affiliates beneficially owned approximately 33% of our issued and outstanding common stock. Accordingly, they collectively may have the ability to significantly influence the election of all of our directors and to significantly influence the outcome of corporate actions requiring stockholder approval. They may exercise this ability in a manner that advances their best interests and not necessarily those of other stockholders.

We have implemented anti-takeover provisions that could discourage, prevent or delay a takeover, even if the acquisition would be beneficial to our stockholders.

The existence of our stockholder rights plan and provisions of our amended and restated certificate of incorporation and bylaws, as well as provisions of Delaware law, could make it difficult for a third party to acquire us, even if doing so would benefit our stockholders.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

(a) The following exhibits have been filed with this report:

31.1 Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

31.2 Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

32.1 Certification pursuant to 18 U.S.C Section 1305, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

32.2 Certification pursuant to 18 U.S.C Section 1305, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

99.1 Amended and Restated Corporate Governance Guidelines, effective December 13, 2005

SIGNATURE

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

CUBIST PHARMACEUTICALS, INC.

May 8, 2006

By: /s/ David W.J. McGirr

David W.J. McGirr

Senior Vice President and Chief Financial Officer

(Authorized Officer and Principal Finance and Accounting Officer)

Exhibit 31.1

CERTIFICATION

I, Michael W. Bonney, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cubist Pharmaceuticals, Inc.;

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;

4. The registrant' s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant' s disclosure controls and procedures and presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this quarterly report based on such evaluation;

   (d) disclosed in this quarterly report any change in the registrant' s internal control over financial reporting that occurred during the registrant' s most recent fiscal quarter (the registrant' s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant' s internal control over financial reporting; and

5. The registrant' s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant' s auditors and the audit committee of the registrant' s board of directors (or persons performing the equivalent functions):

   (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant' s ability to record, process, summarize and report financial information; and

   (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant' s internal control over financial reporting.

Date: May 8, 2006

/s/ Michael W. Bonney

Michael W. Bonney
President and Chief Executive Officer

Exhibit 31.2

CERTIFICATION

I, David W.J. McGirr, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cubist Pharmaceuticals, Inc.;

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;

4. The registrant' s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant' s disclosure controls and procedures and presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this quarterly report based on such evaluation;

   (d) disclosed in this quarterly report any change in the registrant' s internal control over financial reporting that occurred during the registrant' s most recent fiscal quarter (the registrant' s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant' s internal control over financial reporting; and

5. The registrant' s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant' s auditors and the audit committee of the registrant' s board of directors (or persons performing the equivalent functions):

   (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant' s ability to record, process, summarize and report financial information; and

   (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant' s internal control over financial reporting.

Date: May 8, 2006

/s/ David W.J. McGirr

David W.J. McGirr

Senior Vice President and Chief Financial Officer

Exhibit 32.1

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF
THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Cubist Pharmaceuticals (the "Company") on Form 10-Q for the period ending March 31, 2006 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael W. Bonney, President and Chief Executive Officer of Cubist, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that: (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Cubist.

May 8, 2006

/s/ Michael W. Bonney
Michael W. Bonney
President and Chief Executive Officer

Exhibit 32.2

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF
THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Cubist Pharmaceuticals (the "Company") on Form 10-Q for the period ending March 31, 2006 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, David W.J. McGirr, Chief Financial Officer, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that: (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Cubist.

May 8, 2006

/s/ David W.J. McGirr
David W.J. McGirr
Senior Vice President and
Chief Financial Officer

CUBIST PHARMACEUTICALS, INC.

AMENDED AND RESTATED CORPORATE GOVERNANCE GUIDELINES

Effective December 13, 2005

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The business of Cubist Pharmaceuticals, Inc. (the "Company") is managed under the direction of its Board of Directors (the "Board"), which is elected by the Company' s stockholders. The basic responsibility of the Board is to exercise its business judgment to act in what it believes to be the best interests of the Company and its stockholders. The Board believes that sound governance practices and policies provide an important framework to assist it in fulfilling its duty to stockholders. The Board will rely on the following guidelines to provide that framework. These guidelines are not absolute rules; they can be modified to reflect changes in the Company' s organization or business environment. They should be interpreted in the context of applicable law, the Company' s Charter and By-laws, and other governance documents such as committee charters.

