

Edgar Filing: GEN RX INC - Form 10-Q/A

GEN RX INC
Form 10-Q/A
May 23, 2003

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q/A-1

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934
FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 1996

COMMISSION FILE NUMBER 0-24496

GEN/RX, INC.
(Exact name of Registrant as specified in its charter)

New York
(State or other jurisdiction of
incorporation or organization)

11-2728666
(I.R.S. Employer
Identification No.)

600 Woodmere Boulevard, Woodmere, New York
(Address of principal executive offices)

11598
(Zip Code)

(516) 569-3800
(Registrant's telephone number)

Indicate by check 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 ☐ No ☒

APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY
PROCEEDINGS DURING THE PRECEDING FIVE YEARS

Indicate by check whether the registrant has filed all documents and reports required to be filed by Section 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes ☐ No ☐

APPLICABLE ONLY TO CORPORATE ISSUERS:

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date:

Class -----	Outstanding at May 22, 2003 -----
Common Stock, par value \$0.004	20,878,711 shares

GEN/RX, INC.
FORM 10-Q
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GEN/RX, INC. CONSOLIDATED BALANCE SHEETS (In Thousands) (Unaudited)

ASSETS	December 31, 1995

Current assets:	
Cash	15
Accounts receivable, net of allowances	539
Inventories	24
Prepaid expenses and other current assets	4
Assets of discontinued operations AVP	1,059

Total current assets	1,641
Property, plant and equipment	352
Deposits and other assets	63
	\$ 2,056
	=====
LIABILITIES AND SHAREHOLDERS' EQUITY	
Current liabilities:	
Notes payable -- Apotex	\$ 3,563
Accounts payable and accrued expenses	1,327
Estimated liabilities of discontinued operations AVP	\$ 1,447
Total current liabilities	6,337

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Shareholders' equity:	
Common Stock	84
Additional capital	7,889
Accumulated deficit	(12,294)
Total shareholders' equity	4,321
Total liabilities and equity (deficit)	\$ 2,056

The accompanying notes are an integral part of these statements.

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GEN/RX, INC. CONSOLIDATED STATEMENTS OF OPERATIONS (In Thousands, Except Per share Amounts) (Unaudited)

	Nine Months ended
Net Sales	September 30, 1995

Cost of sales	
Gross profit	
Operating expenses:	
Amortization of intangible assets	153
	153
Operating income (loss)	(153)
Interest expense	92
Net income (loss) on continuing operations	\$ (245)
Net income (loss)	(245)
(Loss) per share of Common Stock:	
Continuing Operations	\$ (.01)
Net (Loss)	(.01)
Weighted average number of common shares outstanding	18,814

The accompanying notes are an integral part of these statements.

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GEN/RX, INC. CONSOLIDATED STATEMENTS OF CASH FLOWS (In Thousands) (Unaudited)

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Nine Months Ended
September 30, 1995

Cash flows from operating activities:	
Net gain (loss)	\$ (245)
Adjustments to reconcile net loss to net cash (used) by operating activities:	
Depreciation and amortization 153 Other changes in assets and liabilities:	
(Increase) Decrease in accounts receivable	92
Net cash provided (used) by operating activities	0
Net increase (decrease) in cash	0
Cash at beginning of period	-0-
Cash at end of period	-0-

The accompanying notes are an integral part of these statements.

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GEN/RX, INC.

Consolidated Statement of Net Assets
(liquidation basis)
September 30, 1996
(in thousands, except shares and per share amounts)

ASSETS	
Cash	\$106
Accounts receivable	41
Fixed assets held for sale at net realizable value	51

	198
LIABILITIES	
Accrued expenses and taxes	198

Commitments and contingencies	
Net assets in liquidation	\$ 0
	=====
Net assets in liquidation per common share (based on 20,878,711 common shares outstanding)	\$ 0
	=====

See Notes to Financial Statements

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GEN/RX, INC.

Consolidated Statement of Changes in Net Assets
(liquidation basis)
For the Period from July 1, 1996 Through September 30, 1996
(in thousands, except shares and per share amounts)

Net assets - beginning of period	\$0

Net assets in liquidation - end of period	\$0
	=====

See Notes to Financial Statements

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GEN/Rx, Inc. NOTES TO CONSOLIDATED FINANCIAL STATEMENTS June 30, 1996

The Company:

GEN/Rx, Inc. ("GEN/Rx" or the "Company"), was a holding company; the Company had three subsidiaries: AUSA, Inc., a Delaware corporation ("AUSA"), American Veterinary Products, Inc., a Colorado corporation ("AVP"), and Collins Laboratories, Inc., a Colorado corporation ("Collins").

