

ZIOPHARM ONCOLOGY INC
Form 10-Q
November 10, 2009

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2009

OR

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

Commission File Number 001-33484

ZIOPHARM Oncology, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

84-1475642
(I.R.S. Employer
Identification No.)

1180 Avenue of the Americas, 19th Floor, New York, NY 10036
(646) 214-0700

(Address, including zip code, and telephone number, including
area code, of registrant's principal executive offices)

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

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

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company)

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

Edgar Filing: ZIOPHARM ONCOLOGY INC - Form 10-Q

The number of shares of the registrant's Common Stock, \$.001 par value, outstanding as of November 9, 2009, was 25,571,301 shares.

ZIOPHARM Oncology, Inc. (a development stage company)

Table of Contents

	Page
Part I - Financial Information	
Item 1.	Financial Statements
	Balance Sheets as of September 30, 2009 and December 31, 2008 (unaudited) 3
	Statements of Operations for the three and nine months ended September 30, 2009 and 2008 and the period from September 9, 2003 (date of inception) through September 30, 2009 (unaudited) 4
	Statements of Changes in Convertible Preferred Stock and Stockholders' Equity (Deficit) for the period from September 9, 2003 (date of inception) through September 30, 2009 (unaudited) 5
	Statements of Cash Flows for the nine months ended September 30, 2009 and 2008 and the period from September 9, 2003 (date of inception) through September 30, 2009 (unaudited) 9
	Notes to Financial Statements (unaudited) 10
Item 2.	Management's Discussion and Analysis of Financial Condition and Results of Operations 21
Item 3.	Quantitative and Qualitative Disclosures about Market Risk 29
Item 4.	Controls and Procedures 29
Part II - Other Information	
Item 1.	Legal Proceedings 30
Item 1A.	Risk Factors 30
Item 2.	Unregistered Sale of Equity Securities and Use of Proceeds 42
Item 3.	Defaults upon Senior Securities 42
Item 4.	Submission of Matters to a Vote of Security Holders 43
Item 5.	Other Information 43

Item 6.	Exhibits	43
SIGNATURES		44

Part I - Financial Information

Item 1. Consolidated Financial Statements

ZIOPHARM Oncology, Inc. (a development stage company)

BALANCE SHEETS
(unaudited)

(in thousands, except share and per share data)

	September 30, 2009	December 31, 2008
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 7,080	\$ 11,379
Prepaid expenses and other current assets	370	327
Total current assets	7,450	11,706
Property and equipment, net	324	489
Deposits	87	87
Other non current assets	242	291
Total assets	\$ 8,103	\$ 12,573
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 1,559	\$ 2,639
Accrued expenses	1,909	3,137
Deferred rent - current portion	46	-
Total current liabilities	3,514	5,776
Deferred rent	74	58
Warrant liabilities	592	-
Total liabilities	4,180	5,834
Commitments and contingencies (note 4)		
Stockholders' equity:		
Common stock, \$0.001 par value; 280,000,000 shares authorized; 25,571,301 and 21,860,464 shares issued and outstanding at September 30, 2009 and December 31, 2008, respectively	26	22
Preferred stock, \$0.001 par value; 30,000,000 shares authorized and no shares issued and outstanding	-	-
Additional paid-in capital - common stock	72,932	71,274
Additional paid in capital - warrants issued	23,073	20,504
Deficit accumulated during the development stage	(92,108)	(85,061)

Total stockholders' equity		3,923		6,739
Total liabilities and stockholders' equity	\$	8,103	\$	12,573

The accompanying notes are an integral part of the unaudited interim financial statements.

ZIOPHARM Oncology, Inc. (a development stage company)

STATEMENTS OF OPERATIONS
(unaudited)

(in thousands, except share and per share data)

	For the Three Months Ended September 30, 2009		For the Three Months Ended September 30, 2008		For the Nine Months Ended September 30, through September 30, 2009		For the Nine Months Ended September 30, through September 30, 2008		Period from September 9, 2003 (date of inception)
	2009	2008	2009	2008	2009	2008	2009	2008	September 30, 2009
Research contract revenue	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating expenses:									
Research and development, including costs of research contracts	1,231	3,879	3,340	14,219	57,690				
General and administrative	1,339	1,740	4,754	6,835	39,362				
Total operating expenses	2,570	5,619	8,094	21,054	97,052				
Loss from operations	(2,570)	(5,619)	(8,094)	(21,054)	(97,052)				
Other income (expense), net	(1)	75	1	386	3,898				
Change in fair value of warrants	(304)	-	(520)	-	1,046				
Net loss	\$ (2,875)	\$ (5,544)	\$ (8,613)	\$ (20,668)	\$ (92,108)				
Basic and diluted net loss per share	\$ (0.13)	\$ (0.26)	\$ (0.40)	\$ (0.97)					
Weighted average common shares outstanding used to compute basic and diluted net loss per share	21,759,309	21,228,964	21,458,150	21,228,964					

The accompanying notes are an integral part of the unaudited interim financial statements.

