ADVENTRX PHARMACEUTICALS INC
Form 10-Q
May 12, 2008

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**UNITED STATES**
**SECURITIES AND EXCHANGE COMMISSION**
**Washington, D.C. 20549**
**FORM 10-Q**

**(Mark One)**

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

**For the quarterly period ended March 31, 2008**

**OR**

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

**For the transition period from to**

**Commission File Number 001-32157**

**ADVENTRX Pharmaceuticals, Inc.**
*(Exact name of registrant as specified in its charter)*

| | |
|---|---|
| **Delaware** | **84-1318182** |
| *(State or other jurisdiction of incorporation or organization)* | *(I.R.S. Employer Identification No.)* |
| **6725 Mesa Ridge Road, Suite 100, San Diego, CA** | **92121** |
| *(Address of principal executive offices)* | *(Zip Code)* |

**(858) 552-0866**
*(Registrant s telephone number, including area code)*
N/A
*(Former name, former address and former fiscal year, if changed since last report)*

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

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 definitions of large accelerated filer, accelerated filer, and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

| | | | |
|---|---|---|---|
| Large accelerated filer: o | Accelerated filer: þ | Non-accelerated filer: o<br>(Do not check if a smaller reporting company) | Smaller reporting company: o |

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

The number of shares outstanding of the registrant s common stock, $0.001 par value, as of May 5, 2008 was 90,252,572.

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## PART I FINANCIAL INFORMATION

### Item 1. Financial Statements

**ADVENTRX Pharmaceuticals, Inc. and Subsidiaries**
(A Development Stage Enterprise)
**Condensed Consolidated Balance Sheets**

| | March 31, 2008 (Unaudited) | December 31, 2007 (Note) |
|---|---|---|
| **Assets** | | |
| Current assets: | | |
| Cash and cash equivalents | $ 20,299,364 | $ 14,780,739 |
| Short-term investments | 8,507,787 | 18,682,417 |
| Interest receivable | | 72,029 |
| Prepaid expenses | 670,072 | 615,691 |
| Total current assets | 29,477,223 | 34,150,876 |
| Property and equipment, net | 318,381 | 332,444 |
| Other assets | 58,305 | 58,305 |
| Total assets | $ 29,853,909 | $ 34,541,625 |
| **Liabilities and Stockholders Equity** | | |
| Current liabilities: | | |
| Accounts payable | $ 300,188 | $ 552,143 |
| Accrued liabilities | 2,611,372 | 2,317,910 |
| Accrued compensation and payroll taxes | 1,181,766 | 622,762 |
| Total current liabilities | 4,093,326 | 3,492,815 |
| Long-term liabilities | 8,918 | 14,270 |
| Total liabilities | 4,102,244 | 3,507,085 |
| Commitments and contingencies | | |
| Stockholders equity: | | |
| Common stock, $0.001 par value; 200,000,000 shares authorized; 90,252,572 shares issued and outstanding at March 31, 2008 and December 31, 2007 | 90,254 | 90,254 |
| Additional paid-in capital | 130,784,645 | 130,140,549 |
| Deficit accumulated during the development stage | (105,132,037) | (99,198,965) |
| Accumulated other comprehensive income | 8,803 | 2,702 |
| Total stockholders equity | 25,751,665 | 31,034,540 |
| Total liabilities and stockholders equity | $ 29,853,909 | $ 34,541,625 |

Note: The balance sheet at December 31, 2007 has been derived from audited financial statements at that date. It does not include, however, all of the information and notes required by U.S. generally accepted accounting principles for complete financial statements.

See accompanying notes to unaudited condensed consolidated financial statements.