In light of the Company's continuing operating losses and use of cash, in February 1996, the Company retained the services of Hill Thompson Capital Markets, Inc. ("Hill Thompson"), an investment banking firm, to assist management in its efforts to identify steps and strategies to reduce losses, generate returns on the Company's assets and maximize shareholder values. Hill Thompson Capital Markets, Inc. recommended the sale of AUSA.

AUSA was a development-stage, generic pharmaceutical company.

Hill Thompson identified potential purchasers for AUSA, prepared a confidential descriptive memorandum and sought to solicit interest in AUSA on behalf of the Company. Hill Thompson was not successful in soliciting any interested parties.

The Company held an auction on June 28, 1996 to sell the 100 shares of AUSA common stock outstanding; all of such shares were subject to a perfected security interest in favor of Apotex USA, Inc. ("APOTEX USA"). The auction was held at Hill Thompson's office at 437 Madison Avenue, New York, NY 10022; the minimum price was \$1,000,000 for the AUSA shares.

At the auction Apotex USA bid \$1,000,000 for the shares of AUSA. The Company and Apotex USA consummated the purchase with an effective date of July 1, 1996, promptly after the auction. Apotex USA was the only bidder at the auction. Although Apotex USA's acquisition of AUSA from the Company resulted in a reduction of the Company's indebtedness in favor of Apotex's USA, approximately \$4 million of indebtedness remained outstanding after the sale of AUSA to Apotex USA.

Management discontinued the operations of AVP and laid-off substantially all of its personnel at its factory located at 1413 Duff Drive, Fort Collins, Colorado 80524 (the "Ft. Collins Property"). AVP's inventory of veterinary products is negligible.

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The Larimer County (Colorado) District Court appointed a receiver for AVP, including the Ft. Collins Property; Jack Roberts acted as receiver.

AUSA's products have been the source of almost all the revenue the consolidated group of which the Company is a member received in 1996. The operations of AVP are treated as discontinued operations.

The Company's financial information for December 31, 1995 and for the nine month period ended September 30, 1995 has been restated to reflect the sale of AUSA.

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FINANCIAL STATEMENTS:

In the opinion of management, the accompanying unaudited, consolidated, condensed financial statements contain all adjustments necessary to present fairly the financial position of the Company and its results of operations and cash flows for the interim periods presented. Such financial statements have been condensed in accordance with the applicable regulations of the Securities and Exchange Commission ("SEC") and therefore, do not include all disclosures required by generally accepted accounting principles. These financial statements should be read in conjunction with the Company's audited financial statements for the year ended December 31, 1995 included in the Company's annual report filed on Form 10-K.

The results of operations for the three and nine months ended September 30, 1996 are not necessarily indicative of the results to be expected for the entire fiscal year.

BASIS OF PRESENTATION:

On July 1, 1996, the Company adopted the liquidation basis of accounting. Accordingly, the net assets of the Company are stated at liquidation value, whereby assets are stated at their estimated net realizable values and liabilities, which include estimated liquidation expenses to be incurred through the date of final dissolution of the Company, are stated at their anticipated settlement amounts.

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

PRINCIPLES OF CONSOLIDATION:

The consolidated financial statements include the accounts of GEN/Rx and GEN/Rx's wholly-owned subsidiary, American Veterinary Products, Inc. ("AVP"). See "Company" above. References herein to the "Company" refer to GEN/Rx and AVP, collectively.

Notes Payable - Apotex USA, Inc.:

On January 2, 1996, Apotex USA, the majority shareholder and primary creditor of the Company, accelerated approximately \$3,500,000 of the outstanding indebtedness of the Company in favor of Apotex USA. The Company had failed to pay Apotex USA approximately \$1,000,000 of indebtedness when it was due on December 22, and, as a result, after a 10-day grace period, the Company's failure to pay that amount constituted an Event of Default under the existing lending arrangements between the Company, as borrower, and Apotex USA.

The Company and Apotex USA had entered into these lending arrangements under a Loan Agreement dated April 13, 1995 (the "Loan Agreement"). At that date, Apotex USA agreed to lend to the Company \$500,000 in the form of a term loan and up to

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\$2,000,000 in the form of a revolving loan. Both loans were evidenced by promissory notes and would have matured April 13, 1998. The Company has borrowed the entire line of credit, and the aggregate indebtedness of \$2,500,000 is outstanding. These loans bore interest at the rate of 1% over prime. Interest was payable on the first business day of each March, June, September and December, and the Company failed to pay certain accrued and unpaid interest when due. The Company secured repayment of these amounts by all of the assets of the Company, including AVP's plant in Fort

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Collins, Colorado. As additional consideration for the loans, the Company had issued in favor of Apotex USA, warrants to purchase the Company's common stock at a purchase price of \$1 per share at the rate of one share for each dollar of loan advanced. The warrants are exercisable for a period of three years.