ZIOPHARM Oncology, Inc. (a development stage company)

STATEMENTS OF CHANGES IN CONVERTIBLE PREFERRED STOCK
AND STOCKHOLDERS' EQUITY (DEFICIT)For the Period September 9, 2003 (Date of Inception) to September 30, 2009
(unaudited)

(in thousands, except share and per share data)

	Convertible Preferred Stock and Warrants		Stockholder's Equity (Deficit)						
	Warrants to Purchase Series A							Deficit	Total
	Series A	Convertible	Common Stock	Stock	Paid-in	Warrants	Development	Equity/ (Deficit)	
	Convertible Preferred Stock Shares	Preferred Stock Warrants	Shares	Amount	Capital		Stage	Stockholders'	
	Amount								
Stockholders' contribution, September 9, 2003	-	\$ -	\$ -	250,487	\$ -	\$ 500	\$ -	\$ -	\$ 500
Net loss	-	-	-	-	-	-	-	(160)	(160)
Balance at December 31, 2003	-	-	-	250,487	-	500	-	(160)	340
Issuance of common stock	-	-	-	2,254,389	2	4,498	-	-	4,500
Issuance of common stock for services	-	-	-	256,749	1	438	-	-	439
Fair value of options/warrants issued for nonemployee Services	-	-	-	-	-	13	251	-	264
Net loss	-	-	-	-	-	-	-	(5,687)	(5,687)
Balance at December 31, 2004	-	-	-	2,761,625	\$ 3	\$ 5,449	\$ 251	\$ (5,847)	\$ (144)

The accompanying notes are an integral part of the unaudited interim financial statements.

ZIOPHARM Oncology, Inc. (a development stage company)

STATEMENTS OF CHANGES IN CONVERTIBLE PREFERRED STOCK
AND STOCKHOLDERS' EQUITY (DEFICIT) (Cont.)For the Period September 9, 2003 (Date of Inception) to September 30, 2009
(unaudited)

(in thousands, except share and per share data)

	Convertible Preferred Stock and Warrants		Stockholder's Equity (Deficit)						
	Series A	Warrants to Purchase Series A Convertible	Preferred Stock Warrants	Common Stock Shares	Additional Paid-in Capital	Warrants	Deficit Accumulated During the Development Stage	Total Stockholders' Equity/ (Deficit)	
Issuance of Series A convertible preferred stock (net of expenses of \$1,340 and warrant cost of \$1,683)	4,197,946	15,077	-	-	-	-	-	-	15,077
Fair value of warrants to purchase Series A convertible preferred stock	-	-	1,683	-	-	-	-	-	1,683
Issuance of common stock to EasyWeb Stockholders	-	-	-	189,922	-	-	-	-	-
Conversion of Series A convertible preferred stock @ \$0.001 into \$0.001 common stock on September 13, 2005 at an exchange ratio of .500974	(4,197,946)	(15,077)	(1,683)	4,197,823	4	15,073	1,683	-	-
Issuance of common stock for options	-	-	-	98,622	-	4	-	-	4
Fair value of options/warrants issued for nonemployee services	-	-	-	-	-	54	45	-	99
Net loss	-	-	-	-	-	-	-	(9,517)	(9,517)
Balance at December 31, 2005	-	-	-	7,247,992	7	20,580	1,979	(15,364)	7,202

The accompanying notes are an integral part of the unaudited interim financial statements.

ZIOPHARM Oncology, Inc. (a development stage company)

STATEMENTS OF CHANGES IN CONVERTIBLE PREFERRED STOCK
AND STOCKHOLDERS' EQUITY (DEFICIT) (Cont.)For the Period September 9, 2003 (Date of Inception) to September 30, 2009
(unaudited)

(in thousands, except share and per share data)

	Convertible Preferred Stock and Warrants			Stockholder's Equity (Deficit)					Total Stockholders' Equity/ (Deficit)
	Series A	Convertible	Warrants to Purchase Series A	Common Shares	Stock Amount	Paid-in Capital	Warrants	Deficit Accumulated During the Development Stage	
	Convertible Preferred Stock Shares	Preferred Stock Amount	Warrants	Common Shares	Stock Amount	Paid-in Capital	Warrants	Development Stage	Equity/ (Deficit)
Issuance of common stock in private placement, net of expenses \$2,719	-	-	-	7,991,256	8	21,180	-	-	21,188
Issuance of warrants	-	-	-	-	-	-	13,092	-	13,092
Issuance of common stock for services rendered	-	-	-	25,000	-	106	-	-	106
Stock based compensation for employees	-	-	-	-	-	2,777	-	-	2,777
Issuance of common stock due to exercise of stock options	-	-	-	5,845	-	25	-	-	25
Issuance of common stock due to exercise of stock warrants	-	-	-	2,806	-	-	-	-	-
Net loss	-	-	-	-	-	-	-	(17,857)	(17,857)
Balance at December 31, 2006	-	-	-	15,272,899	15	44,668	15,071	(33,221)	26,533
Issuance of common stock in private placement, net of expenses \$1,909	-	-	-	5,910,049	6	23,532	-	-	23,538
Issuance of warrants	-	-	-	-	-	-	5,433	-	5,433
Stock-based compensation	-	-	-	-	-	-	-	-	-