1. Role of the Board and Management

In addition to its general oversight of management and other obligations imposed by the Company' s Certificate of Incorporation and By-laws and the Delaware General Corporation Law, the Board, and acting itself or through one or more of its committees, performs a number of specific functions, including: (i) selecting, evaluating, compensating and, where necessary, replacing the CEO; (ii) in consultation with the CEO, selecting the executive officers and overseeing executive officer succession planning; (iii) approving corporate strategy, annual goals and operating budgets, mergers and acquisitions, and significant financings; (iv) acting as an advisor and counselor to senior management and monitoring its performance; (v) providing general oversight of the business; (vi) evaluating and establishing Board processes, performance and compensation; and (vii) monitoring legal and ethical conduct.

Management executes the approved plans and budgets and is responsible for the day-to-day management of the Company.

Both the Board and Management recognize that the long-term interests of the stockholders are advanced by responsibly addressing the concerns of the other stakeholders and interested parties.

2. Selection of Chairman, CEO, and Lead Director

The Board has the sole responsibility to select its Chairman and the CEO. The Board shall also consider, upon recommendation from the Corporate Governance Committee, appointing a Lead Director if appropriate. The Chairman shall have the responsibility for managing the Board. The CEO shall have the responsibility for managing the Company. The Lead Director, if any, shall have the responsibility for leading meetings of the independent directors if the Chairman is not an independent

director and shall serve as a liaison between independent directors and the CEO if the Chairman is not independent. The CEO may or may not be a member of the Board as determined by the Board.

3. Director Qualification Standards

Directors should possess the highest personal and professional ethics, and be committed to representing the long-term interests of the stockholders. Directors must be willing to devote sufficient time to carrying out their duties and responsibilities effectively, and should be committed to serve on the Board for an extended period of time.

4. Director Selection Process

The Board is responsible for selecting new members to join the Board and will either elect a new member to fill a vacant seat or recommend a new member to the shareholders for election at an Annual Meeting of Stockholders. The Board delegates the screening process involved in such selection to the Corporate Governance and Nominating Committee with direct input from the Chairman, the CEO, the Lead Director, if any, and such other executive officers as the Corporate Governance and Nominating Committee deems appropriate. Stockholders may propose nominees for consideration by the Corporate Governance and Nominating Committee by submitting names and supporting information to the Secretary of the Company in accordance with the deadlines and procedures set forth in the Proxy Statements for Annual Meetings of the Stockholders.

5. Board Committees

It is the general policy of the Company that all major decisions be considered by the Board as a whole but that certain decisions are specifically delegated to committees as set forth in the committee charters, which charters are approved by the Board. Except as otherwise required by applicable laws, regulations or listing standards, the Board supports a committee structure in which the committees study and consider issues, and in some cases, bring a recommendation to the full Board. The Board currently has established the following committees to assist the board in discharging its responsibilities:

a. Audit Committee;

b. Compensation Committee; and

c. Corporate Governance and Nominating Committee.

From time to time, *ad hoc* committees may be established for special assignments.

The current committee charters are published on the Company website. The committee chairmen report the highlights of their meetings to the full Board in the regularly scheduled Board meetings. The Corporate Governance and Nominating Committee recommends the membership and chairmen of the committees to the Board for approval. The Audit Committee, Compensation Committee, and Corporate Governance and Nominating Committee are made up entirely of Independent directors. The membership of the committees may be rotated among Board members from time to time as set forth below.

6. Assignment and Rotation of Committee Members

The Corporate Governance and Nominating Committee is responsible, with consideration of the recommendations of the Chairman, the CEO, and individual Board members, for recommending Board members to individual committees. In making such recommendation, the Corporate Governance and Nominating Committee will take into consideration individual skill sets and preferences as well as any requirements of committee charters.

Consideration will be given to rotating committee members each year. To the extent practical, the Corporate Governance and Nominating Committee will consider rotating one person on and one person off each committee each year, but rotation is not necessarily required each year. In addition, to the extent practical, the Corporate Governance and Nominating Committee will endeavor to rotate committee chairmen every three to five years, with the expectation that a new chairman will have served on the committee before becoming chairman of said committee.