On November 29, 1995, the Company entered into an agreement with Apotex USA to amend the Loan Agreement. As amended, the Loan Agreement permitted Apotex USA, in its discretion, to advance sums in excess of the \$2,500,000 original loan amount, that were due December 22, 1995, but otherwise were treated as if they had been advanced pursuant to the Loan Agreement. The Company requested additional advances and Apotex USA advanced the Company approximately \$325,000 through December 31, 1995. The Company also agreed that failure to repay the amounts when due would constitute a default under the Loan Agreement. The Company also issued to Apotex USA a warrant to purchase an additional 813,783 shares of the Company's common stock, par value \$.004 per share, at an exercise price of \$.75 per share in connection with the amendment. The warrants have a term of three years.

At December 31, 1995, the Company was indebted to Apotex USA for an aggregate of \$3,563,000 including accounts payable converted to notes pursuant to the amendment of the loan agreement of \$447,000. The Company continued to receive additional advances from Apotex USA. The Company's defaults constituted Events of Default under the Loan Agreement and Apotex USA accelerated the entire amount of indebtedness of the Company and its subsidiaries, which are jointly and severally liable for the debt, by a letter dated January 2, 1996, which required the Company to turn over to Apotex USA all of the collateral on January 5, 1996. September 30, 1996 the Company was indebted to Apotex USA for an aggregate of \$4,401,659 including accounts payable converted to notes pursuant to the amendment of the loan agreement of \$747,423.

Apotex USA sought and received the appointment of a receiver for AVP's plant in a proceeding in Larimer County, Colorado, on January 4, 1996. The order permits the receiver to exercise control over AVP's bank accounts, accounts receivable and inventory. As a result of the November 29 letter amendment to the Loan Agreement and the appointment of a receiver, AVP is not receiving any cash proceeds.

Legal Proceedings:

On January 4, 1996, in connection with the default by the Company on the Loan Agreement, as amended (See "Notes Payable-Apotex USA" above), a receiver was appointed by the District Court of Larimer County, Colorado. The Court's order permits the receiver to exercise control over the bank accounts, accounts receivable and inventory of AVP. The cash proceeds from the sale of goods were held in trust by the receiver on behalf of Apotex USA pursuant to the terms of the Loan Agreement, as amended. In addition, the Company was a defendant in certain actions arising in the normal course of business.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

In June 1995, the Company made a determination to suspend the operations of American Veterinary Products, Inc. indefinitely after concluding that the time, cost and other resources required to address certain regulatory problems set forth in a warning letter issued by the US Food, Drug and Cosmetic Act ("FDA"), continue production activities and prepare for a possible upgrade to the facility and equipment would be too great for it to pursue. In December 1995, management decided to discontinue the operations of AVP. In connection with the decision during the fourth quarter to dispose of AVP, the Company laid-off substantially all of its personnel at this facility.

The Company held an auction on June 28, 1996 to sell the 100 shares of AUSA common stock outstanding; all of such shares were subject to a perfected security interest in favor of Apotex USA, Inc. The auction was held at Hill Thompson's office at 437 Madison Avenue, New York, NY 10022; the minimum price was \$1,000,000 for the AUSA shares.

At the auction Apotex USA bid \$1,000,000 for the shares of AUSA. The Company and Apotex USA consummated the purchase with an effective date of July 1, 1996, promptly after the auction. Apotex USA was the only bidder at the auction. Although Apotex USA's acquisition of AUSA from the Company resulted in a reduction of the Company's indebtedness in favor of Apotex's USA, approximately \$4 million of indebtedness remains outstanding after the sale of AUSA to Apotex USA. Management does not know of any source of funds with which to repay such indebtedness, but Management intends to pursue a strategy of creating value in the Company.

AUSA's products have been the source of almost all the revenue the consolidated group of which the Company is a member received in 1996. The operations of AVP are treated as discontinued operations.

The following should be read in conjunction with the Company's financial statements and the related notes thereto included elsewhere herein.

Liquidity and Capital Resources

The Company is dependent on continued financing from Apotex USA, (see "Financing" below).

Financing

The Company's current level of liquidity and capital resources is not sufficient to fund current operations and growth of the Company's business.

