

Revance Therapeutics, Inc.  
Form S-1/A  
February 03, 2014  
Table of Contents

As filed with the Securities and Exchange Commission on February 3, 2014

Registration No. 333-193154

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

**Amendment No. 2**  
**to**  
**Form S-1**  
**REGISTRATION STATEMENT**  
*UNDER*  
*THE SECURITIES ACT OF 1933*

**Revance Therapeutics, Inc.**

(Exact name of registrant as specified in its charter)

Edgar Filing: Revance Therapeutics, Inc. - Form S-1/A

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**2834**  
(Primary Standard Industrial  
Classification Code Number)  
7555 Gateway Boulevard

**77-0551645**  
(I.R.S. Employer  
Identification Number)

Newark, California 94560

(510) 742-3400

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

**L. Daniel Browne**

**President and Chief Executive Officer**

**Revance Therapeutics, Inc.**

**7555 Gateway Boulevard**

**Newark, California 94560**

**(510) 742-3400**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

*Copies to:*

<b>Mark B. Weeks</b>	<b>L. Daniel Browne</b>	<b>Bruce K. Dallas</b>
<b>Gordon K. Ho</b>	<b>President and Chief Executive Officer</b>	<b>Davis Polk &amp; Wardwell LLP</b>
<b>Cooley LLP</b>	<b>Revance Therapeutics, Inc.</b>	<b>1600 El Camino Real</b>
<b>3175 Hanover Street</b>	<b>7555 Gateway Boulevard</b>	<b>Menlo Park, California 94025</b>
<b>Palo Alto, California 94304</b>	<b>Newark, California 94560</b>	<b>(650) 752-2000</b>
<b>(650) 843-5000</b>	<b>(510) 742-3400</b>	

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

## Edgar Filing: Revance Therapeutics, Inc. - Form S-1/A

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a 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  (Do not check if a smaller reporting company) Smaller reporting company

Title of Each Class of Securities to be Registered	Number of Shares to be Registered(1)	Proposed Maximum Offering Price Per Share(2)	Proposed Maximum Aggregate Offering Price(2)	Amount of Registration Fee(3)
Common Stock, \$0.001 par value per share	5,750,000	\$16.00	\$92,000,000	\$11,849.60

(1) Includes an additional 750,000 shares that the underwriters have the option to purchase.

(2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(a) under the Securities Act of 1933, as amended.

(3) \$11,109 was previously paid.

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

**Table of Contents**

**The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting offers to buy these securities in any jurisdiction where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED FEBRUARY 3, 2014**

**PRELIMINARY PROSPECTUS**

**5,000,000 Shares**  
**Revance Therapeutics, Inc.**  
**Common Stock**

This is the initial public offering of our common stock. We are selling 5,000,000 shares of common stock in this offering. We currently expect the initial public offering price to be between \$14.00 and \$16.00 per share of common stock.

We have granted the underwriters an option to purchase up to 750,000 additional shares of common stock to cover over-allotments.

Our common stock has been approved for listing on The NASDAQ Global Market under the symbol RVNC.

**Investing in our common stock involves risk. See Risk Factors beginning on page 14.**

We are an emerging growth company under applicable Securities and Exchange Commission rules and will be eligible for reduced public company disclosure requirements.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

	<b>Per Share</b>	<b>Total</b>
Public Offering Price	\$	\$
Underwriting Discount <sup>(1)</sup>	\$	\$
Proceeds to Revance (before expenses)	\$	\$

(1) See Underwriting for additional disclosure regarding underwriting commissions and expenses.

Entities and individuals affiliated with certain of our current stockholders have indicated an interest in purchasing an aggregate of up to \$16.25 million of shares of common stock in this offering at the price offered to the public. However, because indications of interest are not binding agreements or commitments to purchase, the underwriters may determine to sell more, less or no shares in this offering to any of these entities or individuals, or any of these entities or individuals may determine to purchase more, less or no shares in this offering.

The underwriters expect to deliver the shares to purchasers on or about \_\_\_\_\_, 2014, through the book-entry facilities of The Depository Trust Company.

**Cowen and Company**

**BMO Capital Markets**

**Piper Jaffray**

The date of this prospectus is \_\_\_\_\_, 2014.

**Table of Contents****TABLE OF CONTENTS**

	<b>Page</b>
<u>Prospectus Summary</u>	1
<u>Risk Factors</u>	14
<u>Special Note Regarding Forward-Looking Statements</u>	42
<u>Use of Proceeds</u>	44
<u>Dividend Policy</u>	44
<u>Capitalization</u>	45
<u>Dilution</u>	48
<u>Selected Consolidated Financial Data</u>	50
<u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	53
<u>Business</u>	89
<u>Management</u>	121
<u>Executive Compensation</u>	129
<u>Certain Relationships and Related Party Transactions</u>	141
<u>Principal Stockholders</u>	145
<u>Description of Capital Stock</u>	149
<u>Shares Eligible for Future Sale</u>	155
<u>Material U.S. Federal Income and Estate Tax Consequences to Non-U.S. Holders</u>	158
<u>Underwriting</u>	161
<u>Legal Matters</u>	166
<u>Experts</u>	166
<u>Where You Can Find More Information</u>	166
<u>Index to Consolidated Financial Statements</u>	F-1

We have not, and the underwriters have not, authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses prepared by or on behalf of us or to which we have referred you. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus is an offer to sell only the shares offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus or in any applicable free writing prospectus is current only as of its date, regardless of its time of delivery or any sale of shares of our common stock. Our business, financial condition, results of operations and prospectus may have changed since that date.

Neither we nor the underwriters have done anything that would permit this offering, or possession or distribution of this prospectus, in any jurisdiction where action for that purpose is required, other than in the United States. Persons who come into possession of this prospectus and any applicable free writing prospectus in jurisdictions outside the United States are required to inform themselves about and to observe any restrictions as to this offering and the distribution of this prospectus and any such free writing prospectus applicable to that jurisdiction.

---

**Table of Contents**

**PROSPECTUS SUMMARY**

*This summary highlights selected information contained elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our common stock, you should carefully read this entire prospectus, including our consolidated financial statements and the related notes thereto and the information set forth under the sections "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations," in each case included in this prospectus. Unless the context otherwise requires, we use the terms "Revance," "company," "we," "us" and "our" in this prospectus to refer to Revance Therapeutics, Inc. and, where appropriate, our consolidated subsidiary.*

**Our Company**

We are a clinical stage specialty biopharmaceutical company focused on the development, manufacturing and commercialization of novel botulinum toxin products for multiple aesthetic and therapeutic applications. Botulinum toxin is a well-characterized protein currently used in numerous aesthetic and therapeutic indications and represents a multi-billion dollar market in the United States and other countries. All currently approved and commercially available botulinum toxin products are administered by injection. Our lead product candidate, RT001, is a topical formulation of botulinum toxin type A, which we believe has significant advantages over existing injectable products and could significantly expand the botulinum toxin market beyond existing users. Our second product candidate, RT002, is a novel injectable formulation of botulinum toxin type A designed to be more targeted and longer lasting than currently available botulinum toxin injectable products. Both of our product candidates combine our purified botulinum toxin with our proprietary TransMTS<sup>®</sup> peptide delivery system. We own the worldwide rights to both of our product candidates.

We are evaluating RT001 in a broad clinical program that includes aesthetic indications such as lateral canthal lines, the wrinkles around the eyes which are commonly referred to as crow's feet lines, and therapeutic indications such as hyperhidrosis, or excessive sweating, migraine headache and allergic rhinitis, or inflammation of the mucous membrane inside the nose. RT001 is currently in a Phase 3 clinical development program in the United States for the treatment of crow's feet lines and has the potential to be the first approved non-injectable botulinum toxin product. RT001's primary advantages include painless topical administration, ease of use and limited dependence on administration technique by physicians and medical staff. These advantages should improve the experience of patients undergoing botulinum toxin procedures and make RT001 more suitable for many more indications than currently approved injectable botulinum toxin products.

We are in a Phase 3 clinical development program of RT001 in North America for the treatment of crow's feet lines, and we plan to initiate an additional Phase 3 clinical trial in Europe by early 2015. We expect to receive primary efficacy data from a pivotal Phase 3 clinical trial of RT001 in mid-2014 and duration data in the second half of 2014. We plan to complete the Phase 3 program for the treatment of crow's feet lines and file for regulatory approvals in the United States and Europe in 2016. To date, we have conducted thirteen clinical trials for RT001, with a total of over 1,400 subjects, for the treatment of crow's feet lines.

We are also developing RT001 for therapeutic applications where botulinum toxin has shown efficacy and that are particularly well suited for needle-free treatments. We have successfully completed initial Phase 2 clinical trials for the treatment of primary axillary, or underarm, hyperhidrosis, and for the prevention of migraine headache. We expect to initiate additional clinical trials for the development of RT001 for these and other indications.

In addition to our topical product candidate, we are developing an injectable formulation of botulinum toxin type A, which we refer to as RT002, for indications where deeper delivery of the botulinum toxin is required and a longer lasting effect is desired. We believe RT002 can provide more targeted delivery of botulinum toxin to intended treatment sites while reducing the unwanted spread of botulinum toxin to adjacent areas.

In October 2012, we terminated a license agreement with Medicis Pharmaceutical Corporation, or Medicis, and reacquired from Medicis rights in all territories for RT001 and RT002 as part of a settlement and termination agreement with Medicis. The agreement requires that we make payments to Medicis from a portion of specified

## **Table of Contents**

types of cash proceeds received by us, including from this offering. Upon the closing of this offering, we will make a payment of approximately \$7 million to Medicis under this agreement. This payment will satisfy our remaining payment obligations under the agreement, other than an additional \$4.0 million due upon receipt of specified marketing approvals for RT001 or RT002.

### **Our Product Candidates**

We plan to develop RT001 and RT002 for multiple aesthetic and therapeutic applications. The table below summarizes the phases of development for the indications we are currently pursuing for our two product candidates:

#### ***RT001 Our Topical Formulation of Botulinum Toxin***

RT001, our lead product candidate, is a topical gel formulation of botulinum toxin type A in a proprietary single-use administration apparatus. RT001 is applied to the skin and uses our proprietary TransMTS<sup>®</sup> peptide technology to enable delivery of botulinum toxin across the skin, eliminating the need for injections. Our initial focus is to develop and commercialize RT001 for indications where topical application provides a meaningful advantage over injectable administration. In our Phase 2 clinical trials, RT001 has demonstrated a statistically significant and clinically meaningful reduction in crow's feet lines that is visible to both physicians and patients. These and other studies have also indicated that RT001 is well tolerated with no serious adverse events related to study drug or study treatment procedures or other safety concerns.

#### ***The Opportunity for Botulinum Toxins for Aesthetic Indications***

Today's culture places significant value on physical appearance, leading to widespread adoption of anti-aging and aesthetic treatments. The aesthetic market has grown dramatically in the United States where consumers spent almost \$11.0 billion in 2012 on over 10.1 million physician-administered surgical and non-surgical aesthetic procedures, according to American Society for Aesthetic Plastic Surgery annual statistics. A strong consumer preference for non-surgical options and the increasing availability of effective alternatives has prompted adoption of non-surgical aesthetic procedures by a broader patient population. These trends have made non-surgical procedures the primary driver of growth in the aesthetic medicine market, accounting for 83% of the total number of procedures performed in 2012.

Injectable botulinum toxin treatments are the single largest cosmetic procedure in the United States and the rest of the world. According to GlobalData, in 2012 clinicians spent an estimated \$1.3 billion globally on injectable botulinum toxin for aesthetic procedures and such spending is expected to grow at a compounded annual growth rate of 14% from 2011 through 2018.



## Table of Contents

We believe the botulinum toxin market could expand further with the introduction of a topical formulation such as RT001. Based on our market research, a topical treatment would address key consumer barriers for injectable botulinum toxin products such as fear of frozen face, needle aversion and aversion to injecting a toxin in their bodies. We believe that a topical treatment could expand the use of botulinum toxin to a wider range of physicians and allow those physicians who currently perform botulinum toxin procedures to do so on a larger number of patients. Additionally, our research indicates that a topical treatment can improve the profitability of physicians' practices by increasing the number of procedures per patient.

