

NOVEN PHARMACEUTICALS INC

Form DEF 14A

April 29, 2008

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**SCHEDULE 14A  
(Rule 14a-101)**

**INFORMATION REQUIRED IN PROXY STATEMENT**

**SCHEDULE 14A INFORMATION  
Proxy Statement Pursuant to Section 14(a) of the Securities  
Exchange Act of 1934 (Amendment No. )**

Filed by the Registrant  x

Filed by a Party other than the Registrant  o

Check the appropriate box:

- o Preliminary Proxy Statement
- o Confidential, for Use of the Commission Only  
(as permitted by Rule 14a-6(e)(2))
- x Definitive Proxy Statement
- o Definitive Additional Materials
- o Soliciting Material Pursuant to §240.14a-12

NOVEN PHARMACEUTICALS, INC.  
(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- x No fee required.
- o Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
  - (1) Title of each class of securities to which transaction applies:
  - (2) Aggregate number of securities to which transaction applies:
  - (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
  - (4) Proposed maximum aggregate value of transaction:
  - (5) Total fee paid:

- o Fee paid previously with preliminary materials:
  
  - o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.
    - (1) Amount Previously Paid:
  
    - (2) Form, Schedule or Registration Statement No.:
  
    - (3) Filing Party:
  
    - (4) Date Filed:
-

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April 29, 2008

Dear Stockholder:

The 2008 Annual Meeting of Stockholders of Noven Pharmaceuticals, Inc. will convene at 11:00 a.m. on Thursday, June 5, 2008. The meeting will be held at the Nasdaq MarketSite, 4 Times Square, New York, NY 10036. Details regarding the business to be conducted at the meeting are described in the accompanying Notice of Annual Meeting and Proxy Statement.

Your vote on these matters is important. Whether or not you plan to attend the meeting, I hope you will vote as soon as possible. Most of you may now vote your shares over the Internet, as well as by telephone or by mailing a traditional proxy card. Voting over the Internet, by telephone or by written proxy will assure that your shares are voted if you do not attend in person. Please review the instructions on the enclosed proxy card or voting instruction card regarding which of these options is available to you, and how to vote your shares.

We hope you will participate in your Annual Meeting, if not in person, then by proxy. To attend the meeting, you will need an admission ticket and we ask that you request one by following the procedure on page 1 of the Proxy Statement. We appreciate your continued support.

Sincerely yours,

WAYNE P. YETTER

*Chairman of the Board*

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**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

<b>TIME</b>	11:00 a.m. on Thursday, June 5, 2008
<b>PLACE</b>	Nasdaq MarketSite, 4 Times Square, New York, NY 10036
<b>ITEMS OF BUSINESS</b>	<ol style="list-style-type: none"><li>1. To elect eight members to the Board of Directors.</li><li>2. To ratify the appointment of Deloitte &amp; Touche LLP as Noven's independent registered public accounting firm.</li><li>3. To transact such other business as may properly come before the meeting and any adjournment thereof.</li></ol>
<b>RECORD DATE</b>	You are entitled to vote if you were a Noven stockholder at the close of business on April 25, 2008.
<b>ANNUAL REPORT</b>	Noven's 2007 Annual Report, which is not a part of the proxy soliciting material, is enclosed.
<b>PROXY VOTING</b>	If you own shares of record, you will find enclosed a proxy card or cards and an envelope in which to return the card(s). Whether or not you plan to attend this meeting, please sign, date and return your enclosed proxy card(s) as soon as possible so your shares can be voted at the meeting in accordance with your instructions. Any proxy may be revoked in the manner described on page 3 in the accompanying Proxy Statement at any time prior to its exercise at the meeting. If you hold your shares in street name, you may instruct your broker or nominee to vote your shares by following instructions that the broker or nominee provides you.

Jeff T. Mihm  
*Vice President, General Counsel  
& Corporate Secretary*

*This Proxy Statement and accompanying proxy card are being distributed on or about May 5, 2008.*

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**QUESTIONS AND ANSWERS ABOUT THE PROXY MATERIALS  
AND THE ANNUAL MEETING**

***Q: Why am I receiving these materials?***

**A:** The Board of Directors (the Board) of Noven Pharmaceuticals, Inc. (Noven) is providing these proxy materials to solicit your proxy in connection with Noven's annual meeting of stockholders, which will take place on June 5, 2008. You are invited to attend the meeting and are requested to vote on the proposals described in this Proxy Statement.