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**ADVENTRX Pharmaceuticals, Inc. and Subsidiaries**
(A Development Stage Enterprise)
**Condensed Consolidated Statements of Operations**
(Unaudited)

| | Three months ended March 31, 2008 | Three months ended March 31, 2007 | Inception (June 12, 1996) through March 31, 2008 |
|---|---|---|---|
| Licensing revenue | $ | $ 500,000 | $ 500,000 |
| Net sales | | | 174,830 |
| Grant revenue | | | 129,733 |
| Total net revenue | | 500,000 | 804,563 |
| Cost of net sales | | | 51,094 |
| Gross margin | | 500,000 | 753,469 |
| Operating expenses: | | | |
| Research and development | 3,820,307 | 3,384,660 | 47,912,680 |
| Selling, general and administrative | 2,365,194 | 2,809,449 | 35,614,783 |
| Depreciation and amortization | 46,779 | 51,889 | 10,676,811 |
| In-process research and development | | | 10,422,130 |
| Impairment loss write-off of goodwill | | | 5,702,130 |
| Equity in loss of investee | | | 178,936 |
| Total operating expenses | 6,232,280 | 6,245,998 | 110,507,470 |
| Loss from operations | (6,232,280) | (5,745,998) | (109,754,001) |
| Interest income | 299,208 | 622,184 | 4,331,272 |
| Interest expense | | | (179,090) |
| Loss before cumulative effect of change in accounting principle | (5,933,072) | (5,123,814) | (105,601,819) |
| Cumulative effect of change in accounting principle | | | (25,821) |
| Net loss | (5,933,072) | (5,123,814) | (105,627,640) |
| Preferred stock dividends | | | (621,240) |
| Net loss applicable to common stock | $ (5,933,072) | $ (5,123,814) | $ (106,248,880) |

| | | |
|---|---|---|
| Loss per common share basic and diluted | $ (0.07) | $ (0.06) |
| Weighted average shares outstanding basic and diluted | 90,252,572 | 89,676,739 |

See accompanying notes to unaudited condensed consolidated financial statements.

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**ADVENTRX Pharmaceuticals, Inc. and Subsidiaries**
(A Development Stage Enterprise)
**Condensed Consolidated Statements of Cash Flows**
(Unaudited)

| | Three months ended March 31, | | Inception (June 12, 1996) through March 31, |
|---|---|---|---|
| | **2008** | **2007** | **2008** |
| Cash flows from operating activities: | | | |
| Net loss | $ (5,933,072) | $ (5,123,814) | $ (105,627,640) |
| Adjustments to reconcile net loss to net cash used in operating activities: | | | |
| Depreciation and amortization | 46,779 | 51,889 | 10,226,811 |
| In-process research and development | | | 10,422,130 |
| Share-based compensation for employee awards | 638,416 | 600,009 | 7,081,745 |
| Expense related to stock options issued to non-employees | 5,680 | 25,549 | 205,362 |
| Expenses paid by issuance of common stock | | 19,583 | 1,144,697 |
| Expenses paid by issuance of warrants | | | 573,357 |
| Expenses paid by issuance of preferred stock | | | 142,501 |
| Expenses related to stock warrants issued | | | 612,000 |
| Accretion of discount on investments in securities | (131,929) | (282,792) | (1,528,320) |
| Amortization of debt discount | | | 450,000 |
| Loss on disposals of property and equipment | 188 | | 188 |
| Forgiveness of employee receivable | | | 30,036 |
| Impairment loss write-off of goodwill | | | 5,702,130 |
| Equity in loss of investee | | | 178,936 |
| Write-off of license agreement | | | 152,866 |
| Write-off of assets available-for-sale | | | 108,000 |
| Cumulative effect of change in accounting principle | | | 25,821 |
| Changes in assets and liabilities, net of effect of acquisitions: | | | |
| Increase (decrease) in prepaid expenses and other assets | 17,648 | (171,728) | (975,746) |
| Increase in accounts payable and accrued liabilities | 588,129 | 334,684 | 4,257,651 |
| Increase (decrease) in other long-term liabilities | (5,352) | (5,351) | 8,918 |
| Net cash used in operating activities | (4,773,513) | (4,551,971) | (66,808,557) |
| Cash flows from investing activities: | | | |
| Purchases of short-term investments | (6,437,340) | (13,681,067) | (103,265,440) |
| Proceeds from sales and maturities of short-term investments | 16,750,000 | 13,250,000 | 96,294,776 |
| Purchases of property and equipment | (20,522) | (36,430) | (985,920) |
| Purchase of certificate of deposit | | | (1,016,330) |
| Maturity of certificate of deposit | | | 1,016,330 |
| Payment on obligation under license agreement | | | (106,250) |
| Cash acquired from acquisitions, net of cash paid | | | 32,395 |

