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HEMISPHERX BIOPHARMA INC

Form 8-K/A

March 26, 2004

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

-----  
FORM 8-K/A  
Amendment No. 2

CURRENT REPORT

Pursuant to Section 13 or 15 (d) of the  
Securities Exchange Act of 1934

Date of Report - March 12, 2003  
(March 11, 2003) (Date of  
earliest event reported)

Hemispherx Biopharma, Inc.  
(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation)	0-27072 (Commission File Number)	52-0845822 (IRS Employer Identification Number)
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1617 JFK Boulevard (Address of principal executive offices)	19103 (Zip Code)
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Area Code (215) 988-0080  
(Registrant's telephone number)

ITEM 2. ACQUISITION OR DISPOSITION OF ASSETS.

As noted in the previous Current Report on Form 8-K filed On March 13, 2003, Hemispherx Biopharma, Inc. (the "Company") executed two agreements with Interferon Sciences, Inc. ("ISI") to purchase certain assets of ISI (the two asset purchase transactions are hereinafter referred to as the "First Asset Purchase" and the "Second Asset Purchase") and consummated the First Asset Purchase.

In the second agreement with ISI (the "Second Asset Purchase

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Agreement"), ISI agreed to sell to the Company all of its rights to ALFERON N Injection(R), a pharmaceutical product used for the treatment of certain types of genital warts in adults (the "Product") and other assets related to the Product including, but not limited to, real estate and machinery. For these assets, the Company agreed to:

(i) issue 424,528 shares of its Common Stock which has a Market Value (as defined in the Second Asset Purchase Agreement) of \$675,000 and a guaranteed value of \$675,000;

(ii) issue an additional 62,500 shares of Common Stock without a guaranteed value;

(iii) continue to pay ISI 6 % of the net sales of the Product; and

(iv) satisfy certain obligations of ISI.

On March 17, 2004, the Company consummated the Second Asset Purchase.

Item 7. Financial Statements and Exhibits.

(a) Financial Statements.

None.

(b) Unaudited Pro forma Financial Information.

The required Pro Forma Financial Information related to the Registrant's acquisition of certain assets of Interferon Sciences, Inc. on March 17, 2004 are attached hereto as Exhibit 99.1.

(c) Exhibits.

None.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Hemispherx Biopharma, Inc.

By: /s/ William A. Carter

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William A. Carter, M.D., President

March 26, 2004

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Exhibit 99.1

Unaudited Pro Forma Consolidated Financial Statements

On March 11, 2003 the Company executed two agreements with Interferon Sciences, Inc. ("ISI") to purchase certain of its assets.

In the first agreement with ISI, the Company effectively acquired the operations of ISI including its inventory of Alferon N Injection(R), and a limited license for the production, manufacture use, marketing and sale of this product. This transaction was completed on March 11, 2003. For these assets, the Company:

- i) Issued 487,028 shares of its common stock, and
- ii) Agreed to pay ISI 6% of the net sales of the Product

The Company also is required to pay ISI a service fee and pay certain of ISI's obligation related to the product.

In the second agreement with ISI, effectively an asset acquisition, ISI agreed to sell to the Company all of ISI's rights to the product and other assets related to the product including, but not limited to, real estate and machinery. This transaction was completed on March 17, 2004. For these assets, the Company:

- i) Issued on March 17, 2004 an additional 487,028 shares of its common stock; and will
- ii) Continue to pay ISI 6% of the net sales of the product

Pro Forma Condensed Consolidated Statement of Operations (Unaudited) of the Company

The following unaudited pro forma consolidated statement of operations of the Company for the year ended December 31, 2003 presents the results of the Company assuming the above-mentioned two agreements between the Company and ISI had occurred on January 1, 2003.

The unaudited pro forma consolidated statement of operations should be read in conjunction with the consolidated financial statements of the Company for the year ended December 31, 2003, including the notes thereto, included in the Company's Annual Report on Form 10-K/A. The pro forma data is for informational purposes only and may not necessarily reflect the Company's results of operations for the year ended December 31, 2003 had the Company consummated the two agreements on January 1, 2003.