***Q: What information is contained in these materials?***

**A:** The information included in this Proxy Statement relates to the proposals to be voted on at the meeting, the voting process, the compensation of directors and Noven's most highly paid officers, and other required information. We are also sending Noven's 2007 Annual Report with these materials, but it does not constitute part of our proxy soliciting material.

***Q: How can I attend the annual meeting of stockholders?***

**A:** A stockholder who wishes to attend in person must have a ticket of admission. Each stockholder may request one ticket either by mail addressed to the Corporate Secretary in care of Noven Pharmaceuticals, Inc., 11960 SW 144<sup>th</sup> Street, Miami, Florida 33186 or by e-mail to abowman@noven.com. If you forget to bring your admission ticket, you can attend the Annual Meeting only if you are a stockholder on the Company's records and offer satisfactory identification. If you hold your shares of Common Stock through a broker, bank or nominee, you will need a voting instructions card from your broker as proof of ownership. All stockholders will be required to present valid picture identification prior to admittance.

***Q: What proposals will be voted on at the meeting?***

**A:** There are two proposals scheduled to be voted on at the meeting:

Election of eight directors; and

Ratification of the appointment of Deloitte & Touche LLP as Noven's independent registered public accounting firm.

We will also consider and vote upon any other proposal properly brought before the meeting and any adjournment thereof.

***Q: What are the Board's voting recommendations?***

**A:** The Board recommends that you vote your shares:

For each of the nominees named herein to the Board; and

For the ratification of the appointment of Deloitte & Touche LLP.

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***Q: What shares can I vote?***

**A:** You may vote all shares that you owned as of April 25, 2008, which is the *record date*. These shares include (1) those held directly in your name as the *stockholder of record* and (2) those held for you as the *beneficial owner* through a stockbroker, bank or other nominee. Each share of Noven's common stock outstanding as of the close of business on April 25, 2008, the record date, is entitled to one vote at the annual meeting. On the record date, approximately 24,830,902 shares of common stock were issued and outstanding.

***Q: What is the difference between holding shares as a stockholder of record and as a beneficial owner?***

**A: Stockholder of Record**

If your shares are registered directly in your name with Noven's transfer agent, American Stock Transfer and Trust Company, you are considered the stockholder of record for those shares and we are sending these proxy materials, which includes a proxy card which you may use, directly to you. As the stockholder of record, you have the right to grant your proxy directly to the individuals named in the enclosed proxy card or to vote in person at the meeting.

**Beneficial Owner**

If you hold shares in a stock brokerage account or through a bank or other nominee, you are considered the beneficial owner of shares held *in street name* and your broker or nominee is forwarding these proxy materials to you. Your broker or nominee is considered, with respect to those shares, the stockholder of record. As the beneficial owner, you have the right to direct your broker on how to vote, but since you are not the stockholder of record, you may not vote these shares in person at the meeting unless you obtain a signed proxy from the record holder giving you the right to vote the shares. As a beneficial owner, you are, however, welcome to attend the meeting. Your broker or nominee has enclosed a voting instruction card for you to use.

***Q: How can I vote my shares in person at the meeting?***

**A:** You may vote shares you hold directly in your name as the stockholder of record in person at the annual meeting. If you choose to do so, please bring the enclosed proxy card or proof of identification. Even if you plan to attend the annual meeting, we recommend that you also submit your proxy as described below so that your vote will be counted if you later decide not to attend the meeting.

If you hold your shares in street name, you must obtain a signed proxy from the record holder in order to vote these shares in person at the meeting.



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***Q: How can I vote my shares without attending the meeting?***

**A:** Whether you hold shares directly as the stockholder of record or beneficially in street name, you may direct your vote without attending the meeting. If you hold your shares directly, you may vote by granting a proxy. If you hold your shares in street name, you may instruct your broker or nominee to vote your shares by following instructions that the broker or nominee provides for you. Most brokers offer voting over the Internet, by telephone or by mail. Please refer to the instructions included on your proxy card or, for shares held in street name, the voting instruction card included by your broker or nominee.

***Q: May I change my vote?***

**A:** Yes, you may change your proxy instructions at any time prior to the vote at the annual meeting. If you are a stockholder of record, you must (1) file with Noven's Corporate Secretary a written notice of revocation or (2) timely deliver a valid, later-dated proxy. For shares you own beneficially, you may change your vote by submitting new voting instructions to your broker or nominee. Your attendance at the meeting will not revoke your previously granted proxy unless you give written notice of revocation to Noven's Corporate Secretary before the vote at the meeting or you vote by written ballot at the meeting.