In connection with the business combination, the Company and Apotex had entered into lending arrangements under a Loan Agreement dated April 13, 1995 (the "Loan Agreement"). Apotex lent the Company \$500,000 in the form of a term loan and \$2,000,000 in the form of a revolving loan. Both loans were evidenced by promissory notes and would have matured April 13, 1998. The Company has borrowed the entire line of credit, and the aggregate indebtedness of \$2,500,000 is outstanding. These loans bear interest at the rate of 1% over prime. Interest was

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payable on the first business day of each March, June, September and December, and the Company failed to pay certain accrued and unpaid interest when due. The Company secured repayment of these amounts by all of the assets of the Company and its subsidiaries, including AVP's plant in Fort Collins, Colorado. As additional consideration for the loans, the Company had issued in favor of Apotex, warrants to purchase the Company's common stock at a purchase price of \$1 per share at the rate of one share for each dollar of loan advanced. The warrants have a term of three years.

On November 29, 1995, the Company entered into an agreement with Apotex USA to amend the Loan Agreement. As amended, the Loan Agreement permitted Apotex USA, in its discretion, to advance sums in excess of the \$2,500,000, original loan amount, that were due December 22, 1995, but otherwise were treated as if they had been advanced pursuant to the Loan Agreement. The Company requested additional advances and Apotex USA advanced the Company approximately \$325,000 through December 31, 1995. The Company agreed that failure to repay the amounts when due would constitute a default under the Loan Agreement. The Company also issued to Apotex USA a warrant to purchase an additional 813,783 shares of the Company's common stock, at an exercise price of \$.75 per share in connection with the amendment. The warrants have a term of three years.

The Company's failure to pay the amounts due December 22, 1995 constituted an Event of Default under the Loan Agreement and Apotex USA accelerated the entire amount of indebtedness (approximately \$3,500,000) of the Company and its subsidiaries, which are jointly and severally liable for the debt, by a letter dated January 2, 1996. The entire amount of the indebtedness on September 30, 1996 equaled \$4,401,659 all of which is due and payable.

In addition, pursuant to the Loan Agreement, as amended, accounts receivable of AUSA has been assigned to Apotex USA and collections thereof are being deposited into the bank accounts of Apotex USA. The Company lacks the liquidity needed to carry on any ongoing business.

Each of AUSA, Gen/Rx and AVP is jointly and severally liable for the entire amount of the indebtedness in favor of Apotex USA. The sale of AUSA reduced the outstanding amount of the debt owed by the Company but did not forgive it. Management believes that Apotex USA will not continue to fund the Company. There can be assurance that alternative sources of financing will be available to the Company.

PART II - OTHER INFORMATION

ITEM 1. Legal Proceedings

On January 4, 1996, in connection with the default by the Company on the Loan Agreement, as amended (See "Notes Payable-Apotex USA" above), a receiver was appointed by the District Court of Larimer County, Colorado. The Court's order permits the receiver to exercise control over the bank accounts, accounts receivable and inventory of AVP. The cash proceeds from the sale of goods are being held in trust by the receiver on behalf of Apotex USA pursuant to the terms of the Loan Agreement, as amended. In addition, the Company is a defendant in certain actions arising in the normal course of business.

In the opinion of management, the appointment of the receiver is expected to have a material effect on the financial condition and results of operations of the Company.

ITEM 3. Default Upon Senior Securities

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Notes Payable-Apotex USA:

The Company has been in default on it's indebtedness in favor of Apotex USA since at least January 2, 1996. The entire amount of indebtedness is due and payable. At September 30, 1996 the Company was indebted to Apotex USA for an aggregate of \$4,401,659 including accounts payable converted to notes pursuant to the amendment of the loan agreement. The company is jointly and severally liable for the entire amount, with AUSA and AVP.

ITEM 6. Exhibits and Reports on Form 8-K

(a) Exhibits: None

(b) Reports on Form 8-K:

The Company filed a current report on Form 8-K dated July 10, 1996 reporting under Item 2, "Acquisition or Disposition of Assets".

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SIGNATURE

In accordance with 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, thereunto duly authorized.

GEN/RX, INC.

(Registrant)

Date: May 22, 2003

By: /s/ Jack Margareten

Jack Margareten

Chief Financial Officer

CERTIFICATIONS

I, Jack Margareten, certify that:

1. I have reviewed this quarterly report on Form 10-Q of GEN/Rx, Inc.;

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report; and

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report.

Dated: May 22, 2003

/s/ Jack Margareten

Jack Margareten

Acting President, Chief Executive

