

Edgar Filing: AVI BIOPHARMA INC - Form SC 13G

AVI BIOPHARMA INC
Form SC 13G
December 15, 2003

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

SCHEDULE 13G

Under the Securities Exchange Act of 1934

(Amendment No. __)*

AVI Biopharma, Inc.
(Name of Issuer)

Common Stock, par value \$0.001 par share
(Title of Class of Securities)

002346104
(CUSIP Number)

December 8, 2003
(Date of event which requires filing of this statement)

Check the appropriate box to designate the rule pursuant to which this Schedule 13G is filed:

- Rule 13d-1(b)
 Rule 13d-1(c)
 Rule 13d-1(d)

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter the disclosures provided in a prior cover page.

The information required in the remainder of this cover page shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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CUSIP No. 002346104

(1) NAMES OF REPORTING PERSONS
I.R.S. IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)

Smithfield Fiduciary LLC - not applicable

(2) CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP **
(a) [X]
(b) []

(3) SEC USE ONLY

(4) CITIZENSHIP OR PLACE OF ORGANIZATION
Cayman Islands, British West Indies

(5) SOLE VOTING POWER
-0-

NUMBER OF
SHARES
BENEFICIALLY
OWNED BY
EACH
REPORTING
PERSON WITH

(6) SHARED VOTING POWER
2,573,905 shares of Common Stock
Warrants to purchase shares of Common Stock (exercisable for an aggregate of 3,612,537 shares of Common Stock).
See footnote 1 in Item 4.

(7) SOLE DISPOSITIVE POWER
-0-

(8) SHARED DISPOSITIVE POWER
See Row 6 above.

(9) AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON
See Row 6 above.

(10) CHECK BOX IF THE AGGREGATE AMOUNT
IN ROW (9) EXCLUDES CERTAIN SHARES **
[]

(11) PERCENT OF CLASS REPRESENTED
BY AMOUNT IN ROW (9)

Approximately 9.99% as of the date of this Statement. (Based on 34,474,177 shares of Common Stock issued and outstanding as of the date of this Statement, plus the shares of Common Stock issuable upon the exercise of the AIR Warrants (as defined

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herein).)

(12) TYPE OF REPORTING PERSON **
OO - Limited Liability Company

CUSIP No. 002346104

(1) NAMES OF REPORTING PERSONS
I.R.S. IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)
Highbridge International LLC - not applicable

(2) CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP **
(a) [X]
(b) []

(3) SEC USE ONLY

(4) CITIZENSHIP OR PLACE OF ORGANIZATION
Cayman Islands, British West Indies

(5) SOLE VOTING POWER
-0-

NUMBER OF
SHARES
BENEFICIALLY
OWNED BY
EACH

(6) SHARED VOTING POWER
2,573,905 shares of Common Stock
Warrants to purchase shares of Common Stock (exercisable
for an aggregate of 3,612,537 shares of Common Stock).
See footnote 1 in Item 4.

REPORTING
PERSON WITH

(7) SOLE DISPOSITIVE POWER
-0-

(8) SHARED DISPOSITIVE POWER
See Row 6 above.

(9) AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON
See Row 6 above.

(10) CHECK BOX IF THE AGGREGATE AMOUNT
IN ROW (9) EXCLUDES CERTAIN SHARES **
 []

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(11) PERCENT OF CLASS REPRESENTED
BY AMOUNT IN ROW (9)

Approximately 9.99% as of the date of this Statement. (Based on 34,474,177 shares of Common Stock issued and outstanding as of the date of this Statement, plus the shares of Common Stock issuable upon the exercise of the AIR Warrants (as defined herein).)

(12) TYPE OF REPORTING PERSON **
OO - Limited Liability Company

CUSIP No. 002346104

(1) NAMES OF REPORTING PERSONS
I.R.S. IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)

Highbridge Capital Corporation - not applicable

(2) CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP **
(a) [X]
(b) []

(3) SEC USE ONLY

(4) CITIZENSHIP OR PLACE OF ORGANIZATION
Cayman Islands, British West Indies

(5) SOLE VOTING POWER
-0-

NUMBER OF
SHARES
BENEFICIALLY
OWNED BY
EACH

(6) SHARED VOTING POWER
2,573,905 shares of Common Stock
Warrants to purchase shares of Common Stock (exercisable for an aggregate of 3,612,537 shares of Common Stock).
See footnote 1 in Item 4.