### *Crow's Feet Lines - Our Lead Indication for RT001*

The first indication we are pursuing for RT001 is in the field of aesthetic dermatology. According to GlobalData, the largest use for botulinum toxins is in aesthetic dermatology, which is estimated to generate approximately \$1.4 billion in worldwide sales in 2013. If approved, we believe RT001 can expand the overall botulinum toxin aesthetic market by adding new patients who would prefer a needle-free approach to treatment. The aesthetic dermatology market is attractive because we believe that patients in this market tend to be open to trying new products and are willing to pay for aesthetic procedures out of pocket, reducing reliance on reimbursement. We are focused on this market not only because of its size and growth potential but also because, in the United States and Europe, this market can be easily accessed by a small specialty sales force and distributor network.

Crow's feet lines are skin wrinkles in the outer corner of the eye area, which are commonly caused by aging. Consumers in general, and women in particular, believe that the eye area is the first place where they notice the signs of aging. Consumers also believe that the perception of aging is affected by the quality of the skin. A large segment of the anti-aging topical cosmeceutical market is targeted towards improvement in skin texture and luminosity of the skin in the eye area. We believe that there is currently significant use of botulinum toxin for this indication given the desire of consumers to address the condition.

We believe that RT001 provides the following benefits to patients and physicians for treatment of crow's feet lines, as compared to traditional botulinum toxin treatments that are administered by injection:

The RT001 procedure is painless and has not shown any evidence of bruising, swelling or any of the other adverse events associated with injections. RT001 has been shown to be well tolerated with no significant safety concerns;

RT001 relaxes the crow's feet wrinkles appearance at rest, when the face is in a neutral expression, while still allowing a natural smile;

Consumers who indicated that they were averse to injecting toxin into their bodies found the concept of a topical treatment appealing;

RT001 is simple to use and results are not technique dependent. RT001 comes in a pre-filled applicator that contains the proper dose for the treatment of crow's feet lines; and

RT001 is very appealing to both key physicians and practice groups who perform the majority of cosmetic procedures in the United States and physicians who have less injectable botulinum toxin experience.

We have conducted thirteen clinical trials, with a total of over 1,400 subjects, for the treatment of crow's feet lines and are currently in Phase 3 clinical development in the United States. RT001 was shown to be safe, with statistically significant and clinically meaningful results in our Phase 2 clinical trials. In all concentrations of peptide and botulinum toxin studied, RT001 was well tolerated with no serious adverse events related to study drug or study treatment procedures or safety concerns.

We have completed three Phase 2b clinical trials of RT001 to evaluate a 25 ng/mL dose of botulinum toxin for the treatment of moderate to severe crow's feet lines. Two of these trials were double-blind, randomized, placebo-controlled clinical trials. RT001 met the primary efficacy and all secondary endpoints in both trials.



## Table of Contents

After completing these Phase 2b clinical trials, we modified the diluent formulation to improve stability. We then conducted a Phase 3 clinical trial of RT001, but saw no improvement from baseline in either the placebo or RT001 group using the new diluent formulation. Subsequently, we obtained stability data to confirm that the original Phase 2b formulation has adequate commercial stability. We have since returned to the original Phase 2b diluent formulation and have conducted a two-cohort Phase 2 double-blind, randomized, placebo-controlled clinical trial. The combined data for the first and second cohorts showed statistical significance in wrinkle severity from baseline comparable to that observed in our previous Phase 2b clinical trials. Additionally, we plan to initiate a long-term open label Phase 3 safety clinical trial in 2014.

Based on our discussions with the United States Food and Drug Administration, or the FDA, the European Medicines Agency and other regulatory authorities, we believe that three Phase 3 pivotal clinical trials and the Phase 3 open label safety clinical trial, if successful, will provide the efficacy data to support our regulatory filing for approval of crow's feet lines in the United States, Europe and other countries.

### *The Opportunity for Botulinum Toxins for Therapeutic Indications*

While currently approved botulinum toxin products may be better known for their aesthetic applications, according to the market research firm Global Industry Analysts, Inc. or GIA, the worldwide injectable botulinum toxin market has grown from \$1.1 billion in 2004 to over \$2.4 billion in 2012 and the fastest growing segment of that market in the United States and Europe is for therapeutic indications. This growth for therapeutic indications has been driven largely by the approval of injectable botulinum toxin products in new indications such as preventive treatment of migraine headache in 2010 and overactive bladder in 2011, in addition to other therapeutic indications including hyperhidrosis, movement disorders, such as cervical dystonia and upper limb spasticity, and uncontrolled blinking. This therapeutic usage has been enabled by botulinum toxin's ability to affect neuromuscular junctions, muscle activity or the release of neuropeptides, neurotransmitters and neuromediators in a controlled manner.

While botulinum toxin products have been very effective in the treatment of many conditions, there are limitations to the use of the currently approved products in their injectable form. For example, in the case of hyperhidrosis, injectable botulinum toxin products require up to 30 injections in the underarms, and the procedure is reimbursed to physicians at a low rate relative to the time required. As a result, the use of Botox®, the only injectable botulinum toxin product currently approved for hyperhidrosis, has been limited. In the case of chronic migraine headache, injectable botulinum toxin products require as many as 31 injections in different parts of the head and neck.

We believe this leads to a significant need for a painless, topically administered and highly effective botulinum toxin. We also believe that there is an opportunity to develop and seek approval for a botulinum toxin product in therapeutic indications, such as allergic rhinitis, where there are currently no approved botulinum toxin products.

### *Development of RT001 for Treatment of Hyperhidrosis*

According to published medical articles, hyperhidrosis affects an estimated eight million people in the United States, one million of whom have severe hyperhidrosis. Prevalence in the United States is slightly higher among men than women, but women are more likely to take action to have the condition treated. Only 38% of those affected by hyperhidrosis seek treatment. We also believe that the appeal of RT001 may go beyond sufferers of hyperhidrosis and appeal to the one-third of all U.S. adults who believe they have too much underarm sweat. According to a 2008 survey by the International Hyperhidrosis Society, 60% of all U.S. adults reported that they would be embarrassed or very embarrassed by visible underarm sweat stains, and 70% of those U.S. adults who believe they have too much underarm sweat took steps to hide their condition.

Injectable botulinum toxin is among the currently available treatments for hyperhidrosis. Allergan's Botox® was approved in 2004 for underarm hyperhidrosis and remains the only botulinum toxin approved for the treatment of hyperhidrosis. However, the treatment requires up to 30 injections in the underarms. Having a

## **Table of Contents**

topical solution could encourage more patients to seek treatment without having to suffer the pain of numerous injections. From the physicians standpoint, injections are very time-consuming and reimbursement for the procedure is relatively low. RT001 could significantly decrease the physician time and effort necessary for the procedure and potentially make the procedure more profitable for a physician's practice.

Data from our initial dose escalation hyperhidrosis Phase 2 clinical trial suggest the feasibility of treating primary underarm hyperhidrosis with RT001.

Based on data generated from current studies to date, we plan to initiate additional Phase 2 clinical trials for the treatment of hyperhidrosis with RT001. In these future trials, we plan to evaluate the efficacy of a higher dose compared to placebo and permit evaluation of the RT001 dose response to treatment of signs and symptoms of primary underarm hyperhidrosis. This data should help to establish whether this new botulinum toxin dose is adequate or whether further dose escalation in this clinical indication is needed prior to definitive safety and efficacy testing.

### *Development of RT001 for Prevention of Migraine Headache*

Migraine headache is a central nervous system disorder characterized by moderate-to-severe headache and often includes additional symptoms such as nausea and vomiting. The global market for treatment of migraine headache was estimated to be \$3.8 billion in 2009. Injected delivery of botulinum toxin has been validated as a therapeutically effective pharmaceutical agent for the preventive treatment of migraine headache. However, the treatment requires up to 31 injections in a patient's head and neck and may have significant side effects.

We have generated preliminary data that supports the feasibility of treating chronic migraine headache with topical application of RT001. In our initial Phase 2 clinical trial, RT001 was shown to be effective for the preventive treatment of chronic migraine headache, when applied topically to six areas on the head. This trial demonstrated statistically significant improvement of a composite endpoint.

For our next Phase 2 clinical trial, we plan to enroll and treat subjects with migraine headache using RT001 in a randomized double-blind placebo-controlled dose-ranging clinical trial design. This trial will provide new information on the treatment of subjects suffering migraine headache with RT001 and further characterize the dose-response relationship of RT001 in migraine headache to identify the optimal dose to be carried forward into later stage clinical trials.

### *RT001 for Treatment of Other Indications*

Based on the results of our preclinical studies and clinical trials, we will determine further development of other indications for RT001, such as neuropathic pain and rhinitis.

### ***RT002 Our Injectable Formulation of Botulinum Toxin***

We are developing RT002 as a new injectable botulinum toxin option that is designed to offer more targeted delivery of botulinum toxin to intended treatment sites while reducing the spread beyond the site of local injection. We believe this delivery permits safe administration of higher targeted doses of botulinum toxin and can result in longer lasting effect. These properties of RT002 have been demonstrated in preclinical studies and we are currently testing RT002 in a four-cohort, dose escalating, open label Phase 1/2 clinical trial outside of the United States for improvement of glabellar lines, the vertical lines between the eyebrows and above the nose. Initial data from this clinical trial indicated that RT002 is safe and efficacious at all four doses. Based upon the data analyzed, we plan to further develop RT002 for the treatment of glabellar lines by initiating a Phase 2 clinical trial in 2014. In addition, we plan to study RT002 in therapeutic indications already approved for botulinum toxin, such as movement disorders and overactive bladder. These indications require deeper delivery of the botulinum toxin, and are likely to be better served by injectable delivery of RT002.

## **Table of Contents**

### **Intellectual Property and Manufacturing**

As of January 21, 2014, we held approximately 86 issued patents and approximately 150 pending patent applications in several countries and we expect to continue to expand this patent portfolio.

We have the ability to manufacture our own botulinum toxin type A product to support our clinical trials and eventually our commercial products. We manufacture and perform testing for both bulk drug substance and finished dose forms of drug product to support our topical RT001 product candidate and our injectable RT002 product candidate. The additional components required for our topical RT001 dose form, the peptide, diluent and delivery apparatus, are all manufactured by third parties. We are licensed with the Centers for Disease Control and Prevention, or CDC, and with the California Department of Health Food and Drug Branch for use of botulinum toxin and to manufacture both the active pharmaceutical ingredient, or API, and the finished product in topical and injectable dose forms. We believe that having direct control over our manufacturing processes, from initial drug substance to finished product, will enable us to develop additional pharmaceutical product configurations effectively and with a competitive cost structure.

### **Our Strategy**

Our objective is to be a leading provider of botulinum toxin products across multiple aesthetic and therapeutic indications in both topical and injectable dose forms and to expand the market for botulinum toxin products. To achieve this objective, we plan to develop and commercialize two proprietary, patent-protected product candidates: RT001, our topical botulinum toxin, and RT002, our injectable botulinum toxin.

Key elements of our strategy are:

Complete development and seek regulatory approval for RT001;

Assess and prioritize future therapeutic indications for RT001;

Advance RT002 into clinical development;

Build our own sales and marketing capabilities to commercialize RT001 and RT002 in North America to support commercial launches starting in 2017, assuming successful and timely completion of our clinical trials and approval of our Biologic License Applications;

Expand the global market for botulinum toxin products;

Establish selective strategic partnerships to maximize the commercial potential of our product candidates and TransMTS<sup>®</sup> delivery technology platform; and

Maximize the value of our botulinum toxin cell line and manufacturing assets.