Edgar Filing: ZIOPHARM ONCOLOGY INC - Form 10-Q

for employees	-	-	-	-	-	1,318	-	-	1,318
Stock-based compensation for non-employee	-	-	-	-	-	120	-	-	120
Issuance of common stock for stock options	-	-	-	46,016	-	36	-	-	36
Issuance of restricted stock	-	-	-	70,000	-	-	-	-	-
Net Loss	-	-	-	-	-	-	-	(26,608)	(26,608)
Balance at December 31, 2007	-	-	-	21,298,964	21	69,674	20,504	(59,829)	30,370

The accompanying notes are an integral part of the unaudited interim financial statements.

ZIOPHARM Oncology, Inc. (a development stage company)

STATEMENTS OF CHANGES IN CONVERTIBLE PREFERRED STOCK
AND STOCKHOLDERS' EQUITY (DEFICIT) (Cont.)For the Period September 9, 2003 (Date of Inception) to September 30, 2009
(unaudited)

(in thousands, except share and per share data)

	Convertible Preferred Stock and Warrants			Stockholder's Equity (Deficit)				Deficit Accumulated During the	Total Stockholders' Equity/ (Deficit)
	Series A	Convertible	Warrants to Purchase Series A	Common Shares	Stock Amount	Additional Paid-in Capital	Warrants		
	Convertible Preferred Stock Shares	Preferred Stock Amount	Warrants	Common Shares	Stock Amount	Paid-in Capital	Warrants	Development Stage	Equity/ (Deficit)
Stock-based compensation	-	-	-	-	-	1,600	-	-	1,600
Issuance of restricted stock	-	-	-	586,500	1	(1)	-	-	-
Cancellation of restricted stock	-	-	-	(25,000)	-	-	-	-	-
Other	-	-	-	-	-	1	-	(1)	-
Net loss	-	-	-	-	-	-	-	(25,231)	(25,231)
Balance at December 31, 2008	-	-	-	21,860,464	22	71,274	20,504	(85,061)	6,739
Cummulative effect of a change in accounting principle - January 1, 2009 reclassification of warrants to warrant liabilities	-	-	-	-	-	-	(1,638)	1,566	(72)
Stock-based compensation	-	-	-	-	-	1,264	-	-	1,264
Forfeiture of unvested restricted stock	-	-	-	(69,500)	-	-	-	-	-
Issuance of common stock in private placement, net of expenses \$455	-	-	-	2,772,337	3	395	4,207	-	4,605
	-	-	-	1,008,000	1	(1)	-	-	-

Edgar Filing: ZIOPHARM ONCOLOGY INC - Form 10-Q

Issuance of
restricted stock

Net loss	-	-	-	-	-	-	-	-	(8,613)	(8,613)
----------	---	---	---	---	---	---	---	---	---------	---------

Balance at

September 30, 2009	-	\$ -	\$ -	-	25,571,301	\$ 26	\$ 72,932	\$ 23,073	\$ (92,108)	\$ 3,923
--------------------	---	------	------	---	------------	-------	-----------	-----------	-------------	----------

The accompanying notes are an integral part of the unaudited interim financial statements.

8

ZIOPHARM Oncology, Inc. (a development stage company)

STATEMENTS OF CASH FLOWS
(unaudited)

(in thousands)

	For the Nine Months Ended September 30,		Period from September 9, 2003 (date of inception) through September 30, 2009
	2009	2008	
Cash flows from operating activities:			
Net loss	\$ (8,613)	\$ (20,668)	\$ (92,108)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	252	279	1,382
Stock-based compensation	1,264	1,352	7,987
Change in fair value of warrants	520	-	(1,046)
Loss on disposal of fixed assets	-	-	9
Change in operating assets and liabilities:			
(Increase) decrease in:			
Prepaid expenses and other current assets	(43)	(78)	(370)
Other noncurrent assets	49	(4)	(242)
Deposits	-	-	(87)
Increase (decrease) in:			
Accounts payable	(1,080)	(682)	1,559
Accrued expenses	(1,228)	76	1,909
Deferred rent	(22)	10	36
Net cash used in operating activities	(8,901)	(19,715)	(80,971)
Cash flows from investing activities:			
Purchases of property and equipment	(3)	(123)	(1,632)
Proceeds from sale of property and equipment	-	1	1
Net cash used in investing activities	(3)	(122)	(1,631)
Cash flows from financing activities:			
Stockholders' capital contribution	-	-	500
Proceeds from exercise of stock options	-	-	66
Proceeds from issuance of common stock and warrants, net	4,605	-	72,356
Proceeds from issuance of preferred stock, net	-	-	16,760
Net cash provided by financing activities	4,605	-	89,682
Net increase (decrease) in cash and cash equivalents	(4,299)		