REPORTING
PERSON WITH

(7) SOLE DISPOSITIVE POWER
-0-

(8) SHARED DISPOSITIVE POWER
See Row 6 above.

(9) AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

See Row 6 above.

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(10) CHECK BOX IF THE AGGREGATE AMOUNT
IN ROW (9) EXCLUDES CERTAIN SHARES **
[]

(11) PERCENT OF CLASS REPRESENTED
BY AMOUNT IN ROW (9)

Approximately 9.99% as of the date of this Statement. (Based on
34,474,177 shares of Common Stock issued and outstanding as of
the date of this Statement, plus the shares of Common Stock
issuable upon the exercise of the AIR Warrants (as defined
herein).)

(12) TYPE OF REPORTING PERSON **
BD - Broker Dealer

CUSIP No. 002346104

(1) NAMES OF REPORTING PERSONS
I.R.S. IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)

Highbridge Capital Management, LLC - 13-3993048

(2) CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP **
(a) [X]
(b) []

(3) SEC USE ONLY

(4) CITIZENSHIP OR PLACE OF ORGANIZATION
State of Delaware

(5) SOLE VOTING POWER
-0-

NUMBER OF
SHARES
BENEFICIALLY
OWNED BY
EACH

(6) SHARED VOTING POWER
2,573,905 shares of Common Stock
Warrants to purchase shares of Common Stock (exercisable
for an aggregate of 3,612,537 shares of Common Stock).
See footnote 1 in Item 4.

REPORTING
PERSON WITH

(7) SOLE DISPOSITIVE POWER
-0-

(8) SHARED DISPOSITIVE POWER

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See Row 6 above.

(9) AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

See Row 6 above.

(10) CHECK BOX IF THE AGGREGATE AMOUNT
IN ROW (9) EXCLUDES CERTAIN SHARES **

[]

(11) PERCENT OF CLASS REPRESENTED
BY AMOUNT IN ROW (9)

Approximately 9.99% as of the date of this Statement. (Based on 34,474,177 shares of Common Stock issued and outstanding as of the date of this Statement, plus the shares of Common Stock issuable upon the exercise of the AIR Warrants (as defined herein).)

(12) TYPE OF REPORTING PERSON **

OO - Limited Liability Company

Item 1.

(a) Name of Issuer

AVI Biopharma, Inc.

(b) Address of Issuer's Principal Executive Offices:

One SW Columbia Street, Suite 1105
Portland, Oregon 97258

Item 2(a). Name of Person Filing

Item 2(b). Address of Principal Business Office

Item 2(c). Citizenship

Smithfield Fiduciary LLC
The Anchorage Centre, 2nd Floor
Harbor Drive, George Town,
Grand Cayman, Cayman Islands, British West Indies
Citizenship: Cayman Islands, British West Indies

Highbridge International LLC
The Anchorage Centre, 2nd Floor
Harbor Drive, George Town,
Grand Cayman, Cayman Islands, British West Indies
Citizenship: Cayman Islands, British West Indies

Highbridge Capital Corporation
The Anchorage Centre, 2nd Floor
Harbour Drive, George Town,
Grand Cayman, Cayman Islands, British West Indies

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Citizenship: Cayman Islands, British West Indies

Highbridge Capital Management, LLC
9 West 57th Street, 27th Floor
New York, New York 10019
Citizenship: State of Delaware

- (d) Title of Class of Securities
Common Stock, par value \$0.001 per share
- (e) CUSIP Number 002346104

Item 3. If this statement is filed pursuant to Rule 13d-1(b), or 13d-2(b), check whether the person filing is a:

- (a) Broker or dealer registered under Section 15 of the Act (15 U.S.C. 78o).
- (b) Bank as defined in Section 3(a)(6) of the Act (15 U.S.C. 78c).
- (c) Insurance company as defined in Section 3(a)(19) of the Act (15 U.S.C. 78c).
- (d) Investment company registered under Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8).
- (e) An investment adviser in accordance with Rule 13d-1(b)(1)(ii)(E);
- (f) An employee benefit plan or endowment fund in accordance with Rule 13d-1(b)(1)(ii)(F);
- (g) A parent holding company or control person in accordance with Rule 13d-1(b)(1)(ii)(G);
- (h) A savings association as defined in Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813);
- (i) A church plan that is excluded from the definition of an investment company under Section 3(c)(14) of the Investment Company Act of 1940 (15 U.S.C. 80a-3);
- (j) Group, in accordance with Rule 13d-1(b)(1)(ii)(J).