### **Risks That We Face**

Our business is subject to numerous risks and uncertainties, including those highlighted in the section entitled **Risk Factors** immediately following this prospectus summary. These risks include, among others, the following:

## Edgar Filing: Revance Therapeutics, Inc. - Form S-1/A

We are substantially dependent on the clinical and commercial success of our product candidates, primarily our lead product candidate RT001, which is in Phase 3 clinical development, and our second product candidate, RT002, which is expected to enter into Phase 2 clinical development;

We may be unable to obtain regulatory approval for RT001, RT002 or future product candidates under applicable regulatory requirements. The denial or delay of any such approval would delay commercialization and have a material adverse effect on our potential to generate revenue, our business and our results of operations;

We will require substantial additional financing to achieve our goals, and a failure to obtain this necessary capital when needed on acceptable terms, or at all, could force us to delay, limit, reduce or terminate our product development, other operations or commercialization efforts;

## **Table of Contents**

Even if our product candidates receive regulatory approval, they may fail to achieve the broad degree of physician adoption and use necessary for commercial success;

Our product candidates, if approved, will face significant competition and our failure to effectively compete may prevent us from achieving significant market penetration and expansion;

We currently make our clinical drug products exclusively in one manufacturing facility and plan to utilize this facility in the future to support commercial production if our product candidates are approved. If this or any future facility or our equipment were damaged or destroyed, or if we experience a significant disruption in our operations for any reason, our ability to continue to operate our business would be materially harmed;

We have a limited operating history and have incurred significant losses since our inception and we anticipate that we will continue to incur losses for the foreseeable future. We have only two product candidates in clinical trials and no commercial sales, which, together with our limited operating history, make it difficult to assess our future viability;

Even if RT001, RT002 or any future product candidates obtain regulatory approval, they may never achieve market acceptance or commercial success; and

If our efforts to protect our intellectual property related to RT001, RT002 or any future product candidates are not adequate, we may not be able to compete effectively in our market.

## **Our Corporate Information**

We were incorporated in Delaware in August 1999 under the name Essentia Biosystems, Inc. We commenced operations in June 2002 and, in April 2005, changed our name to Revance Therapeutics, Inc. Our principal executive offices are located at 7555 Gateway Boulevard, Newark, California 94560, and our telephone number is (510) 742-3400. Our website address is <http://www.revance.com>. The information contained in, or that can be accessed through, our website is not part of this prospectus.

We are an emerging growth company, as defined in the Jumpstart Our Business Startups Act of 2012. As an emerging growth company we are eligible for exemptions from various reporting requirements applicable to other public companies that are not emerging growth companies, including not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002 and reduced disclosure obligations regarding executive compensation. We will remain an emerging growth company until the earlier of (1) the last day of the fiscal year (a) following the fifth anniversary of the closing of this offering, (b) in which we have total annual gross revenue of at least \$1.0 billion or (c) in which we are deemed to be a large accelerated filer, which means the market value of our common stock that is held by non-affiliates exceeds \$700 million as of the prior June 30th, and (2) the date on which we have issued more than \$1.0 billion in non-convertible debt during the prior three-year period. We refer to the Jumpstart Our Business Startups Act of 2012 herein as the JOBS Act, and references herein to emerging growth company shall have the meaning associated with it in the JOBS Act.

Revance Therapeutics, the Revance logos and other trademarks or service marks of Revance appearing in this prospectus are the property of Revance. This prospectus contains additional trade names, trademarks and service marks of others, which are the property of their respective owners. We do not intend our use or display of other companies' trade names, trademarks or service marks to imply a relationship with, or endorsement or sponsorship of us by, these other companies.

**Table of Contents**

**THE OFFERING**

Common stock offered by us	5,000,000 shares
Common stock to be outstanding after this offering	16,879,893 shares
Over-allotment option	The underwriters have an option to purchase up to 750,000 additional shares of our common stock to cover over-allotments, if any.
Use of proceeds	We estimate the net proceeds from this offering will be approximately \$65.8 million (or \$76.2 million if the underwriters exercise their over-allotment option in full), assuming an initial public offering price of \$15.00 per share, which is the midpoint of the range listed on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.
We currently expect to use the net proceeds from the offering as follows:	

Approximately \$18 million to \$23 million to fund research and development expenses associated with our RT001 and RT002 manufacturing, quality and regulatory efforts.

Approximately \$10 million to \$15 million to complete one Phase 3 clinical pivotal trial in the United States, to continue a long term safety clinical trial and other associated programs relating to RT001 for the treatment of crow's feet lines, and to initiate our first Phase 2 clinical trial and associated programs relating to RT002 for the treatment of glabellar lines.

Approximately \$11 million to make payments through 2014 under our September 2011 term loan agreement with Hercules Technology Growth Capital, Inc.

Approximately \$7 million to make payments under our settlement agreement with Medicis Pharmaceutical Corporation (acquired by Valeant Pharmaceuticals International, Inc.).

We will use the balance of the proceeds, if any, for the development of RT001 for the treatment of hyperhidrosis and other indications, as well as for working capital and other general corporate purposes.

Pending their use as described above, we plan to invest the net proceeds in short-term, interest-bearing obligations, investment-grade instruments, certificates of deposit or guaranteed obligations of the U.S. government.



## Edgar Filing: Revance Therapeutics, Inc. - Form S-1/A

See Use of Proceeds for additional information.

Risk factors

See the section titled Risk Factors beginning on page 14 and the other information included in this prospectus for a discussion of factors you should carefully consider before deciding to invest in our common stock.

Proposed NASDAQ Global Market trading symbol RVNC

**Table of Contents**

The number of shares of our common stock to be outstanding after this offering is based on 11,879,893 shares of common stock outstanding as of September 30, 2013, excluding the following shares:

1,045,188 shares of our common stock issuable upon the exercise of options to purchase our common stock outstanding under our 2002 Equity Incentive Plan and 2012 Equity Incentive Plan at a weighted-average exercise price of \$7.37 per share (excluding an additional 233,876 shares issuable upon the exercise of options to purchase our common stock at the weighted-average exercise price of \$9.50 per share and 1,111 shares of common stock issued outside of our 2012 Equity Incentive Plan, all granted after September 2013);

172,141 shares of our common stock issuable upon the exercise of outstanding convertible preferred stock warrants at a weighted-average exercise price of \$20.19 per share;

24,690 shares of our common stock issuable upon the exercise of outstanding convertible preferred stock warrants that were issued to Essex Capital Corporation after September 30, 2013, and 47,736 shares of our common stock issuable upon the exercise of common stock warrants that we expect to issue to Essex Capital Corporation after the closing of this offering, assuming an initial public offering price of \$15.00, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, which we together refer to as the Essex warrants, and which are issuable pursuant to our loan and lease agreement with Essex Capital Corporation, which we refer to as the Essex Capital Facility;

373,100 shares of our common stock reserved for future issuance under our 2012 Equity Incentive Plan (including an additional 233,876 shares issuable upon the exercise of options to purchase our common stock granted after September 2013);

1,000,000 shares of our common stock (which will include the shares then reserved for future issuance under our 2012 Equity Incentive Plan at the time of the execution and delivery of the underwriting agreement for this offering) reserved for future issuance under our 2014 Equity Incentive Plan, plus annual increases thereunder, which will become effective prior to the closing of this offering as more fully described in Executive Compensation Employee Benefit Plans ; and

200,000 shares of our common stock reserved for future issuance under our 2014 Employee Stock Purchase Plan, plus annual increases thereunder, which will become effective prior to the closing of this offering as more fully described in Executive Compensation Employee Benefit Plans.

Unless otherwise indicated, all information in this prospectus reflects and assumes the following:

the conversion of all outstanding shares of our convertible preferred stock into an aggregate of 8,689,999 shares of our common stock, which will occur upon the closing of this offering;

the automatic exercise of our outstanding common stock warrants, assuming net exercise for 752,370 shares of our common stock immediately prior to the closing of this offering, assuming an initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus and assuming cash exercise for 30,769 additional shares of our common stock;

the automatic conversion of the \$23.65 million in aggregate principal amount of convertible promissory notes issued in the fourth quarter of 2013 and January 2014, or the 2013 notes, and accrued interest through October 7, 2014, into 1,747,033 shares of common stock immediately prior to the closing of this offering at a conversion price equal to the initial public offering price, assuming an initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this

prospectus;

**Table of Contents**

the automatic exercise of outstanding common stock warrants issued in connection with the 2013 notes, or the 2013 warrants, assuming net exercise for 432,363 shares of our common stock immediately prior to the closing of this offering, assuming an initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus;

a reverse stock split of 1-for-15 of our common stock and preferred stock effected on February 3, 2014;

no exercise by the underwriters of their over-allotment option to purchase up to 750,000 additional shares of our common stock from us in this offering; and

the filing and effectiveness of our amended and restated certificate of incorporation and the effectiveness of our amended and restated bylaws immediately prior to the closing of this offering.

Because the number of shares that will be issued upon conversion of the 2013 notes and the exercise of the 2013 warrants depends upon the actual initial public offering price per share in this offering, the actual number of shares issuable upon such conversion and exercise will likely differ from the number of shares set forth above. In this regard, a \$1.00 increase in the assumed initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would decrease the number of shares of our common stock issued on conversion of the 2013 notes and the exercise of the 2013 warrants (and therefore the number of shares to be outstanding after this offering) by 135,942 shares. A \$1.00 decrease in the assumed initial public offering price would increase the number of shares of our common stock issued on conversion of the 2013 notes and the exercise of the 2013 warrants (and therefore the number of shares to be outstanding after this offering) by 155,350 shares.

Entities and individuals affiliated with Essex Woodlands Health Ventures Fund VIII, L.P., or Essex VIII, NovaQuest Pharma Opportunities Fund III, L.P., or NovaQuest, and Biotechnology Development Fund IV, or Vivo Ventures, each of which is a current stockholder, have indicated an interest in purchasing an aggregate of up to \$16.25 million of shares of common stock in this offering, at the price offered to the public. However, because indications of interest are not binding agreements or commitments to purchase, the underwriters may determine to sell more, less or no shares in this offering to any of these entities or individuals, or any of these entities or individuals may determine to purchase more, less or no shares in this offering.

**Table of Contents**

**SUMMARY CONSOLIDATED FINANCIAL DATA**

The following tables summarize our financial data. We derived the summary consolidated statements of operations data for the years ended December 31, 2011 and 2012 from our audited consolidated financial statements included elsewhere in this prospectus. We derived the summary consolidated statements of operations data for the nine months ended September 30, 2012 and 2013 and the balance sheet data as of September 30, 2013 from our unaudited interim consolidated financial statements included elsewhere in this prospectus. The unaudited interim consolidated financial statements reflect, in the opinion of management, all adjustments, of a normal, recurring nature that are necessary for the fair presentation of the financial statements. Our historical results are not necessarily indicative of the results to be expected in the future and the results for the nine months ended September 30, 2013 are not necessarily indicative of results to be expected for the full year or any other period. You should read the following summary consolidated financial data in conjunction with the sections entitled "Selected Consolidated Financial Data" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements, related notes and other financial information included elsewhere in this prospectus.

Pro forma basic and diluted net loss per share has been calculated assuming the conversion of all outstanding shares of convertible preferred stock into common stock. See Note 16 to our consolidated financial statements for an explanation of the method used to determine the number of shares used in computing historical basic and diluted net income (loss) per share and our pro forma unaudited basic and diluted net loss per share.

**Year**  
**Nine Months Ended**  
**September**  
**30,**  
**2013**  
**(Unaudited)**  
**(In**  
**thousands,**  
**except**  
**share**  
**and**  
**per**  
**share**  
**amounts)**

**Consolidated Statements of Operations Data:**

S-7

TABLE OF CONTENTS

**Title claims against our properties could require us to compensate parties, if successful, and divert management's time from operations.**

There may be challenges to our title in the properties in which we hold material interests. If there are title defects with respect to any of our properties, we might be required to compensate other persons or perhaps lose or reduce our interest in the affected property. The validity of unpatented mineral claims, which constitute most of our holdings in the United States, is often uncertain and may be contested by the federal government and other parties. The validity of an unpatented mineral claim, in terms of both its location and its maintenance, depends on strict compliance with a complex body of federal and state statutory and decisional law. Although we have attempted to acquire satisfactory title to our properties, we have not obtained title opinions or title insurance with respect to the acquisition of the unpatented mineral claims. Likewise, we have not obtained title opinions or title insurance covering the mineral interests in all of the patented mining claims we own or lease. While we have no pending claims or litigation pending contesting title to any of our properties, there is nothing to prevent parties from challenging our title to any of our properties. While we believe we have satisfactory title to our properties, some risk exists that some titles may be defective or subject to challenge. Also, in any such case, the investigation and resolution of title issues would divert management's time from ongoing exploration programs.