Hemispherx Biopharma, Inc. and Subsidiaries  
 Unaudited Pro Forma Consolidated Statement of Operations  
 Year Ended December 31, 2003  
 (in thousands, except per share data)

(1)	(2)	(3)	(4)
Hemispherx Biopharma, Inc. And Subsidiaries -----	Interferon Sciences, Inc. Asset And Subsidiary -----	Pro Forma Adjustments For First Acquisition -----	Pro Forma as Adjusted For First Acquisition Asset ----- Further Adjustment For Second Acquisition Asset -----

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	2003 -----	2003 -----			
Revenues:					
Sales of product	\$509	\$ 242	\$	\$ 751	\$
Clinical treatment programs	148	-	-	148	-
Total Revenues	----- 657	----- 242	-----	----- 899	-----
Costs and expenses:					
Production costs/Cost of Goods Sold	502	267	47 (a)	816	60 (d)
Research and development	3,150	176	(7) (a)	3,319	8 (d)
General and administrative	4,257	963	(675) (a)	4,545	8 (d)
Royalty Expense			45 (b)	45	
Total cost and expenses	----- 7,909	----- 1,406	----- (590)	----- 8,725	----- 76
Interest and other income	80	13	(13) (a)	80	
Interest Expense and Financing Costs	(7,598)	(274)	(68) (c) 274 (a)	(7,666)	
Metacine Settlement		1,550	(1,550) (a)		
Service fee income		451	(451) (a)		
Other income		14	(14) (a)		
Bulk sale of Alferon inventory		1,149	(1,149) (a)		
Net loss	----- \$ (14,770)	----- \$ 1,739	----- \$ (2,381)	----- \$ (15,412)	----- \$ (76)
Basic and diluted loss per share	----- \$ (.42)			----- \$ (.43)	
Basic and diluted weighted Average common shares outstanding	----- 35,235			----- 35,327	-----

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See accompanying notes to consolidated statement of operations.

### NOTES TO UNAUDITED PROFORMA CONSOLIDATED STATEMENT OF OPERATIONS

The following notes describe the column headings in the unaudited pro forma consolidated statement of operations and the pro forma adjustments that have been made to this statement:

(1) Reflects the unaudited consolidated historical statement of operations of Hemispherx Biopharma, Inc. and subsidiaries for the year ended December 31, 2003.

(2) Reflects the unaudited consolidated historical statement of operations for ISI for the period ended September 30, 2003, which date represents its most recent available financial statements.

(3) Reflects pro forma adjustments relating to the first acquisition on March 11, 2003 of certain assets of ISI and the related funding as follows:

(a) Adjustments to reflect the following:

Production cost related to sales of product by ISI are based on the Company's cost of inventory purchased from ISI in the First Asset Acquisition. A portion of the Company's total cost of the net assets was allocated to inventory in accordance with FASB 141.

ISI debt was not assumed by the Company, interest on the debt has been eliminated.

The ISI building was acquired in the Second Asset Acquisition. Depreciation expense related to the building has been included for the First Asset Acquisition adjustments. The depreciation of the building, based on the cost of the Second Asset Acquisition, is recorded in entry 4(e) below.

Service fee income paid to ISI by the Company, the gain on the bulk sale of the Alferon inventory to the Company and the Metacine settlement have been eliminated.

General and administrative expenses beyond March 11, 2003 have been eliminated because ISI's general and administrative expenses subsequent to that date are not related to the Alferon business. All expenses related to the Alferon business subsequent to March 11, 2003 have been included in the Company's historical results for the period from March 11, 2003 through December 31, 2003.

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	Production Cost / Cost of Sold Goods	R&D	G&A	Other	
Inventory	\$ (109)				
Interest expense				\$274	
Interest income				(13)	
Depreciation	62	\$7	\$7		
Service fee income				(451)	
Other income				(14)	
Bulk sale of Alferon inventory				(1,149)	
G&A after March 11, 2003			668		
Metacine Settlement	-	-	-	(1,550)	
Totals	\$ (47)	\$7	\$675	\$ (2,903)	\$

(b) Increase in general and administrative costs resulting from the recognition of 6% royalty charges on the net sales of the acquired ALFERON N injection product.

(c) Increase in interest for period from January 1, 2003 through March 11, 2003 for issuance of 6% Senior Convertible Debentures on March 12, 2003.

(4) Reflects pro forma adjustments relating to the second acquisition of certain assets of ISI as follows:

(d) Adjustments reflect depreciation expense relating to the acquired building as result of the second acquisition of certain assets of ISI.