***Q: How are votes counted?***

**A:** In the election of directors, you may vote **FOR** all of the nominees or your vote may be **WITHHELD** with respect to one or more of the nominees. For the other proposals, you may vote **FOR**, **AGAINST** or **ABSTAIN**. If you **ABSTAIN**, it has the same effect as a vote **AGAINST**. If you sign your proxy card or broker voting instruction card with no further instructions, your shares will be voted in accordance with the recommendations of the Board.

***Q: What is the voting requirement to approve each of the proposals?***

**A:** In the election of directors, each director requires the affirmative **FOR** vote of a plurality of those shares represented, in person or by proxy, and entitled to vote at the meeting. The ratification of the appointment of Deloitte & Touche requires the affirmative **FOR** vote of a majority of those shares represented, in person or by proxy, and entitled to vote at the meeting.

***Q: What happens if I do not provide voting instructions to my broker?***

**A:** If you are a beneficial owner and do not provide the stockholder of record with voting instructions, your broker or other nominee, in its discretion, may either leave your shares unvoted or vote your shares on routine matters. The election of directors and the proposal to ratify the appointment of Deloitte & Touche LLP should be treated as routine matters. If your broker or other nominee does not vote your shares, your shares will constitute *broker non-votes*, as described in **What is the quorum requirement for the meeting?** below. In tabulating the voting result for any particular proposal, shares which constitute broker non-votes are not considered represented at the meeting.

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***Q: What does it mean if I receive more than one proxy or voting instruction card?***

**A:** It means your shares are registered differently or are in more than one account. Please provide voting instructions for all proxy and voting instruction cards you receive.

***Q: Where can I find the voting results of the meeting?***

**A:** We will announce preliminary voting results at the meeting and publish final results in Noven's quarterly report on Form 10-Q for the second quarter of 2008.

***Q: What happens if additional proposals are presented at the meeting?***

**A:** Other than the two proposals described in this Proxy Statement, we do not expect any matters to be presented for a vote at the annual meeting. If you grant a proxy, the persons named as proxy holders will have the discretion to vote your shares on any additional matters properly presented for a vote at the meeting. If for any unforeseen reason any of Noven's nominees is not available as a candidate for director, the persons named as proxy holders will vote your proxy for such other candidate or candidates as may be nominated by the Board.

***Q: What is the quorum requirement for the meeting?***

**A:** The quorum requirement for holding the meeting and transacting business is a majority of the outstanding shares entitled to be voted. The shares may be present in person or represented by proxy at the meeting. Both abstentions and broker non-votes are counted as present for the purpose of determining the presence of a quorum. Generally, broker non-votes occur when shares held by a broker for a beneficial owner are not voted with respect to a particular proposal because (1) the broker has not received voting instructions from the beneficial owner and (2) the broker lacks discretionary voting power to vote such shares.

***Q: Who will bear the cost of soliciting votes for the meeting?***

**A:** Noven will pay the entire cost of preparing, assembling, printing, mailing and distributing these proxy materials. However, if you choose to vote over the Internet, you will bear the expenses for your Internet access. In addition to the mailing of these proxy materials, the solicitation of proxies or votes may be made in person, by telephone or by electronic communication by Noven's directors, officers, and employees, who will not receive any additional compensation for such solicitation activities. We will also reimburse brokerage houses and other custodians, nominees and fiduciaries for their reasonable out-of-pocket expenses for forwarding proxy and solicitation materials to stockholders.

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***Q: May I propose actions for consideration at next year's annual meeting of stockholders or nominate for election at next year's annual meeting of stockholders individuals to serve as directors?***

**A:** Yes, you may submit proposals for consideration at future stockholder meetings, including director nominations.

**Stockholder Proposals for Presentation at Meeting:** Our By-Laws govern the submission of nominations for director or other business proposals that a stockholder wishes to have considered at a meeting of stockholders, but which are not included in Noven's Proxy Statement for that meeting. Under our By-Laws, nominations for director or other business proposals to be addressed at our next annual meeting may be made by a stockholder entitled to vote who has delivered a notice to the Corporate Secretary of Noven no later than the close of business on March 6, 2009 and not earlier than January 5, 2009, which dates are based on the mailing of this Proxy Statement on May 5, 2008. The notice must contain the information required by the By-Laws.