**As the Company is unable to obtain a copy of the audit report issued by Jewett, Schwartz, Wolfe & Associates ( JSW ) in connection with our audited financial statements for the year ended December 31, 2009, investors may not be able to bring an action against JSW pursuant to the Securities Act or Exchange Act with respect to this offering.**

JSW, our former independent public accountants, has discontinued its auditing practice. Therefore, the audit report previously issued by JSW in connection with the filing of our annual report on Form 10-K for the year ended December 31, 2009 has not been and will not be reissued by JSW in connection with the filing of any amendment to the registration statement pursuant to which the offering contemplated by this prospectus supplement is being made. Accordingly, investors may not be able to bring an action against JSW pursuant to the Securities Act or Exchange Act with respect to this offering and, therefore, any recovery from JSW may be limited. The ability of investors to recover from JSW may also be limited as a result of JSW's financial condition.

**You will experience immediate and substantial dilution in the net tangible book value per share of the common stock you purchase.**

Since the price per share of our common stock being offered is substantially higher than the net tangible book value per share of our common stock, you will suffer substantial dilution in the net tangible book value of the common stock you purchase in this offering. Based on the offering price of \$      per share, if you purchase shares of common stock in this offering, you will suffer immediate and substantial dilution of approximately \$      per share in the net tangible book value of the common stock. See the section entitled "Dilution" in this prospectus supplement for a more detailed discussion of the dilution you will incur if you purchase common stock in this offering.

**The price of the Company's common stock may fluctuate significantly, which could negatively affect the Company and holders of its common stock.**

The market price of the Company's common stock may fluctuate significantly from time to time as a result of many factors, including:

investors' perceptions of the Company's and its prospects;  
investors' perceptions of the Company's and/or the industry's risk and return characteristics relative to other investment alternatives;

investors' perceptions of the prospects of the mining and commodities markets;  
differences between actual financial and operating results and those expected by investors and analysts;

S-8

---

TABLE OF CONTENTS

our inability to commence production, obtain permits or otherwise fail to reach Company objectives;  
actual or anticipated fluctuations in quarterly financial and operating results;  
volatility in the equity securities market; and  
sales, or anticipated sales, of large blocks of the Company's common stock.

**If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our stock price and trading volume could decline.**

The trading market for our common stock will depend in part on the research and reports that securities or industry analysts publish about us or our business. We do not currently have, and may never obtain, research coverage by securities and industry analysts. If no securities or industry analysts commence coverage of the Company, the trading price for our common stock would be negatively impacted. If we obtain securities or industry analyst coverage and if one or more of the analysts who cover us downgrades our common stock or publishes inaccurate or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts cease coverage of us or fail to publish reports on us regularly, demand for our common stock could decrease, which could cause our stock price and trading volume to decline.

**We do not expect to pay any cash dividends for the foreseeable future.**

We currently expect to retain all available funds and future earnings, if any, for use in the operation and growth of our business and do not anticipate paying any cash dividends in the foreseeable future. Any future determination to pay dividends will be at the discretion of our Board, subject to compliance with applicable law, our organizational documents (including the certificates of designations for our preferred stock, which prohibit cash dividends to common stockholders without the consent of preferred stockholders) and any contractual provisions, including under agreements for indebtedness we may incur, that restrict or limit our ability to pay dividends, and will depend upon, among other factors, our results of operations, financial condition, earnings, capital requirements and other factors that our Board deems relevant. Accordingly, if you purchase shares in this offering, realization of a gain on your investment will depend on the appreciation of the price of our common stock, which may never occur.

Investors seeking cash dividends in the foreseeable future should not purchase our common stock.

**Our Board and management will have broad discretion over the use of the proceeds we receive in this offering and might not apply the proceeds in ways that increase the value of your investment.**

We expect to use the net proceeds from this offering for general corporate purposes, including the development of the Dayton area and capital expenditures. However, our Board and management will have broad discretion to use the net proceeds from this offering, and you will be relying on their judgment regarding the application of these proceeds. Our Board and management might not apply the net proceeds of this offering in ways that increase the value of your investment. Until we use the net proceeds from this offering, we plan to invest them, and these investments may not yield a favorable rate of return. If we do not invest or apply the net proceeds from this offering in ways that enhance stockholder value, we may fail to achieve expected financial results, which could cause our share price to decline.



TABLE OF CONTENTS

## USE OF PROCEEDS

We estimate that the net proceeds we will receive from this offering will be approximately \$ million, based on the public offering price of \$ per share, after deducting the underwriting discount and our estimated offering expenses of \$ million. If the over-allotment option is exercised in full, we expect the net proceeds to increase by approximately \$ million.

We currently intend to use the net proceeds from this offering for exploration and development of our primary target areas, that is the Lucerne, Dayton and Spring Valley Resource Areas, as well as for working capital and general corporate purposes. These uses are expected to expedite resource expansion, mine plans and ultimately growth of commercial production in such resource areas.

Pending the application of the net proceeds as described above, we may invest the net proceeds from this offering in short-term, investment grade, interest-bearing securities.

## DILUTION

Investors in shares of our common stock offered in this offering will experience an immediate dilution in the net tangible book value of their common stock from the public offering price of the common stock. The net tangible book value of our common stock as of September 30, 2011 was approximately \$16.5 million, or approximately \$0.59 per share of common stock. Net tangible book value per share of our common stock is calculated by subtracting our total liabilities from our total tangible assets, which is equal to total assets less intangible assets, and dividing this amount by the number of shares of common stock outstanding.

Dilution per share represents the difference between the public offering price per share of our common stock and the adjusted net tangible book value per share of our common stock included in this offering after giving effect to this offering. After giving effect to the sale of all of the securities offered in this offering at the offering price of \$ per share, and after deducting the underwriters' discounts estimated offering expenses payable by us, our net tangible book value as of September 30, 2011 would have been approximately \$ million, or approximately \$ per share of common stock. This change represents an immediate increase in the net tangible book value of \$ per share of common stock to our existing stockholders and an immediate and substantial dilution in net tangible book value of \$ per share of common stock to new investors. The following table illustrates this per share dilution:

Offering price per share		\$
Net tangible book value per share as of September 30, 2011	\$ 0.59	
Increase in net tangible book value per share attributable to new investors	\$	
Net tangible book value per share after this offering		\$
Dilution per share to new investors		\$

S-10

TABLE OF CONTENTS**CAPITALIZATION**

The following table shows our cash and cash equivalents, available-for-sale securities and capitalization as of September 30, 2011 on an actual basis and on an as adjusted basis to reflect the assumed sale of an aggregate amount of \$25,000,000 of our common stock offered, after deducting the underwriters' discounts and estimated offering expenses.

This table should be read in conjunction with our financial statements and the accompanying notes and Management's Discussion and Analysis of Financial Condition and Results of Operations contained in the 2010 Form 10-K, the Third Quarter Form 10-Q and other reports filed by us with the SEC, which are incorporated by reference in this prospectus supplement and the accompanying prospectus.

	As of September 30, 2011	
	Actual	As Adjusted
	(in thousands)	
	(unaudited)	
Cash and cash equivalents	\$ 12,957,566	\$
Available-for-sale securities	\$ 2,950,348	\$ 2,950,348
Long-term debt obligations (including current portion)	\$ 1,067,340	\$ 1,067,340
Common stock, \$.000666 par value, 3,950,000,000 shares authorized, 28,002,349 and 21,154,663 shares issued and outstanding at September 30, 2011 and December 31, 2010, respectively	18,650	
Convertible Preferred Stock; 50,000,000 shares authorized 7.5% Series A-1 convertible preferred stock; \$.000666 par value, 1,500,000 shares authorized, 21,775 and 21,775 shares issued and outstanding at September 30, 2011 and December 31, 2010, respectively	15	15
7.5% Series A-2 convertible preferred stock, \$.000666 par value, 250,000 shares authorized, 10,672 and 8,382 shares issued and outstanding at September 30, 2011 and December 31, 2010, respectively	4	4
7.5% Series B convertible preferred stock, \$.000666 par value, 600,000 shares authorized, 31,224 and 35,749 shares issued and outstanding at September 30, 2011 and December 31, 2010, respectively	21	21
Additional paid-in capital	140,898,376	
Accumulated deficit	(124,358,313)	(124,358,313)
Total stockholders' equity	16,558,753	
Total capitalization	\$ 17,626,093	\$

S-11

TABLE OF CONTENTS**PRICE RANGE OF COMMON STOCK**

Our common stock is traded on NYSE AMEX under the symbol LODE. The Company implemented a reverse stock split (200:1) in the second quarter 2010. Market prices reported for periods preceding the reverse stock split have been adjusted to give retroactive effect to the reverse stock split. Set forth below are the high and low sale prices for our common stock on NYSE AMEX for the periods indicated.

	High	Low
Year ended December 31, 2009:		
First Quarter	\$ 3.58	\$ 2.02
Second Quarter	\$ 4.00	\$ 2.00
Third Quarter	\$ 3.00	\$ 1.12
Fourth Quarter	\$ 2.40	\$ 1.40
Year ended December 31, 2010:		
First Quarter	\$ 2.20	\$ 1.24
Second Quarter	\$ 3.00	\$ 1.20
Third Quarter	\$ 2.21	\$ 1.20
Fourth Quarter	\$ 4.30	\$ 1.93
Year ended December 31, 2011:		
First Quarter	\$ 3.50	\$ 2.58
Second Quarter	\$ 3.78	\$ 2.94
Third Quarter	\$ 3.35	\$ 1.95
Fourth Quarter	\$ 2.62	\$ 1.59

The last reported sale price of our common stock on the NYSE AMEX on February 3, 2012 was \$1.84 per share.

As of February 1, 2012, the number of holders of record was approximately 568.

**Dividend Policy**

We have never declared or paid any dividends on our common stock. We do not anticipate paying any cash dividends on our common stock in the foreseeable future. We currently intend to retain future earnings, if any, to finance operations and the expansion of our business. Any future determination to pay cash dividends will be at the discretion of the board of directors and will depend upon our financial condition, operating results, capital requirements and other factors the board of directors deems relevant. We are restricted from declaring or paying common stock dividends in cash under the terms of our preferred stock.

**DESCRIPTION OF COMMON STOCK**

The information appearing under Item 1. Description of Registrant's Securities to be Registered in the Form 8-A, is hereby incorporated by reference.

TABLE OF CONTENTS

# **CERTAIN MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS TO NON-U.S. HOLDERS**

The following discussion is a general summary of material U.S. federal income tax considerations with respect to your acquisition, ownership and disposition of our common stock, and applies if you (1) purchase our common stock in this offering, (2) will hold the common stock as a capital asset and (3) are a non-U.S. Holder. You are a non-U.S. Holder if you are a beneficial owner of shares of our common stock other than:

a citizen or resident of the United States;

a corporation or other entity taxable as a corporation created or organized in, or under the laws of, the United States, any state thereof or the District of Columbia;

an estate, the income of which is subject to U.S. federal income taxation regardless of its source;

a trust, if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust; or

a trust that has a valid election in place to be treated as a U.S. person for U.S. federal income tax purposes.

This summary does not address all of the U.S. federal income tax considerations that may be relevant to you in the light of your particular circumstances or if you are a beneficial owner subject to special treatment under U.S.

federal income tax laws (such as if you are a controlled foreign corporation, passive foreign investment company, company that accumulates earnings to avoid U.S. federal income tax, foreign tax-exempt organization, financial institution, broker or dealer in securities, insurance company, regulated investment company, real estate investment trust, person who holds our common stock as part of a hedging or conversion transaction or as part of a short-sale or straddle, U.S. expatriate, former long-term permanent resident of the United States or partnership or other pass-through entity for U.S. federal income tax purposes). This summary does not discuss non-income taxes, any aspect of the U.S. federal alternative minimum tax or state, local or non-U.S. taxation. This summary is based on current provisions of the Internal Revenue Code of 1986, as amended ( Code ), Treasury regulations, judicial opinions, published positions of the Internal Revenue Service ( IRS ) and all other applicable authorities (all such sources of law, Tax Authorities ). The Tax Authorities are subject to change, possibly with retroactive effect.