Pro Forma Condensed Consolidated Balance Sheet (Unaudited) of the Company

The following unaudited pro forma condensed consolidated balance sheet of the Company as of December 31, 2003 presents the financial position of the Company assuming the asset sale had occurred on December 31, 2003. The unaudited pro forma condensed consolidated balance sheet should be read in conjunction with the consolidated financial statements of the Company, including the notes

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thereto for the year ended December 31, 2003, included in the Company's Annual Report on Form 10-K/A. The pro forma data is for informational purposes only and may not necessarily reflect the Company's financial position or what the Company's financial position would have been had the Company consummated the asset sale on December 31, 2003.

### Hemispherx Biopharma, Inc. and Subsidiaries Unaudited Pro Forma Consolidated Balance Sheet December 31, 2003 (in thousands)

	(1) HEMISPHERX BIOPHARMA, INC. AND SUBSIDIARIES -----	(2) PRO FORMA ADJUSTMENTS FOR SECOND ASSET ACQUISITION -----	PRO FORMA AS ADJUSTED FOR SECOND ASSET ACQUISITION -----
ASSETS			
Current Assets:			
Cash and cash equivalents	\$ 3,764	\$ -	\$3,764
Short term investments	1,495	-	1,495
Inventory	2,896	-	2,896
Accounts and other receivables	282	-	282
Prepaid and other current assets	170	-	170
	-----	-----	-----
Total current assets	8,607	-	8,607
	-----	-----	-----
Property, plant and equipment, net	94	3,212 (2)	3,306
Patent and trademark rights, net	1,027	-	1,027
Investments in unconsolidated affiliates	408	-	408
Deferred financing costs	393	-	393
Deferred acquisition costs	1,546	(1,546) (2)	-
Advance receivable	1,300	-	1,300
Other assets	29	-	29
	-----	-----	-----
Total assets	\$13,404	\$1,666	\$15,070
	=====	=====	=====
LIABILITIES			
Current liabilities:			
Accounts payable	\$488	\$ -	\$488
Accrued expenses	1,119	-	1,119
	-----	-----	-----
Total current liabilities	1,607	-	1,607
	-----	-----	-----
Long term debt-net of current portion	2,058	-	2,058
Redeemable common stock	491	1,452 (2)	1,943

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Stockholders' equity :			
Common stock	39		
		214 (2)	
Additional paid-in capital	123,054	1,769 (3)	125,0
Accumulated deficit	(113,843)	(1,769) (3)	(115,6
Treasury stock	(2)		
	-----	-----	-----
Total stockholders' equity	9,248	214	9,4
	-----	-----	-----
Total liabilities and stockholders' equity	\$ 13,404	\$ 1,666	\$15,0
	=====	=====	=====

See accompanying notes to consolidated balance sheet

NOTES TO UNAUDITED PROFORMA  
CONSOLIDATED BALANCE SHEET

The following notes describe the column headings in the unaudited pro-forma consolidated balance sheet and the pro forma adjustments that have been made to this balance sheet:

(1) Reflects the consolidated balance sheet of Hemispherx Biopharma Inc. and subsidiaries as of December 31, 2003.

(2) Reflects pro forma adjustments for the second acquisition of certain assets of ISI totaling \$3.1 million and the assumption of certain obligations, including those settled via the issuance of shares of the Company's common stock. The value of the common shares issued to ISI approximated \$1.7 million, of which approximately \$1.5 million is redeemable and reflected as such.

As a result of the acquisition, the following table summarizes the estimated fair values of the property acquired.

		(AMOUNTS IN THOUSANDS)
Second Acquisition		
Cost of Building and Equipment :		
Issued 487,028 shares to ISI		\$1,666
Issued 581,761 shares to ISI Creditors	\$907	
Assumed Liability for Tax Lien	639	1,546
	----	-----
Total Cost of Property Acquired		\$3,212
		=====

The shares issued to ISI were valued at \$3.42 per share which was the closing price of the Company's shares on the American Stock Exchange as of March 17, 2004. The shares issued to ISI creditors were values at \$1.56 per share which was the closing price of the Company's shares on the American Stock Exchange as of March 12, 2003.

(3) Represents the estimated intrinsic value of 1,450,000 stock warrants granted to the Company's Chief Executive Officer during October 2003, that became vested upon the second acquisition of certain assets from ISI.