These advance notice provisions are in addition to, and separate from, the requirements that a stockholder must meet in order to have a proposal included in the Proxy Statement under the rules of the Securities and Exchange Commission.

A proxy granted by a stockholder will give discretionary authority to vote on any matters introduced pursuant to the above advance notice By-law provisions, subject to the applicable rules of the Securities and Exchange Commission.

**Stockholder Proposals for Inclusion in Proxy:** In order for a stockholder proposal to be considered for inclusion in Noven's Proxy Statement for next year's annual meeting, the written proposal must be received by Noven's Corporate Secretary no later than January 5, 2009. Such proposals also will need to comply with Securities and Exchange Commission regulations regarding the inclusion of stockholder proposals in company sponsored proxy materials.

**Copy of By-law Provisions:** You may contact Noven's Corporate Secretary at Noven's headquarters for a copy of the relevant By-law provisions regarding the requirements for making stockholder proposals and nominating director candidates.

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**PROPOSAL 1 ELECTION OF DIRECTORS**

The eight persons named below were designated by the Board as nominees for election as directors. All of the nominees have served as directors since the last annual meeting with the exception of Mr. Brandt, who was appointed to the Board in April 2008 and Mr. Satow, who was appointed to the Board in August 2007. Information regarding the business experience of each nominee and their service on boards of directors of public companies is provided below. All directors are elected annually to serve until the next annual meeting and until their respective successors are elected.

**The Board recommends a vote FOR the election to the Board of each of the following nominees.**

**Sidney Braginsky**  
Director since 1992  
Age 70

Mr. Braginsky is President and Chief Executive Officer of Atropos Technology Inc. (consulting and venture capital) and Chairman of Digilab LLC (molecular spectroscopy). From 1970 through 1999, Mr. Braginsky served Olympus America, Inc. in a variety of roles, most recently as President and Chief Operating Officer. Mr. Braginsky serves on the board of directors of Diomed Holdings (laser technology), Geneva Acquisition Corporation (acquisitions) and Electro-Optical Sciences, Inc. (medical instruments for early melanoma detection).

**Peter C. Brandt**  
Director since 2008  
Age 70

Mr. Brandt was appointed to Noven's Board and to the offices of President and Chief Executive Officer on April 29, 2008. From 1981 until 2007, Mr. Brandt served in a number of executive positions at Pfizer, Inc. (pharmaceuticals). He served as Pfizer's President - U.S. Pharmaceuticals Operations from August 2006 until January 2007 and as its Senior Vice President - U.S. Pharmaceuticals Operations from January 2006 to August 2006. From 2004 to 2006, Mr. Brandt served as President - Latin America Operations and as Senior Vice President Worldwide Pharmaceuticals - Finance, IT, Planning and Business Development, Pfizer Health Solutions. From 1998 to 2004, he served as Senior Vice President Worldwide Pharmaceuticals, Finance, Planning and Business Development and Pfizer Health Solutions.

**John G. Clarkson, M.D.**  
Director since 2000  
Age 65

Dr. Clarkson is the Executive Director of the American Board of Ophthalmology and the Dean Emeritus and Professor of Ophthalmology, Miller School of Medicine at the University of Miami. From 1995 to 2006, he served as Professor and Senior Vice President for Medical Affairs and Dean, University of Miami School of Medicine. Dr. Clarkson serves as a director of the American Board of Medical Specialties and as a trustee for the Evelyn F. McKnight Brain Research Foundation.

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**Donald A. Denkhaus**

Director since 2004

Age 62

Mr. Denkhaus has, since January 2004, served as the executive chairman of TM Systems, LLC (international language services). Since 2005, he has also served as President and Chief Executive Officer of Integrity Risk Advisors, Inc. (consulting). Mr. Denkhaus was a partner with Arthur Andersen LLP from 1980 to 2002 and served as Arthur Andersen's audit practice director responsible for Florida and Puerto Rico from 1999 to 2002. For a one-year period in 2002 and 2003, Mr. Denkhaus was employed as a principal with Ernst & Young LLP where he provided audit services and assisted in the transition of Arthur Andersen audit clients and personnel to Ernst & Young.

**Pedro P. Granadillo**

Director since 2004

Age 60

Mr. Granadillo was employed by Eli Lilly and Company (pharmaceuticals) from 1970 until 2004. From 1998 to 2004, he served as Eli Lilly's Senior Vice President overseeing manufacturing, quality and human resources and from 1993 to 1998, he served as Vice President of Human Resources. Mr. Granadillo serves on the board of directors of Nile Therapeutics, Inc. (biopharmaceuticals) and Haemonetics Corporation (medical devices).