If a partnership (or an entity or arrangement classified as a partnership for U.S. federal income tax purposes) holds our common stock, the tax treatment of a partner will generally depend on the status of the partner and the activities of the partnership. If you are a partner of a partnership holding our common stock, you should consult your tax advisor.

**WE URGE PROSPECTIVE NON-U.S. HOLDERS TO CONSULT THEIR OWN TAX ADVISORS REGARDING THE U.S. FEDERAL, STATE, LOCAL AND NON-U.S. INCOME AND OTHER TAX CONSIDERATIONS OF ACQUIRING, HOLDING AND DISPOSING OF SHARES OF COMMON STOCK.**

## **Dividends**

In general, any distributions we make to you with respect to your shares of common stock that constitute dividends for U.S. federal income tax purposes will be subject to U.S. withholding tax at a rate of 30% of the gross amount, unless you are eligible for a reduced rate of withholding tax under an applicable income tax treaty and you properly file with the payor an IRS Form W-8BEN, or successor form, claiming an exemption from or reduction in withholding under the applicable income tax treaty (special certification and other requirements may apply if our common stock is held through certain foreign intermediaries). A distribution will constitute a dividend for U.S. federal income tax purposes to the extent of our current or accumulated earnings and profits as determined under

the Tax Authorities. Any distribution not constituting a dividend will be treated first as reducing your basis in your shares of common stock and, to the extent it exceeds your basis, as capital gain.

Dividends we pay to you that are effectively connected with your conduct of a trade or business within the United States (and, if certain income tax treaties apply, are attributable to a U.S. permanent establishment maintained by you) generally will not be subject to U.S. withholding tax if you provide an IRS Form

S-13

---

## TABLE OF CONTENTS

W-8ECI, or successor form, to the payor. Instead, such dividends generally will be subject to U.S. federal income tax, net of certain deductions, at the same graduated individual or corporate rates applicable to U.S. persons. If you are a corporation, effectively connected income may also be subject to a branch profits tax at a rate of 30% (or such lower rate as may be specified by an applicable income tax treaty). Dividends that are effectively connected with your conduct of a trade or business within the United States but that, under an applicable income tax treaty, are not attributable to a U.S. permanent establishment maintained by you may be eligible for a reduced rate of U.S. tax under such treaty, provided you comply with certification and disclosure requirements necessary to obtain treaty benefits.

## **Sale or Other Disposition of Our Common Stock**

You generally will not be subject to U.S. federal income tax on any gain realized upon the sale or other disposition of your shares of our common stock unless:

the gain is effectively connected with your conduct of a trade or business within the United States (and, under certain income tax treaties, is attributable to a U.S. permanent establishment you maintain);

you are an individual, you are present in the United States for 183 days or more in the taxable year of disposition and you meet other conditions, and you are not eligible for relief under an applicable income tax treaty; or

we are or have been a United States real property holding corporation for U.S. federal income tax purposes (which we believe we are not and do not anticipate we will become within the shorter of (i) the five-year period ending on the date of the disposition or (ii) your holding period for our common stock) and you hold or have held, directly or indirectly, at any time during the shorter of the five-year period ending on the date of disposition of our common stock and your holding period for our common stock, more than 5% of our common stock. A United States real property holding corporation is any corporation if the fair market value of its U.S. real property interests equals or exceeds 50% of the sum of the fair market values of its U.S. real property interests, its interests in real property located outside the United States, and any other of its assets which are used or held for use in a trade or business. For purposes of identifying a U.S. real property interest, real property includes personal property associated with the use of the real property. Personal property will be associated with the use of the real property only where both the personal property and the U.S. real property interest with which it is associated are held by the same person or by related persons. Personal property associated with the use of real property includes personal property that is predominantly used to exploit unsevered natural products in or upon the land (including mining equipment used to extract ores, minerals, and other natural deposits from the ground). It is unclear whether we are, have at any time within the last five years been, or will be a United States real property holding corporation. If we are or were a United States real property holding corporation within the applicable period, then any gain recognized by non-U.S. Holders on the disposition of our common stock may be subject to Tax, including any applicable withholding tax.

Gain that is effectively connected with your conduct of a trade or business within the United States generally will be subject to U.S. federal income tax, net of certain deductions, at the same rates applicable to U.S. persons. If you are a corporation, the branch profits tax also may apply to such effectively connected gain. If the gain from the sale or disposition of your shares is effectively connected with your conduct of a trade or business in the United States but, under an applicable income tax treaty, is not attributable to a permanent establishment you maintain in the United States, your gain may be exempt from U.S. federal income tax under the income tax treaty. If you are described in the second bullet point above, you generally will be subject to U.S. federal income tax at a rate of 30% on the gain realized, although the gain may be offset by certain U.S. source capital losses realized during the same taxable year.

## **Information Reporting and Backup Withholding Requirements**

We must report annually to the IRS and to each non-U.S. holder the amount of any dividends or other distributions we pay to you and the amount of tax we withhold on these distributions regardless of whether withholding is required. The IRS may make available copies of the information returns reporting those

S-14

---

TABLE OF CONTENTS

distributions and amounts withheld to the tax authorities in the country in which you reside pursuant to the provisions of an applicable income tax treaty or exchange of information treaty.

The United States imposes a backup withholding tax on any dividends and certain other types of payments to U.S. persons. You will not be subject to backup withholding tax on dividends you receive on your shares of our common stock if you provide proper certification of your status as a Non-U.S. Holder or you are one of several types of entities and organizations that qualify for an exemption (an exempt recipient).

Information reporting and backup withholding generally are not required with respect to the amount of any proceeds from the sale of your shares of our common stock outside the United States through a foreign office of a foreign broker that does not have certain specified connections to the United States. If you sell your shares of common stock through a U.S. broker or the U.S. office of a foreign broker, however, the broker will be required to report to the IRS the amount of proceeds paid to you, and also backup withhold on that amount, unless you provide appropriate certification to the broker of your status as a Non-U.S. Holder or you are an exempt recipient. Information reporting will also apply if you sell your shares of our common stock through a foreign broker deriving more than a specified percentage of its income from U.S.-related activities or having certain other connections to the United States, unless such broker has documentary evidence in its records that you are a Non-U.S. Holder and certain other conditions are met, or you are an exempt recipient. Any amounts withheld with respect to your shares of our common stock under the backup withholding rules will be refunded to you or credited against your U.S. federal income tax liability, if any, by the IRS if the required information is furnished in a timely manner.

## **Recently Enacted Withholding Legislation**

Recently enacted legislation will generally impose a withholding tax of 30% on dividends and the gross proceeds of a disposition of our shares paid to a foreign financial institution unless such institution enters into an agreement with the U.S. government to withhold on certain payments and collect and provide to the U.S. tax authorities substantial information regarding U.S. account holders of such institution (which would include certain account holders that are foreign entities with U.S. owners). This legislation will also generally impose a withholding tax of 30% on dividends and the gross proceeds of a disposition of our shares paid to a non-financial foreign entity unless such entity provides the withholding agent with a certification identifying the direct and indirect U.S. owners of the entity. These withholding taxes could potentially be imposed on dividends paid on our common stock after December 31, 2013, and on gross proceeds from sales or other dispositions of our common stock after December 31, 2014. Under certain circumstances, a holder of common stock may be eligible for a refund or credit of such taxes. You should consult your own tax advisor as to the possible implications of this legislation on your investment in shares of our common stock.



TABLE OF CONTENTS**UNDERWRITING**

Under the terms and subject to the conditions in an underwriting agreement dated the date of this prospectus supplement, the underwriters named below, for whom Global Hunter Securities, LLC is acting as the representative, have agreed to purchase, and we have agreed to sell to them, the number of shares of our common stock at the public offering price, less the underwriting discounts and commissions, as set forth on the cover page of this prospectus supplement and as indicated below:

Underwriter	Number of Shares
Global Hunter Securities, LLC	
Moelis & Company LLC	
Aegis Capital Corp.	
Total	

The underwriters are offering the shares of common stock subject to their acceptance of the shares from us and subject to prior sale. The underwriting agreement provides that the obligations of the underwriters to pay for and accept delivery of the shares of common stock offered by this prospectus supplement are subject to certain conditions precedent, including the absence of any material adverse change in the business and the receipt of customary legal opinions, letters and certificates and the approval of certain legal matters by their counsel and to other conditions. The underwriters are obligated to take and pay for all of the shares of common stock offered by this prospectus supplement if any such shares of common stock are taken.

The underwriters have an option to buy up to additional shares of common stock from us to cover sales of shares of common stock by the underwriters which exceed the number of shares specified in the table above. The underwriters may exercise this option at any time and from time to time during the 30-day period from the date of this prospectus supplement. If any additional shares of common stock are purchased, the underwriters will offer the additional shares of common stock on the same terms as those on which the shares are being offered.

The underwriters initially propose to offer the shares of common stock directly to the public at the public offering price listed on the cover page of this prospectus supplement. After the initial offering of the shares of common stock, the offering price and other selling terms may from time to time be varied by the underwriters. Sales of common stock outside the United States may be made by affiliates of the underwriters.

**Discounts and Commissions**

The following table summarizes the public offering price, underwriting discount and proceeds before expenses to us assuming both no exercise and full exercise of the underwriters' option to purchase additional shares of common stock:

	Total Per Share	Without Over- Allotment	With Over- Allotment
Public offering price	\$	\$	\$
Underwriting discount			
Proceeds, before expenses, to us	\$	\$	\$

We have also agreed to pay Roth Capital Partners, LLC, as payment for strategic advice regarding the structuring and execution of the offering, a financial advisory fee equal to \$125,000, which amount will reduce the total underwriting discount to be paid to the underwriters.

The expenses of the offering, not including the underwriting discounts and commissions, payable by us are estimated to be \$ , which includes \$ that we have agreed to reimburse the underwriters for their expenses incurred in connection with the offering.

S-16

---

TABLE OF CONTENTS

## **Quotation on the NYSE AMEX**

Our common stock is listed on the NYSE AMEX under the symbol LODE. Our registrar and transfer agent for our common stock is Corporate Stock Transfer Inc., Denver, Colorado.

## **Indemnification**

We and the underwriters have agreed to indemnify each other against certain liabilities, including liabilities under the Securities Act and liabilities arising from breaches of representations and warranties contained in the underwriting agreement. We have also agreed to contribute to payments the underwriters may be required to make in respect of such liabilities.

## **No Sales of Similar Securities**

We and each of our executive officers, directors and certain principal stockholders have agreed with the underwriters, subject to certain exceptions, not to dispose of or hedge any of our shares of common stock or securities convertible into or exercisable or exchangeable for our common stock for ninety (90) days after the date of this prospectus supplement without first obtaining the written consent of the representative. The 90-day lock-up period during which we and our executive officers, directors and certain principal stockholders are restricted from engaging in transactions in our common stock or securities convertible into or exercisable or exchangeable for our common stock is subject to extension in the event that either (i) during the last 17 days of the lockup period, we issue an earnings release or material news or a material event relating to us occurs, or (ii) prior to the expiration of the lock-up period, we announce that we will release earnings results during the 16-day period beginning on the last day of the lock-up period, then in either case the expiration of the lock-up period will be extended until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event, as applicable, unless the underwriters waive, in writing, such an extension.

In addition, certain of our stockholders affiliated with Moelis & Company, LLC have agreed that, subject to certain exceptions, up to 5,725 shares of our common stock issued to such stockholders as dividends on shares of our Series B convertible preferred stock held by such stockholders that were acquired by such stockholders during 180 days prior to the date of this prospectus supplement, are deemed to be underwriting compensation by the Financial Industry Regulatory Authority, Inc. ( FINRA ), and shall not be sold during this offering or sold, transferred, assigned, pledged, or hypothecated, or be the subject of any hedging, short sale, derivative, put, or call transaction that would result in the effective economic disposition of any such securities by any person for a period of 180 days immediately following the commencement of sales in this offering.