| | | | |
|---|---|---|---|
| Issuance of note receivable related party | | | (35,000) |
| Payments on note receivable | | | 405,993 |
| Advance to investee | | | (90,475) |
| Cash transferred in rescission of acquisition | | | (19,475) |
| Cash received in rescission of acquisition | | | 230,000 |
| Net cash provided by (used in) investing activities | 10,292,138 | (467,497) | (7,539,396) |
| Cash flows from financing activities: | | | |
| Proceeds from sale of preferred stock | | | 4,200,993 |
| Proceeds from sale of common stock | | | 84,151,342 |
| Proceeds from exercise of stock options | | | 712,367 |
| Proceeds from sale or exercise of warrants | | | 11,382,894 |
| Repurchase of warrants | | | (55,279) |
| Payment of financing and offering costs | | | (6,483,809) |
| Payments of notes payable and long-term debt | | | (605,909) |
| Proceeds from issuance of notes payable and detachable warrants | | | 1,344,718 |
| Net cash provided by financing activities | | | 94,647,317 |
| Net increase (decrease) in cash and cash equivalents | 5,518,625 | (5,019,468) | 20,299,364 |
| Cash and cash equivalents at beginning of period | 14,780,739 | 25,974,041 | |
| Cash and cash equivalents at end of period | $ 20,299,364 | $ 20,954,573 | $ 20,299,364 |

See accompanying notes to unaudited condensed consolidated financial statements.

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**ADVENTRX Pharmaceuticals, Inc. and Subsidiaries**
(A Development Stage Enterprise)
**Notes to Condensed Consolidated Financial Statements (Unaudited)**

## 1. Basis of Presentation

ADVENTRX Pharmaceuticals, Inc., a Delaware corporation ( ADVENTRX, we or the Company ), prepared the unaudited interim condensed consolidated financial statements in accordance with accounting principles generally accepted in the United States of America ( U.S. GAAP ) for interim financial information and with the instructions of the Securities and Exchange Commission ( SEC ). Accordingly, they do not include all of the information and disclosures required by U.S. GAAP for annual audited financial statements and should be read in conjunction with our audited consolidated financial statements and related notes for the year ended December 31, 2007 included in our Annual Report on Form 10-K filed with the SEC on March 17, 2008 ( 2007 Annual Report ). The condensed consolidated balance sheet as of December 31, 2007 has been derived from the audited consolidated financial statements included in the 2007 Annual Report. In the opinion of management, these consolidated financial statements include all adjustments (consisting of normal recurring adjustments) necessary for a fair presentation of the financial position, results of operations, and cash flows for the periods presented. The results of operations for the interim periods shown in this report are not necessarily indicative of results expected for the full year.

Since our inception, we have reported accumulated net losses of approximately $105.6 million and recurring negative cash flows from operations. In order to maintain sufficient cash and investments to fund future operations, and to continue developing our existing product candidates, we may need or choose to seek additional capital in the next 12 months through collaborations, licensing arrangements or other strategic transactions, public or private sales of our equity securities, and/or debt financings. The balance of securities available-for-sale under our existing shelf registration was approximately $60.0 million as of March 31, 2008, but we may be subject to limitations with respect to the number of securities we can sell under this shelf registration. If we are unable to raise capital as needed to fund future operations, then we may defer or abandon one or more of our research and development programs and may need to take additional cost-cutting measures.

The condensed consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries, SD Pharmaceuticals, Inc. and ADVENTRX (Europe) Ltd. All intercompany accounts and transactions have been eliminated in consolidation.