7. Committee Meeting Agenda

The Chairman of each committee, in consultation with the appropriate members of Management, will develop the committee' s agenda. As a general rule, the agenda and supporting materials will be distributed prior to committee meetings.

8. Board Meeting Agenda

The Chairman (or Lead Director if there is no Chairman), in consultation with the CEO (or Lead Director if the Chairman is the CEO), establishes the agenda for each Board meeting. The Secretary shall solicit agenda topics for committee reports from each of the Committee Chairmen. Individual Directors may add topics to the agenda by contacting the Chairman or Lead Director. In addition, the Chairman or Lead Director may solicit topics from individual Directors.

9. Board Materials Distributed in Advance

Information and data that is important to the Board' s understanding of the business is distributed in writing to the Board before the Board meets. Management will

see that this material is as concise as possible while still providing the desired information.

As a general rule, presentations on specific subjects will be sent to the Board members in advance so that the Board meeting time may be conserved, and discussion time focused on questions that the Board has about the material.

10. Regular Attendance of Non-Directors at Board Meetings

The Board is comfortable with regular attendance at each Board meeting of non-board members who are invited by the Chairman, except during Executive Sessions of the Board.

11. Executive Sessions of the Board

The Board shall regularly conduct Executive Sessions of the independent Directors.

12. Board Access to Senior Management

Board members have complete access to Management.

The Board encourages Management to, from time to time, bring executives and managers into Board meetings who (a) can provide additional insight to the items being discussed because of personal involvement in these areas, and/or (b) represent managers with executive potential that the Management believes should be given exposure to the Board.

13. Director Compensation

Directors who are also our employees do not receive additional compensation for serving on the Board. The Compensation Committee has the responsibility for recommending to the Board compensation and benefits for non-employee directors. In discharging this duty, the Compensation Committee shall be guided by three goals; compensation should fairly pay directors for work required in a company of the Company' s operational size and scope; compensation should align directors' interests with the long-term interests of stockholders; and the structure of the compensation should be adequate to enable the Company to attract and retain well-qualified directors. The CEO should report annually to the Compensation Committee the status of Board compensation in relation to other like companies. Changes in Board compensation, if any, should come at the recommendation of the Compensation Committee, but with discussion and approval of the full Board.

14. Size of the Board

The Board should consider the appropriate size of the Board and fix the number of Directors pursuant to a resolution adopted by a majority of the Board. The Board believes that, given the current operations of the Company, the needs of the various committees of the Board, and the need for a diversity of views, the size of the Board should be in the range of 7 to 11 directors.

15. Attendance of Board Meetings

The Board holds at least four scheduled meetings each year, at which it reviews and discusses reports by management on the performance of the Company, its plans and prospects, as well as immediate and long-term strategic issues facing the Company. Directors are

expected to attend all scheduled board and applicable committee meetings, as well as the Company' s Annual Meeting of Stockholders. The Board' s committees also have regularly scheduled meetings throughout the year. The Board and its committees hold additional meetings on an as needed basis, and Directors are expected to attend these meetings whenever possible.

The Board believes that Directors, to the extent possible, should: (a) attend all Board meetings and all applicable committee meetings, in person or by phone, and in no event should a Director attend less than 75% of Board meetings or applicable Committee meetings and (b) participate in the entire meeting. If a Director attends a Board Meeting or committee meeting via telephone, such Director shall use a land line (*i.e.*, not a cell phone) unless this requirement is waived by the Chairman of the Board, Lead Director, or Chairman of the committee, as the case may be.

16. Independent Directors

No less than a two-thirds majority of Directors on the Board will be Independent Directors. (See Item 18 for Definition of Independence)

17. Definition of Independence

An independent Director is one who is independent of Management and free from any relationship that, in the opinion of the Corporate Governance and Nominating Committee, would interfere with the exercise of independent judgment as a Director and who meets the definition of independence set forth in applicable SEC and Nasdaq regulations.

18. Former CEO' s Board Membership

It is assumed that when a CEO resigns from that position, he should offer his resignation from the Board at the same time. Whether or not the individual continues to serve on the Board is a matter for discussion with the new CEO and the Board.

A former CEO or any other former officer serving on the Board will not be considered independent until the expiration of any applicable "cooling off period" and he/she meets the definition of independence set forth in applicable SEC and Nasdaq regulations.