## **Price Stabilization, Short Positions**

In order to facilitate the offering of the shares of common stock, the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of our common stock. Specifically, the underwriters may sell more shares of common stock than they are obligated to purchase under the underwriting agreement, creating a short position. The underwriters must close out any short position by purchasing shares of common stock in the open market. A short position may be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market after pricing that could adversely affect investors who purchased in this offering. As an additional means of facilitating this offering, the underwriters may bid for, and purchase, shares of our common stock in the open market to stabilize the price of the common stock. These activities may

raise or maintain the market price of our common stock above independent market levels or prevent or slow a decline in the market price of our common stock. The underwriters are not required to engage in these activities, and may end any of these activities at any time.

A prospectus in electronic format may be made available on websites maintained by the underwriters. Internet distributions will be allocated by each underwriter on the same basis as other allocations.

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any

S-17

---

## TABLE OF CONTENTS

such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

## **United Kingdom**

This document is only being distributed to and is only directed at (i) persons who are outside the United Kingdom or (ii) to investment professionals falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the Order) or (iii) high net worth entities, and other persons to whom it may lawfully be communicated, falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as relevant persons). The shares of common stock are only available to, and any invitation, offer or agreement to subscribe, purchase or otherwise acquire such shares of common stock will be engaged in only with, relevant persons. Any person who is not a relevant person should not act or rely on this document or any of its contents.

## **Switzerland**

This document does not constitute a prospectus within the meaning of Art. 652a of the Swiss Code of Obligations. The shares of common stock may not be sold directly or indirectly in or into Switzerland except in a manner which will not result in a public offering within the meaning of the Swiss Code of Obligations. Neither this document nor any other offering materials relating to the shares of common stock may be distributed, published or otherwise made available in Switzerland except in a manner which will not constitute a public offer of the shares of common stock in Switzerland.

## **European Economic Area<sup>(1)</sup>**

To the extent that the offer of the shares of common stock are made in any Member State of the European Economic Area that has implemented the Prospectus Directive before the date of publication of a prospectus in relation to the shares of common stock which has been approved by the competent authority in the Member State in accordance with the Prospectus Directive (or, where appropriate, published in accordance with the Prospectus Directive and notified to the competent authority in the Member State in accordance with the Prospectus Directive), the offer (including any offer pursuant to this document) is only addressed to qualified investors in that Member State within the meaning of the Prospectus Directive or has been or will be made otherwise in circumstances that do not require us to publish a prospectus pursuant to the Prospectus Directive.

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State), from and including the date on which the European Union Prospectus Directive (the EU Prospectus Directive) is implemented in that Relevant Member State (the Relevant Implementation Date), an offer of securities described in this prospectus may not be made to the public in that Relevant Member State prior to the publication of a prospectus in relation to the shares which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the EU Prospectus Directive, except that it may, with effect from and including the Relevant Implementation Date, make an offer of

shares to the public in that Relevant Member State at any time:

(a) to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities,

(b) to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than €43,000,000 and (3) an annual net turnover of more than €50,000,000, as shown in its last annual or consolidated accounts, or

(1) The EU plus Ireland, Norway and Liechtenstein.

S-18

---

TABLE OF CONTENTS

(c) in any other circumstances which do not require the publication by us of a prospectus pursuant to Article 3 of the Prospectus Directive. For the purposes of this provision, the expression an offer of shares to the public in relation to any shares in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the shares to be offered so as to enable an investor to decide to purchase or subscribe the shares, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

The EEA selling restriction is in addition to any other selling restrictions set out below. In relation to each Relevant Member State, each purchaser of shares of common stock (other than the underwriters) will be deemed to have represented, acknowledged and agreed that it will not make an offer of shares of common stock to the public in any Relevant Member State, except that it may, with effect from and including the date on which the Prospectus Directive is implemented in the Relevant Member State, make an offer of shares of common stock to the public in that Relevant Member State at any time in any circumstances which do not require the publication by us of a prospectus pursuant to Article 3 of the Prospectus Directive, provided that such purchaser agrees that it has not and will not make an offer of any shares of common stock in reliance or purported reliance on Article 3(2)(b) of the Prospectus Directive. For the purposes of this provision, the expression an offer of Shares to the public in relation to any shares of common stock in any Relevant Member State has the same meaning as in the preceding paragraph.

Under certain conditions and upon a sale or certain other events, Moelis & Company LLC will be entitled to additional compensation from us. In addition, certain of the underwriters and their affiliates may from time to time in the future provide to us and our affiliates certain commercial banking, financial advisory, investment banking and other services in the ordinary course of their business, for which they would receive customary fees and commissions. From time to time, certain of the underwriters and their affiliates may effect transactions for their own account or the account of customers and hold, on behalf of themselves or their customers, long or short positions in our debt or equity securities or loans, and they may do so in the future.

S-19

---

TABLE OF CONTENTS

## **LEGAL MATTERS**

The validity of the issuance of the securities offered in this offering has been passed upon for us by McDonald Carano Wilson LLP. Jones Day, San Francisco, California, is acting as counsel to the underwriters in connection with this offering.

## **EXPERTS**

Although an audit report was issued on the consolidated financial statements of the Company as of December 31, 2009 and for the one-year period ended December 31, 2009 (including schedules appearing therein) and is included in our filings, the auditor has not permitted use of its report in any future registration statement or periodic report filed by the Company.

The financial statements, and the related financial statement schedule, incorporated in this Prospectus Supplement by reference from the Company's Annual Report on Form 10-K for the year ended December 31, 2010, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report, which is incorporated herein by reference. Such financial statements and financial statement schedule have been so incorporated in reliance upon the reports of such firm given upon their authority as experts in accounting and auditing.

S-20

---



TABLE OF CONTENTS

**PROSPECTUS**  
**\$25,000,000**  
**and 6,325,691 Shares of Common Stock**

This prospectus may be used by selling stockholders and their subsequent transferees, pledgees, donees and successors (the **sellers** ) for the offer and sale of up to 6,325,691 shares of our common stock, par value \$0.00666 per share (the **Common Stock** ), that are either presently outstanding or that are issuable upon the conversion of shares of our Series B Convertible Preferred Stock (the **Series B Preferred Stock** ) that are presently outstanding.

The shares offered hereby may be sold from time to time by one or more of the sellers. No seller is required to offer or sell any shares, pursuant to this prospectus or otherwise. The sellers anticipate that, if and when offered and sold, the shares will be offered and sold in transactions effected on NYSE AMEX, at then prevailing market prices. The sellers have the right, however, to offer and sell the shares on any other national securities exchange on which the Common Stock may become listed or in the over-the-counter market, in each case at then prevailing market prices, or in privately negotiated transactions at a price then to be negotiated.

We will not receive any proceeds from the sale of shares by the sellers. All proceeds from sales of shares by sellers will be paid directly to the sellers and will not be deposited in an escrow, trust or other similar arrangement. We will bear all of the expenses in connection with the registration of the shares offered hereby, including legal and accounting fees.

This prospectus also relates to the issuance by us of shares of the Common Stock issuable in payment of dividends on our presently issued and outstanding preferred shares or for other offers or sale by us. We may offer and sell to the public any of such shares that are not issued in payment of such dividends. Such shares may be offered and sold from time to time, in one or more offerings, in amounts, at prices and on terms to be determined at the time of sale and set forth in an accompanying prospectus supplement and other offering materials. Each time we offer and sell such shares, we will provide a prospectus supplement that will contain specific information about the terms of the specific shares being offered and which may add, update or change information in this prospectus. This prospectus may not be used by us to sell securities unless accompanied by the applicable prospectus supplement. Such shares may be sold directly by us to investors or through agents, underwriters or dealers we select from time to time. If any underwriters are involved, the names of such underwriters and any applicable commissions or discounts will be set forth in a prospectus supplement. The net proceeds we expect to receive from such sale will also be set forth in such prospectus supplement.

You should read this prospectus and any applicable prospectus supplement, as well as the documents incorporated by reference or deemed incorporated by reference into this prospectus and any prospectus supplement, carefully before you invest in our shares.

The Common Stock is listed on the NYSE AMEX under the symbol **LODE**.

**Investing in our securities involves risks that are referenced in the **Risk Factors** section, at page 4, of this prospectus and are set forth in our periodic reports filed with the Securities and Exchange Commission.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

The date of this prospectus is July 1, 2011.

---

TABLE OF CONTENTS

## TABLE OF CONTENTS

	Page
<u>About This Prospectus</u>	<u>1</u>
<u>Where You Can Find More Information</u>	<u>2</u>
<u>Incorporation of Certain Documents by Reference</u>	<u>2</u>
<u>Summary</u>	<u>3</u>
<u>Forward Looking Statements</u>	<u>4</u>
<u>Risk Factors</u>	<u>4</u>
<u>Use of Proceeds</u>	<u>4</u>
<u>Selling Security Holders</u>	<u>5</u>
<u>Description of Securities</u>	<u>6</u>
<u>Plan of Distribution</u>	<u>6</u>
<u>Validity of the Securities</u>	<u>9</u>
<u>Experts</u>	<u>9</u>

## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or the Commission, utilizing a shelf registration process. Under this shelf registration process, the sellers may, from time to time, offer and sell shares of our Common Stock pursuant to this prospectus and we may issue or offer for sale shares of our Common Stock as dividends on our issued and outstanding preferred shares or from time to time in one or more offerings of our Common Stock. This prospectus provides you with a general description of the securities we or the sellers may offer.

Each time we offer and sell our shares, we will provide a prospectus supplement that will contain specific information about the terms of the specific shares being offered and which may add, update or change information in this prospectus. If there is any inconsistency between the information in this prospectus and the applicable prospectus supplement, you must rely on the information in the prospectus supplement. You should read carefully both this prospectus and any prospectus supplement, together with additional information described below under Where You Can Find More Information before you invest in our securities.

You should rely only on the information contained or incorporated by reference in this prospectus, any prospectus supplement or any free writing prospectus related to the applicable securities that is prepared by us or on our behalf or that is otherwise authorized by us. We have not authorized any other person to provide you with additional or different information. If anyone provides you with additional, different or inconsistent information, you should not rely on it. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted. You should not assume that the information contained in this prospectus and the accompanying prospectus supplement is accurate on any date subsequent to the date set forth on the front of the document or that any information that we have incorporated by reference is correct on any date subsequent to the date of the document incorporated by reference. Our business, financial condition, results of operation and prospects may have changed since those dates.

We will not use this prospectus to offer and sell securities unless it is accompanied by a prospectus supplement that more fully describes the securities being offered and the terms of the offering.

This prospectus does not contain all the information provided in the registration statement we filed with the Commission. For further information about us or the securities offered hereby, you should refer to that registration statement, which you can obtain from the Commission as described below under **Where You Can Find More Information**.

In this prospectus, unless otherwise specified or the context otherwise requires, **Comstock**, **we**, **us** and **our**, **our Company** or the **Company** refer to Comstock Mining Inc. and its consolidated subsidiaries. In addition, unless the context requires otherwise, reference to the **Board** refers to the Board of Directors of Comstock Mining Inc.

TABLE OF CONTENTS

## WHERE YOU CAN FIND MORE INFORMATION

We are required to file periodic reports, proxy statements and other information relating to our business, financial and other matters with the Commission under the Securities Exchange Act of 1934, as amended (the Exchange Act). Our filings are available to the public over the Internet at the Commission's web site at <http://www.sec.gov>.

You may also read and copy any document we file with the Commission at, and obtain a copy of any such document by mail from, the Commission's public reference room located at 100 F Street, N.E., Washington, D.C. 20549, at prescribed charges. Please call the Commission at 1-800-SEC-0330 for further information on the public reference room and its charges.

We have filed with the Commission a registration statement on Form S-3 under the Securities Act with respect to our securities described in this prospectus. References to the registration statement or the registration statement of which this prospectus is a part mean the original registration statement and all amendments, including all schedules and exhibits. This prospectus does, and any prospectus supplement will, not contain all of the information in the registration statement because we have omitted parts of the registration statement in accordance with the rules of the Commission. Please refer to the registration statement for any information in the registration statement that is not contained in this prospectus or a prospectus supplement. The registration statement is available to the public over the Internet at the Commission's web site described above and can be read and copied at the locations described above.