## 2. Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ from those estimates.

## 3. Fair Value

Effective January 1, 2008, we adopted Statement of Financial Accounting Standards ( FAS ) No. 157, Fair Value Measurements ( FAS 157 ). In February 2008, the Financial Accounting Standards Board ( FASB ) issued FASB Staff Position ( FSP ) No. FAS 157-2, Effective Date of FASB Statement No. 157, which provides a one year deferral of the effective date of FAS 157 for non-financial assets and non-financial liabilities, except those that are recognized or disclosed in the financial statements at fair value at least annually. Therefore, we have adopted the provisions of FAS 157 with respect to our financial assets and liabilities only. The adoption of FAS 157 did not have a material impact on our consolidated results of operations or financial condition.

FAS 157 defines fair value, establishes a framework for measuring fair value under generally accepted accounting principles and enhances disclosures about fair value measurements. Fair value is defined under FAS 157 as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value under FAS 157 must maximize the use of observable inputs and minimize the use of unobservable inputs. The standard describes a fair value hierarchy based on three levels of inputs, of which the first two are considered observable and the last unobservable, that may be used to measure fair value which are the following:

Level 1 - Quoted prices in active markets for identical assets or liabilities.

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Level 2 - Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 - Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The following table represents our fair value hierarchy for our financial assets (cash equivalents and short-term investments in securities) measured at fair value on a recurring basis as of March 31, 2008:

| | **Level 1** | **Level 2** | **Level 3** | **Total** |
|---|---|---|---|---|
| Money market funds | $ 16,082,306 | $ | $ | $ 16,082,306 |
| U.S. Government debt securities | 9,464,524 | | | 9,464,524 |
| Commercial paper | | 2,536,934 | | 2,536,934 |
| Total | $ 25,546,830 | $ 2,536,934 | $ | $ 28,083,764 |

Effective January 1, 2008, we adopted FAS No. 159, The Fair Value Option for Financial Assets and Financial Liabilities ( FAS 159 ). FAS 159 allows an entity the irrevocable option to elect to measure specified financial assets and liabilities in their entirety at fair value on a contract-by-contract basis. If an entity elects the fair value option for an eligible item, changes in the item s fair value must be reported as unrealized gains and losses in earnings at each subsequent reporting date. In adopting FAS 159, we did not elect the fair value option for any of our financial assets or financial liabilities.

## 4. Share-Based Payments

Estimated share-based compensation expense related to equity awards granted to employees for the three months ended March 31, 2008 and 2007 was as follows:

| | **Three Months Ended March 31,** | |
|---|---|---|
| | **2008** | **2007** |
| Selling, general and administrative expense | $ 332,720 | $ 346,305 |
| Research and development expense | 305,696 | 253,704 |
| Share-based compensation expense before taxes | 638,416 | 600,009 |
| Related income tax benefits | | |
| Share-based compensation expense | $ 638,416 | $ 600,009 |
| Net share-based compensation expense per common share basic and diluted | $ 0.01 | $ 0.01 |

Since we have a net operating loss carryforward as of March 31, 2008, no excess tax benefits for the tax deductions related to share-based awards were recognized in the condensed consolidated statement of operations. There were no employee stock options exercised in the three months ended March 31, 2008 and 2007.

At March 31, 2008, total unrecognized estimated compensation cost related to non-vested employee share-based awards granted prior to that date was $3.5 million, which is expected to be recognized over a weighted-average period of 3.1 years. During the three months ended March 31, 2008 and 2007, we granted 1,802,500 and 652,333 stock options, respectively, to our employees with the estimated weighted-average grant-date fair value of $0.51 and $2.51 per share, respectively.

| | **Three Months Ended March 31,** | |
|---|---|---|
| | **2008** | **2007** |
| Weighted expected volatility | 147.9% | 138.1% |
| Average expected term (in years) | 6.3 | 6.1 |
| Average risk-free interest rate | 2.9% | 4.7% |
| Dividend yield | 0 | 0 |

Estimated share-based compensation expense related to equity awards granted to non-employee consultants was approximately $6,000 and $26,000 for the three months ended March 31, 2008 and 2007, respectively.