19. Board Membership Criteria

The Corporate Governance and Nominating Committee is responsible for reviewing with the Board, on an annual basis, the appropriate skills and characteristics required of Board members in the context of the current make-up of the Board.

20. Assessing the Board' s Performance

The Board and each of the committees will perform an annual self-evaluation. Directors will be requested to provide their assessments of the effectiveness of the Board and the committees on which they serve. The assessments will be presented to, and discussed by, the full Board.

The Corporate Governance and Nominating Committee is responsible to solicit feedback on the Board' s performance and report to the Board, on an annual basis, an assessment of the Board' s performance. This report will be discussed by the full Board. This assessment is of the Board' s contribution as a whole and specifically reviews areas in which the Board and/or Management believes a better contribution could be made. Its purpose is to increase the effectiveness of the Board, not to review individual Board members.

In addition, the Corporate Governance and Nominating Committee will review the performance of each individual Board member prior to proposing him or her for re-election.

Each committee, on an annual basis, will evaluate its performance, consider its goals for the coming year, and report thereon to the full Board.

21. Directors Who Change Their Present Job Responsibility

It is the sense of the Board that an individual Director who changes his/her full-time, responsibility should volunteer to resign from the Board. It is not the sense of the Board, however, that a Director who retires or changes his/her full-time responsibility should necessarily leave the Board. Therefore, there should be an opportunity for the full Board, after preliminary review by the Corporate Governance and Nominating Committee, to review the continued appropriateness of Board membership under these circumstances.

22. Term Limits

Directors currently serve for three (3) year terms. While term limits could help ensure that there are fresh ideas and viewpoints available to the Board, they hold the disadvantage of losing the contribution of Directors who have been able to develop, over a period of time, increasing insight into the Company and its operations and, therefore, provide an increasing contribution to the Board as a whole. Therefore, Directors shall be expected to serve for no more than three (3) full terms unless, upon recommendation of the Corporate Governance and Nominating Committee, the Board shall approve additional terms.

Generally speaking, Directors who leave the Board after serving three complete terms shall be considered to have retired from the Board and Directors, and Directors who leave the Board prior to that shall be considered to have resigned from the Board. Notwithstanding the foregoing, the Board may consider all facts and circumstances in determining whether to designate a departure as a resignation.

23. Retirement Age

It is the sense of the Board that Directors will volunteer to resign from the Board at the end of the term during which they reach the age of 72. While a retirement age could help ensure that there are fresh ideas and viewpoints available to the Board, it holds the disadvantage of losing the contribution of Directors who have been able to develop, over a period of time, increasing insight into the Company and its operations and, therefore, provide an increasing contribution to the Board as a whole. Therefore, Directors shall be expected to resign from the Board at the end of the term during which they reach the age of 72 unless, upon recommendation of the Corporate Governance and Nominating Committee, the Board shall approve additional terms.

24. Formal Evaluation of the CEO

The Compensation Committee will present to the Board annually after the close of the fiscal year an evaluation of the CEO. After agreement of the evaluation by the Independent Directors, the evaluation will be communicated to the CEO by the Chairman of the Compensation Committee. The evaluation will be based on objective criteria, communicated to the CEO at the beginning of each fiscal year, including performance of the business, accomplishment of near and long term objectives, development of Management, *etc*. The evaluation will be used by the Compensation Committee when considering the compensation of the CEO.

25. Evaluation of Executive Officers

The CEO will present to the Compensation Committee annually after the close of the fiscal year an evaluation of the performance of the Company' s executive officers, including the extent to which these officers have achieved their goals. After agreement of the evaluations by the Compensation Committee, the evaluations will be

communicated to the executive officers by the CEO. The Chairman of the Compensation Committee will present a summary of the evaluations to the full Board.

26. Succession Planning

There will be available, on a continuing basis, the CEO' s recommendation as to his or her successor should he or she be unexpectedly disabled.

There will be an annual report by the CEO to the Board on succession planning.

27. Management Development

In addition to the succession planning annual report, the CEO will at the same time report on Management development to the Board.