Each statement made in this prospectus or any prospectus supplement concerning a document filed as an exhibit to the registration statement is qualified in its entirety by reference to that exhibit for a complete description of its provisions.

We make available, free of charge, on or through our web site, copies of our proxy statements, our annual reports on Form 10-K, our quarterly reports on Form 10-Q, our current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file them with or furnish them to the Commission. We maintain a web site at <http://www.comstockmining.com>. The information contained on our web site is not part of this prospectus, any prospectus supplement or the registration statement.

## INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

We have filed the following documents with the Commission pursuant to the Exchange Act and hereby incorporate them by reference in the registration statement:

- (a) Our annual report on Form 10-K for the fiscal year ended December 31, 2010, filed with the Commission on April 15, 2011 (the 2010 Form 10-K);
- (b) Our quarterly report on Form 10-Q for the period ended March 31, 2011, filed with the Commission on May 16, 2011 (the First Quarter Form 10-Q);
  - (c) Our current report on Form 8-K, filed with the Commission on June 8, 2011;
  - (d) Our current report on Form 8-K, filed with the Commission on June 29, 2011;
- (e) Our proxy statement on Schedule 14A, filed with the Commission on June 8, 2011; and
- (f)

Edgar Filing: Revance Therapeutics, Inc. - Form S-1/A

The description of our Common Stock contained in our Form 8-A (File No. 001-35200), filed with the Commission under Section 12 of the Exchange Act on June 8, 2011 (the Form 8-A ).

All documents subsequently filed by us with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in the registration statement and to be a part hereof from the date of filing of such documents.

2

---

## TABLE OF CONTENTS

We make available copies of the documents incorporated by reference in this prospectus to each person, including any beneficial owner, to whom a prospectus is delivered, without charge, upon written or oral request. Such requests should be directed to:

Comstock Mining Inc.  
P.O. Box 1118  
Virginia City, Nevada 89440  
Attention: Investor Relations  
Telephone: (775) 847-5272

## **SUMMARY**

*This summary highlights information contained elsewhere or incorporated by reference in this prospectus and does not contain all of the information you should consider in making your investment decision. You should read this summary together with the more detailed information included elsewhere or incorporated by reference in this prospectus, including financial statements and the related notes. You should carefully consider, among other things, the matters discussed under Risks Factors in the 2010 Form 10-K and in the First Quarter Form 10-Q, and in other documents that we subsequently file with the Commission that are incorporated by reference herein.*

## **The Company**

The Company is a Nevada-based, gold and silver mining company with extensive, contiguous property in the historic Comstock and the Silver City mining districts (collectively, the Comstock District). The Company was incorporated in Florida in 1999 and reincorporated in Nevada in 2008. The Company began acquiring properties and developing projects in the Comstock District in 2003. Since then, the Company has consolidated a substantial portion of the Comstock District, secured permits, built an infrastructure and brought the exploration project into test mining production. The Company produced over 12,000 ounces of gold and over 53,000 ounces of silver from 2004-2006, at our existing heap leach processing facilities. Our test mining activities were concluded in January 2007, when based on our longer-term production plans, we prioritized land consolidation and mine planning.

The goal of our strategic plan is to deliver stockholder value by validating qualified resources (measured and indicated) and reserves (probable and proven) of 3,250,000 gold equivalent ounces by 2013, and commence commercial mining and processing operations with the Lucerne Project during 2011, with annual production rates of at least 20,000 gold equivalent ounces.

The Lucerne Project is located in Storey County, Nevada, approximately three miles south of Virginia City, Nevada and 30 miles southeast of Reno, Nevada. The Dayton Project, the proposed site for our second commercial mining activities, is located in Lyon County Nevada, approximately six miles south of Virginia City. Access to the properties is by State Route 342, a paved highway. The Comstock District is located within the western portion of the Basin and Range Province of Nevada, between Reno and Carson City.

Because of the Comstock District's historical significance, the geology is well known and extensively studied by the Company, our advisors and many independent researchers. We believe that we have amassed the largest known library of historical and current data and detailed surface mapping of our Comstock properties. We use such data in conjunction with current drilling programs to expand our understanding of the Comstock District's structural geology as well as its broader geological footprint.

In excess of 800 reverse circulation (RC) and core holes, have been drilled by the Company and our predecessors. The data provided has furthered our knowledge of the region's mineralization, and provided the information used to develop a starter mine plan in the Lucerne Resource Area. For our exploration and development campaigns, all drilling, surface and down-hole surveying, hole abandonment, geologic logging, sampling, and assays were performed to industry-recognized standards. We also have drill results from an additional 254 holes at the Dayton-Alhambra-Kossuth claims in the Dayton Resource Area.

We continue acquiring additional properties in the Comstock District, expanding our footprint and creating opportunities for exploration and mining. The Company now owns or controls approximately 6,099 acres of lode mining claims in the Comstock District. The acreage is comprised of 999 acres of patented



## TABLE OF CONTENTS

claims (private lands) and 5,100 acres of unpatented claims, the Bureau of Land Management ( BLM ) administers. The Company also owns a heap leach processing facility that will be redesigned and modified to accommodate our new production plans.

On July 21, 2010, we changed our name from GoldSpring, Inc. to Comstock Mining Inc., by way of a merger with a wholly owned subsidiary (Comstock Mining Inc.) that was formed solely for the purpose of changing our name.

## **Strategic Plan**

In April 2010, the Board approved a strategic plan designed to restructure and recapitalize the Company, accelerate mine development and production and continue exploration. The principal features of the plan included an operational and management restructuring, a reverse stock split, land acquisitions, a balance sheet restructuring, and an equity raise to fund gold and silver mine operations, exploration and development. The Board also agreed to pursue listing of the Company's Common Stock on a nationally recognized securities exchange in the United States and Canada. The goal of the strategic plan is to deliver stockholder value by validating qualified resources (at least measured and indicated) and reserves (probable and proven) of 3,250,000 gold equivalent ounces by 2013, and commence commercial mining and processing operations during 2011, with annual production rates of at least 20,000 gold equivalent ounces.

As part of the strategic plan, the Company has scheduled the exploration and development drilling intended to validate mine design and identify qualified resources and reserves with three intermediate objectives of validating measured and indicated resources containing 1,000,000 gold equivalent ounces, 1,500,000 gold equivalent ounces, and 2,000,000 gold equivalent ounces, respectively, and the long term planned objective of 3,250,000 gold equivalent ounces to be achieved in 2013, with an annual run rate of at least 20,000 gold equivalent ounces. The Company has already met the first exploration objective. The Company has also scheduled the start of production operations in 2011, initially using existing heap leach operating assets.

## **Recent Developments**

As of June 10, 2011, 150.67 shares of the Company's Series A-2 Convertible Preferred Stock have been converted into 231,444 shares of Common Stock. As of June 10, 2011, 3,166 shares of the Company's Series B Convertible Preferred Stock have been converted into 1,918,788 shares of Common Stock.

## **Corporate Information**

The Company's executive offices are located at 1200 American Flat Road, Virginia City, Nevada 89440 and its telephone number is (775) 847-5272. The Company's mailing address is P.O. Box 1118, Virginia City, Nevada 89440. The Company's website address is [www.comstockmining.com](http://www.comstockmining.com). The Company's website and the information contained on, or that can be accessed through, the website are not part of this prospectus.

## **FORWARD LOOKING STATEMENTS**

The information appearing under Statement Regarding Forward Looking Statements in the 2010 Form 10-K and in the First Quarter Form 10-Q, is hereby incorporated by reference.

## **RISK FACTORS**

The information appearing under **Risks Factors** in the 2010 Form 10-K and in the First Quarter Form 10-Q, is hereby incorporated by reference.

## **USE OF PROCEEDS**

We will not receive any proceeds from the sale of any shares offered hereby by the sellers.

Except as may be described otherwise in any applicable prospectus supplement or free writing prospectus, we will use the net proceeds from the sale by us of the securities under this prospectus for general corporate purposes, which may include, among other things, funding acquisitions.

4

---

TABLE OF CONTENTS**SELLING SECURITY HOLDERS**

The sellers consist of the persons listed below and their subsequent transferees, pledgees, donees and successors. The sellers may from time to time offer and sell shares of our Common Stock pursuant to this prospectus or any applicable prospectus supplement.

Name	Before Offering	After Offering		Percentage of Beneficially Owned
	Total Number of Shares Beneficially Owned	Number of Shares Offered <sup>(1)</sup>	Shares Owned After Offering <sup>(1)</sup>	Shares Beneficially Owned After Offering <sup>(1)(2)</sup>
Sun Valley Gold Master Fund, Ltd.	4,883,979 <sup>(3)</sup>		4,883,970 <sup>(3)</sup>	
Pinnacle Family Office Investments LP	488,396 <sup>(4)</sup>		488,396 <sup>(4)</sup>	
Keith Guenther	305,248 <sup>(5)</sup>		305,248 <sup>(5)</sup>	
Mathew Hayden	250,343 <sup>(6)</sup>		250,343 <sup>(6)</sup>	
Leon Wagner	152,624 <sup>(7)</sup>		152,624 <sup>(7)</sup>	
Christopher Ryan	122,099 <sup>(8)</sup>		122,099 <sup>(8)</sup>	
Raich Trust Dtd September 17, 2001	61,049 <sup>(9)</sup>		61,049 <sup>(9)</sup>	
Richard Harding	21,367 <sup>(10)</sup>		21,367 <sup>(10)</sup>	
John K. Collins	15,261 <sup>(11)</sup>		15,261 <sup>(11)</sup>	
Michele S. Miyakawa	15,261 <sup>(12)</sup>		15,261 <sup>(12)</sup>	
Henry G. Elkins Jr. and Nancy P. Elkins JTTNS	10,073 <sup>(13)</sup>		10,073 <sup>(13)</sup>	

(1) Assumes all shares registered hereby are sold.

Applicable percentage of ownership is based on 23,993,379 shares of Common Stock outstanding as of June 10, 2011 together with all applicable options, warrants and other securities convertible into shares of our Common Stock for such stockholder. Beneficial ownership is determined in accordance with the rules of the SEC, and includes voting and investment power with respect to shares. Shares of our Common Stock subject to options, (2) warrants or other convertible securities exercisable within 60 days after June 10, 2011 are deemed outstanding for computing the percentage ownership of the person holding such options, warrants or other convertible securities, but are not deemed outstanding for computing the percentage of any other person. Except otherwise noted, the named beneficial owner has the sole voting and investment power with respect to the shares of Common Stock shown.

(3) Includes (i) 22,996 shares of the Company's Common Stock held directly by Sun Valley Gold Master Fund, Ltd. ( Sun Valley ), (ii) 3,141,818 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock held by Sun Valley, (iii) 7,133 shares of the Company's Common Stock held by Loews Corporation ( Loews ), (iv) 974,545 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock held by Loews, (v) 2,945 share of the Company's Common Stock held by Compass Offshore SAV PCC Limited ( Compass Offshore ), (vi) 402,424 shares of the Company's Common Stock issuable upon conversion of shares of currently convertible shares of Series B Preferred Stock held by Compass Offshore, (vii) 2,413 shares of the Company's Common Stock held by Compass SAV LLC ( Compass ) and (viii) 329,696 shares of the Company's Common Stock issuable upon

conversion of shares of currently convertible shares of Series B Preferred Stock held by Compass.

- (4) Includes 484,848 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock.
- (5) Includes 303,030 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock.
- (6) Includes 90,909 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock.
- (7) Includes 151,515 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock.
- (8) Includes 121,212 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock. Mr. Ryan is an employee of a broker-dealer which acted

5

---

## TABLE OF CONTENTS

as placement agent in the sale of the Company's Series B Preferred Stock. Mr. Ryan purchased his shares of Series B Preferred Stock in the offering at the offering price and, at the time of such purchase, he had no agreements or understandings, directly or indirectly, with any person to distribute the shares of Series B Preferred Stock or any Common Stock into which it is convertible or to be issued as dividends thereon. Mr. Ryan did not receive any Company securities as compensation.