**5. Net Loss Per Common Share**

We calculate basic and diluted net loss per common share in accordance with the FAS No. 128, Earnings Per Share . Basic net loss per common share was calculated by dividing the net loss for the period by the weighted-average number of common shares outstanding during the period, without consideration for common stock equivalents. Options and warrants are considered to be common stock equivalents and are only included in the calculation of diluted earnings per common share when their effect is dilutive. Because of the net loss, all of the options and warrants were excluded from the calculation.

We have excluded the following options and warrants from the calculation of diluted net loss per common share for the three months ended March 31, 2008 and 2007 which, because of the net loss, their effect is anti-dilutive:

| | 2008 | 2007 |
|---|---|---|
| Warrants | 13,373,549 | 13,458,549 |
| Options | 5,589,483 | 4,297,957 |
| | 18,963,032 | 17,756,506 |

**6. Comprehensive Loss**

Comprehensive loss is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources, including foreign currency translation adjustments and unrealized gains and losses on short-term investments. Our components of comprehensive loss consist of net loss and unrealized gains or losses on short-term investments in securities. For the three months ended March 31, 2008 and 2007, comprehensive loss was $5.9 million and $5.1 million, respectively.

**7. Recent Accounting Pronouncements**

In March 2008, the FASB issued FAS No. 161, Disclosures About Derivative Instruments and Hedging Activities an amendment of FASB Statement No. 133 ( FAS 161 ). FAS 161 expands quarterly disclosure requirements in FAS No. 133, Accounting for Derivative Instruments and Hedging Activities, about an entity s derivative instruments and hedging activities. FAS 161 is effective for fiscal years beginning after November 15, 2008. We do not expect the adoption of FAS 161 will have a material impact on our consolidated results of operations or financial position.

**8. License Fee Revenue**

In October 2006, we entered into a license agreement with Theragenex, LLC ( Theragenex ). Under the agreement, we granted Theragenex exclusive rights to develop and commercialize ANX-211 in the U.S. in exchange for a licensing fee of $1.0 million ($500,000 of which we received in January 2007 and $500,000 of which was due in June 2007 but remains unpaid), milestone payments and royalties. In May 2007, we received a letter from TRx Pharma, a subsidiary of Theragenex, that we believe was intended to constitute notice of termination of the agreement with Theragenex, though the letter did not explicitly state that it constituted notice of termination. In its letter, TRx Pharma requested a refund of the initial $500,000 payment and, in subsequent discussions, has indicated that it does not intend to pay the remaining $500,000. On July 3, 2007, we notified Theragenex that, among other things, its failure to make the final $500,000 payment constituted a material breach of the agreement. On August 9, 2007, we delivered a letter to Theragenex confirming our termination of the agreement as a result of Theragenex s breach, pursuant to the terms of the agreement. See Note 10, Commitments and Contingencies, for further discussion.

For the three months ended March 31, 2007, we recognized $500,000 in license fee revenue, which we received in January 2007, because our performance obligations were complete, collectibility was reasonably assured and we had no continuing obligations for performance under the agreement. No license revenue was recognized in the three months ended March 31, 2008. We do not intend to refund the initial $500,000 payment from Theragenex and we intend to pursue appropriate action to collect payment of the final $500,000 payment due in June 2007; however, in accordance with the provisions of the SEC s Staff Accounting Bulletin Topic 13, Revenue Recognition, ( Topic 13 ), we will not recognize revenue with respect to the uncollected amount until collectibility is reasonably assured.

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## 9. Supplementary Cash Flow Information

Noncash investing and financing transactions excluded from the condensed consolidated statements of cash flows for the three months ended March 31, 2008 and 2007 and for the period from inception (June 12, 1996) through March 31, 2008 are as follows:

| | Three months ended March 31, 2008 | Three months ended March 31, 2007 | Inception (June 12, 1996) through March 31, 2008 |
|---|---|---|---|
| Supplemental disclosures of cash flow information: | | | |
| Interest paid | $ | $ | $ 179,090 |
| Income taxes paid | | | |

| | Three months ended March 31, | | Inception (June 12, 1996) |
|---|---|---|---|