If this statement is filed pursuant to Rule 13d-1(c), check this box.

Item 4. Ownership

(a) Amount Beneficially Owned

2,573,905 shares of Common Stock

Warrants to purchase shares of Common Stock (exercisable for an aggregate of 3,612,537 shares of Common Stock). /1/

(b) Percent of Class

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Approximately 9.99% as of the date of this Statement. (Based on 34,474,177 shares of Common Stock issued and outstanding as of the date of this Statement, plus the Shares of Common Stock issuable upon the exercise of the AIR Warrants (as defined herein).) /1/

(c) Number of shares as to which such person has:

(i) sole power to vote or to direct the vote
0

(ii) shared power to vote or to direct the vote
See Item 4(a) above.

(iii) sole power to dispose or to direct the disposition of
0

(iv) shared power to dispose or to direct the disposition of
See item (a) above.

/1/ The securities reported herein include securities that the Reporting Persons may acquire in the future upon the future through the exercise of (i) warrants to purchase up to 173,334 shares of Common Stock issued by the Issuer on March 25, 2002 (the "March 2002 Warrants"), (ii) warrants to purchase up to 375,000 shares of Common Stock issued by the Issuer on May 5, 2003 (the "May 2003 Warrants"), (iii) warrants to purchase up to 1,332,601 shares of Common Stock issued by SuperGen, Inc. on June 26, 2003 (the "SuperGen Warrants"), (iv) warrants to purchase up to 649,351 shares of Common Stock issued by the Issuer on December 8, 2003 (the "December 2003 Warrants") and (v) additional investment right warrants to purchase up to 1,082,251 shares of Common Stock issued by the Issuer on December 8, 2003 (the "AIR Warrants"). The expiration date for (i) the March 2002 Warrants is March 24, 2006, (ii) the May 2003 Warrants is May 5, 2008, (iii) the SuperGen Warrants is December 31, 2006, (iv) the December 2003 Warrants is December 8, 2008 and (v) the AIR Warrants is January 22, 2004. The current exercise price for (i) the March 2002 Warrants is \$4.62, (ii) the May 2003 Warrants is \$7.00, (iii) the SuperGen Warrants is \$5.00, (iv) the December 2003 is \$5.50 and (v) the AIR Warrants is \$4.62.

Pursuant to the terms of the March 2002 Warrants, the May 2003 Warrants, the SuperGen Warrants and the December 2003 Warrants, the Reporting Persons cannot exercise such Warrants to the extent that such exercise would cause the Reporting Persons to be "beneficial owners" of more than 4.99% of the Common Stock within the meaning of Rule 13d-1 of the Act. Pursuant to the terms of the AIR Warrants, the Reporting Persons cannot exercise such Warrants to the extent that such exercise would cause the Reporting Persons to be "beneficial owners" of more than 9.99% of the Common Stock within the meaning of Rule 13d-1 of the Act.

Item 5. Ownership of Five Percent or Less of a Class

Inapplicable

Item 6. Ownership of More than Five Percent on Behalf of Another Person.

Inapplicable

Item 7. Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on By the Parent Holding Company

See Item 2 above.

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Item 8. Identification and Classification of Members of the Group

Inapplicable

Item 9. Notice of Dissolution of Group

Inapplicable

Item 10. Certification

By signing below I certify that, to the best of my knowledge and belief, the securities referred to above were not acquired and are not held for the purpose of or with the effect of changing or influencing the control of the issuer of the securities and were not acquired and are not held in connection with or as a participant in any transaction having that purpose of effect.

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated this 15th day of December, 2003

SMITHFIELD FIDUCIARY LLC

By: /s/ Howard Feitelberg

Howard Feitelberg, Director

Highbridge International LLC

By: /s/ Howard Feitelberg

Howard Feitelberg, Director

Highbridge Capital Corporation

By: /s/ Howard Feitelberg

Howard Feitelberg, Controller

Highbridge Capital Management, LLC

By: /s/ Ronald S. Resnick

Ronald S. Resnick, Managing Director

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Exhibit Index

| Exhibit ----- | Description ----- |
|------------------|------------------------|
| 1 | Joint Filing Agreement |