(9) Includes 60,606 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock. Mr. Jeffrey A. Raich is the trustee of the Raich Trust Dtd September 17, 2001. Mr. Raich is an employee of a broker-dealer which acted as placement agent in the sale of the Company's Series B Preferred Stock. Mr. Raich purchased his shares of Series B Preferred Stock in the offering at the offering price and, at the time of such purchase, he had no agreements or understandings, directly or indirectly, with any person to distribute the shares of Series B Preferred Stock or any Common Stock into which it is convertible or to be issued as dividends thereon. Mr. Raich did not receive any Company securities as compensation.

(10) Includes 21,212 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock. Mr. Harding is an employee of a broker-dealer which acted as placement agent in the sale of the Company's Series B Preferred Stock. Mr. Harding purchased his shares of Series B Preferred Stock in the offering at the offering price and, at the time of such purchase, he had no agreements or understandings, directly or indirectly, with any person to distribute the shares of Series B Preferred Stock or any Common Stock into which it is convertible or to be issued as dividends thereon. Mr. Harding did not receive any Company securities as compensation.

(11) Includes 15,151 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock. Mr. Collins is an employee of a broker-dealer which acted as placement agent in the sale of the Company's Series B Preferred Stock. Mr. Collins purchased his shares of Series B Preferred Stock in the offering at the offering price and, at the time of such purchase, he had no agreements or understandings, directly or indirectly, with any person to distribute the shares of Series B Preferred Stock or any Common Stock into which it is convertible or to be issued as dividends thereon. Mr. Collins did not receive any Company securities as compensation.

(12) Includes 15,151 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock. Ms. Miyakawa is an employee of a broker-dealer which acted as placement agent in the sale of the Company's Series B Preferred Stock. Ms. Miyakawa purchased her shares of Series B Preferred Stock in the offering at the offering price and, at the time of such purchase, she had no agreements or understandings, directly or indirectly, with any person to distribute the shares of Series B Preferred Stock or any Common Stock into which it is convertible or to be issued as dividends thereon. Ms. Miyakawa did not receive any Company securities as compensation.

(13) Includes 10,000 shares of the Company's Common Stock issuable upon conversion of currently convertible shares of Series B Preferred Stock.

## **DESCRIPTION OF SECURITIES**

The information appearing under Item 1. Description of Registrant's Securities to be Registered in the Form 8-A, is hereby incorporated by reference.

## **PLAN OF DISTRIBUTION**

## Sales by Sellers

Each seller may, from time to time, sell any or all of their shares of Common Stock on the Trading Market or any other stock exchange, market or trading facility on which the shares are traded or in private transactions. If the shares of Common Stock are sold through underwriters or broker-dealers, the sellers will be responsible for underwriting discounts or commissions or agent's commissions. These sales may be at fixed prices, at prevailing market prices at the time of the sale, at varying prices determined at the time of the sale or at negotiated prices. A seller may use any one or more of the following methods when selling shares:

on any national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale;

in the over-the-counter market;

in transactions otherwise than on these exchanges or systems or in the over-the-counter market;

6

---

TABLE OF CONTENTS

ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;  
block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;  
purchases by a broker-dealer as principal and resale by the broker-dealer for its account;  
an exchange distribution in accordance with the rules of the applicable exchange;  
privately negotiated transactions;  
settlement of short sales entered into after the effective date of the registration statement of which this prospectus is a part;  
broker-dealers may agree with the sellers to sell a specified number of such shares at a stipulated price per share;  
a combination of any such methods of sale;  
through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise; or  
any other method permitted pursuant to applicable law.

The sellers may also sell shares under Rule 144 under the Securities Act of 1933, as amended (the Securities Act ), if available, rather than under this prospectus.

Broker-dealers engaged by the sellers may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the sellers (or, if any broker-dealer acts as agent for the purchaser of shares, from the purchaser) in amounts to be negotiated, but, except as set forth in a supplement to this Prospectus, in the case of an agency transaction not in excess of a customary brokerage commission in compliance with the rules of the Trading Market or other stock exchange on which the Common Stock is traded.

In connection with the sale of the Common Stock or interests therein, the sellers may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the Common Stock in the course of hedging the positions they assume. The sellers may also sell shares of the Common Stock short and deliver these securities to close out their short positions, or loan or pledge the Common Stock to broker-dealers that in turn may sell these securities. The sellers may also loan or pledge shares of Common Stock to broker-dealers that in turn may sell such shares. The sellers may also enter into option or other transactions with broker-dealers or other financial institutions or the creation of one or more derivative securities which require the delivery to such broker-dealer or other financial institution of shares offered by this prospectus, which shares such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The sellers and any broker-dealers or agents that are involved in selling the shares may be deemed to be underwriters within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the shares purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act.

The Company is required to pay certain fees and expenses incurred by the Company incident to the registration of the shares. The Company has agreed to indemnify the sellers against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

We agreed to keep this prospectus effective until the earlier of (i) the date on which the shares may be resold by the sellers without registration and without regard to any volume limitations by reason of Rule 144(e) under the Securities Act or any other rule of similar effect or (ii) all of the shares have been sold pursuant to the prospectus or Rule 144 under the Securities Act or any other rule of similar effect. The resale shares will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the resale shares may not be sold unless they have been





## TABLE OF CONTENTS

registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Exchange Act, any person engaged in the distribution of the resale shares may not simultaneously engage in market making activities with respect to the Common Stock for a period of two business days prior to the commencement of the distribution. In addition, the sellers will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of shares of the Common Stock by the sellers or any other person. At the time a particular offering of the shares of Common Stock is made, a prospectus supplement, if required as determined by the Company in its sole discretion, will be distributed which will set forth the aggregate amount of shares of Common Stock being offered and the terms of the offering, including the name or names of any broker-dealers or agents, any discounts, commissions and other terms constituting compensation from the sellers and any discounts, commissions or concessions allowed or reallocated or paid to broker-dealers. We will make copies of this prospectus available to the sellers and have informed them of the need to deliver a copy of this prospectus to each purchaser at or prior to the time of the sale unless exempted from the prospectus delivery requirement.

The sellers may pledge or grant a security interest in some or all of the shares of Common Stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of Common Stock from time to time pursuant to this prospectus or any amendment or supplement to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act, amending, if necessary, the list of sellers to include the pledgee, transferee or other successors in interest as sellers under this prospectus. The sellers also may transfer and donate the shares of Common Stock in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

There can be no assurance that any sellers will sell any or all of the shares of Common Stock registered pursuant to the registration statement, of which this prospectus forms a part.

Once sold under the registration statement, of which this prospectus forms a part, the shares of Common Stock will be freely tradable in the hands of persons other than our affiliates.

We will not receive any of the proceeds from the sale by the sellers of the shares of Common Stock. We will pay all expenses of the registration of the shares of Common Stock pursuant to the registration rights agreement, including, without limitation, Securities and Exchange Commission filing fees and expenses of compliance with state securities or `blue sky` laws; provided, however, that a sellers will pay all underwriting discounts and selling commissions, if any.

## **Offers by the Company**

We may sell the securities covered by this prospectus from time to time. Registration of the securities covered by this prospectus does not mean, however, that those securities will necessarily be offered or sold. We may sell the securities separately or together: through one or more underwriters in a public offering and sale by them; directly to investors (in those jurisdictions where we are authorized to do so); through agents; or through a combination of any of these methods of sale. We may sell the securities from time to time: in one or more transactions at a fixed price or prices, that may be changed from time to time; at market prices prevailing at the time of sale; at prices related to prevailing market prices; or at negotiated prices. We will describe the method of distribution of the

securities and the terms of the offering in the applicable prospectus supplement.

If underwriters are used for the sale of any securities, the securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions described above. The securities may be either offered to the public through underwriting syndicates represented by managing underwriters, or directly by underwriters. Generally, the underwriters' obligations to purchase the securities will be subject to conditions precedent and the underwriters will be obligated to purchase all of the securities if they purchase any of the securities. We may grant underwriters who participate in the distribution of securities an option to purchase additional securities in connection with the distribution. Any underwriter or agent involved in the offer and sale of the securities will be named in the related prospectus supplement.

## TABLE OF CONTENTS

Underwriters may offer and sell the securities at a fixed price or prices that may be changed, at market prices prevailing at the time of sale, at prices related to prevailing market prices, or at negotiated prices. We also may, from time to time, authorize dealers, acting as our agents, to offer and sell the securities upon the terms and conditions described in the related prospectus supplement. Underwriters may receive compensation from us in the form of underwriting discounts or commissions and may also receive commissions from purchasers of the securities for whom they may act as agent. Underwriters may sell the securities to or through dealers, and the dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters or commissions, which may be changed from time to time, from the purchasers for whom they may act as agents.

Any underwriting compensation paid by us to underwriters or agents in connection with the offering of the securities, and any discounts, concessions or commissions allowed by underwriters to participating dealers, will be stated in the related prospectus supplement. Dealers and agents participating in the distribution of the securities may be deemed to be underwriters, and any discounts and commissions received by them and any profit realized by them on resale of the securities may be deemed to be underwriting discounts and commissions under the applicable securities laws.

Shares of our Common Stock are quoted on the NYSE AMEX. In connection with any offering of securities, the underwriters may purchase and sell securities in the open market and engage in over-allotment transactions, short-covering transactions, penalty bids and stabilizing transactions in accordance with Regulation M under the Exchange Act. Over-allotment involves sales of securities in excess of the offering size of securities to be purchased by the underwriters in an offering, which creates a short position for the underwriters. Short-covering transactions involve purchases of the securities in the open market after the distribution has been completed in order to cover short positions. Penalty bids permit the underwriters to reclaim a selling concession from a dealer when the securities originally sold by the dealer are purchased in a covering transaction to cover short positions. Stabilizing transactions consist of certain bids or purchases of securities made for the purpose of preventing or retarding a decline in the market price of the securities while the offering is in progress. Any of these activities may have the effect of preventing or retarding a decline in the market price of the securities being offered. They may also cause the price of the securities being offered to be higher than the price that otherwise would exist in the open market in the absence of these transactions. The underwriters may conduct these transactions in the over-the-counter market or otherwise. If the underwriters commence any of these transactions, they may discontinue them at any time. We make no representation as to the direction or magnitude of any affect that such transactions may have on the price of the securities.

Underwriters, dealers and agents may be entitled, under agreements entered into with us to indemnification by us against certain civil liabilities, including liabilities under the Securities Act, or to contribution with respect to payments made by such underwriters, dealers or agents related to such civil liabilities.

Certain of the underwriters, dealers or agents and their associates may engage in transactions with, and perform other services for us in the ordinary course of business for which they may receive compensation.

## **VALIDITY OF THE SECURITIES**

The validity of the securities offered and to be offered hereby and certain other legal matters will be passed upon for us by McDonald Carano Wilson LLP. Counsel for any underwriter or agent will be named in the applicable prospectus supplement.

## **EXPERTS**

The financial statements of December 31, 2009 and for the year in the one-year period ended December 31, 2009 (including schedules appearing therein) incorporated in this prospectus by reference to the 2010 Form 10-K have been so incorporated in reliance on the report of Jewett, Schwartz, Wolfe & Associates, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The financial statements, and the related financial statement schedule, incorporated in this Prospectus by reference from the Company's Annual Report on Form 10-K for the year ended December 31, 2010, have

9

---

TABLE OF CONTENTS

been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report, which is incorporated herein by reference. Such financial statements and financial statement schedule have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

No expert or counsel named in this prospectus as having prepared or certified any part thereof or having given an opinion upon the validity of the securities being registered or upon other legal matters in connection with the registration or offering of our Common Stock was employed on a contingency basis or had or is to receive, in connection with the offering, a substantial interest, directly or indirectly, in us. Additionally, no such expert or counsel was connected with us as a promoter, managing or principal underwriter, voting trustee, director, officer or employee.

10

---

TABLE OF CONTENTS

**Shares**

**Common Stock**

**PROSPECTUS SUPPLEMENT**

*Joint Book-Running Managers*

**Global Hunter Securities**

**Moelis & Company**  
*Manager*

**Aegis Capital Corp**