28. Board Interaction with Stockholders, the Press, Customers, *etc.*.

Management speaks for the Company. Directors do not speak for the Company. Stockholders and other interested persons may communicate with Directors by writing to them c/o the Secretary of the Company. The Secretary will receive the correspondence and forward it to the Director or Directors to whom it is addressed.

29. Share Ownership of Directors

The Board expects that Directors will be stockholders and have a meaningful financial stake in the Company. It is anticipated that each Director will develop such a meaningful ownership position in the Company over time, depending upon individual circumstances. All Directors will comply with any Company equity ownership guidelines.

30. Conflicts of Interest

A Director' s business or family relationships may occasionally give rise to that Director' s material personal interest on a particular issue. Each Director is responsible for disclosing situations that he or she reasonably believes give rise to a potential conflicts of interest to the Corporate Governance and Nominating Committee. In addition, the Corporate Governance and Nominating Committee shall ask Directors about potential conflicts of interest at least once per year. The Board, upon recommendation of the Corporate Governance and Nominating Committee and after consultation with the Company' s outside counsel, determines on a case-by-case basis whether such a conflict of interest exists. The Board takes appropriate steps to identify such potential conflicts and to ensure that all Directors voting on an issue are disinterested with respect to that issue.

31. Related Party Transactions

The Company generally disfavors related party transactions. The Company shall not enter into any transaction with any Director without the prior approval of the Board.

32. Director Orientation and Continuing Education

The Board encourages Directors to participate in continuing education programs, including, but not limited to, those recommended by the Corporate Governance and Nominating Committee.

The Corporate Governance and Nominating Committee oversees the Corporation' s Director Orientation and Director Continuing Education programs, which are set forth below:

(a) The Secretary of the Company shall be responsible for providing an orientation for new Directors, and periodically providing materials or briefing sessions for all Directors on subjects that would assist them in discharging their duties.

(b) Each Director shall, within six months of election to the Board, receive a personal briefing from Senior Management at the Company offices on the Company' s strategic plans, financial statements, and key policies and practices.

(c) Directors are encouraged to attend director continuing education institutes and programs offered by certain national associations, universities, and other third parties, and the Company has established an annual allowance to pay reasonable expenses and fees occurred for attendance at these programs. The Secretary of the company will keep a record of Director Continuing Education.

33. Donations

Except for any contributions made pursuant to a company matching program that is generally available to all employees, the Company shall not make any donation to any charity with which any Director or Officer is affiliated without the prior approval of the Board.

The Corporate Governance and Nominating Committee shall approve all Company donations that are not related to medical education and that are in excess of either: (a) $10,000 per gift or (b) $25,000 per calendar quarter.

34. Membership on other Boards

From time to time, Directors, Officers, or other employees may wish to serve on the boards of other public, private, or non-profit organizations. Such service is often in the best interests of both the Company and the individual, but the Company has a legitimate interest in protecting against conflicts of interest and limiting demands on a

Director' s, Officer' s, or employee' s time. Therefore, the following procedures shall apply:

1) if a director intends to join a board, he or she shall so notify the Corporate Governance Committee, carbon copying the Company Secretary. Directors are expected to limit membership on boards of other public companies to the extent necessary to prevent interference with fulfilling responsibilities and duties to the Company.

2) if a Section 16 Officer wishes to join a board, he or she shall not do so without prior approval of the Board.

3) if an employee who is not a Section 16 Officer wishes to join a board, he or she shall not do so without prior approval of the CEO.

4) if a current chairman of the Audit Committee of the Company wishes to serve as chairman of more than two additional Audit Committees of other public companies, he or she shall not do so without prior approval of the Board.

35. Board Access to Independent Advisors

The Board shall have the authority to obtain advice and assistance from internal or external legal, financial , accounting or other advisors.

36. Code of Conduct and Ethics

All of the Company' s employees, Officers, and Directors are required to abide by the Company' s Code of Conduct and Ethics. The Board expects Directors, Officers, and employees, to act ethically at all times and to adhere to this Code. The Sarbanes-Oxley Act of 2002 also requires companies to have procedures to receive, retain, and treat employee complaints regarding accounting, internal accounting

controls or auditing matters and to allow for the confidential and anonymous submission by employees of concerns regarding questionable accounting or auditing matters. We have such procedures in place, and the Company' s hotlines are set forth in the Code.