**Phillip M. Satow**

Director since 2007

Age 66

Mr. Satow was appointed to Noven's Board on August 14, 2007 in connection with Noven's acquisition of JDS Pharmaceuticals, LLC, the specialty pharmaceutical company that he co-founded. Mr. Satow served as Chairman and Chief Executive Officer of JDS Pharmaceuticals since 2004. From 1985 to 1999, he held a variety of executive positions at Forest Laboratories, Inc. (pharmaceuticals), including as its Executive Vice President and as the President of Forest Pharmaceuticals. Prior to joining Forest Laboratories, he served as Vice President and General Manager of the Wallace Laboratories Division of Carter-Wallace, Inc. Previously, Mr. Satow held a variety of executive positions at Pfizer, Inc. over a 14 year period, including Director of Marketing, Pfizer Laboratories, and Vice President, Pfizer Europe. In addition to serving as a director of Noven, Mr. Satow currently serves on the board of directors of Crucell NV (biotechnology).

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**Robert G. Savage**  
Director since 2004  
Age 54

Mr. Savage has been the President of Strategic Imagery LLC (pharmaceutical consulting) since May 2003. He served as Group Vice President and President General Therapeutics & Inflammation Business of Pharmacia Corporation from 2002 until its acquisition by Pfizer, Inc. in 2003. From 1996 through 2001, Mr. Savage served Johnson & Johnson in a variety of roles, most recently as Worldwide Chairman of Johnson & Johnson's Pharmaceutical Group. From 1985 to 1996, he served Roche Holding AG in a variety of marketing, business development and operations positions, most recently as Vice President Marketing, Hoffmann-La Roche, Inc. Mr. Savage serves as the non-executive chairman of EpiCept Corporation (pharmaceuticals), the presiding director of The Medicines Company, Inc. (pharmaceuticals) and a director of Panacos Pharmaceuticals, Inc. (pharmaceuticals).

**Wayne P. Yetter**  
Director since 2001  
Age 62

Mr. Yetter has been Chief Executive Officer of Verispan LLC (health care information) since September 2005. From November 2004 to September 2005, he served as the Chief Executive Officer of Odyssey Pharmaceuticals, Inc., the specialty pharmaceutical division of Pliva d.d. From 2003 to 2005, he served on the Advisory Board of Alterity Partners (mergers and acquisitions advisory firm). From September 2000 to June 2003, Mr. Yetter served as Chairman and Chief Executive Officer of Synavant Inc. (pharmaceutical marketing/ technology services). From 1999 to 2000, Mr. Yetter served as Chief Operating Officer at IMS Health, Inc. (information services for the health care industry). From 1997 to 1999, he served as President and Chief Executive Officer of Novartis Pharmaceuticals Corporation (pharmaceuticals). From 1994 to 1997, he served as President and Chief Executive Officer of Astra Merck, Inc. (pharmaceuticals). From 1991 to 1994, Mr. Yetter served as General Manager and then President of Astra Merck, a division of Merck & Co. Mr. Yetter serves on the board of directors of Matria Healthcare, Inc. (disease management), EpiCept Corporation (pharmaceuticals), Synvista Therapeutics, Inc. (pharmaceuticals) and InfuSystem Holdings, Inc. (infusion services).

**Governance of the Company**

Pursuant to Noven's By-Laws and the Delaware General Corporation Law, Noven's business, property and affairs are managed under the direction of the Board.

As an important part of its governance of the company, Noven's Board plans for the succession to the position of Chief Executive Officer. In the second half of 2007, the Board established a special committee to implement a succession plan for the Chief Executive Officer position,

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then held by Robert C. Strauss, age 66. In September 2007, the Board elected not to extend the term of Mr. Strauss existing employment agreement, which was scheduled to expire at the end of 2007, and began the negotiation of a new employment agreement with Mr. Strauss on terms aligned with the Board's succession plan. During this process, the parties determined that it was in Noven's best interest to begin the transition to new senior leadership upon the expiration of Mr. Strauss' employment agreement. On January 2, 2008, Noven and Mr. Strauss entered into a separation agreement (the terms of which are reviewed in Compensation Discussion and Analysis which begins on page 19) and Mr. Strauss retired from his positions as Noven's Chief Executive Officer, President and Chairman of the Board.

The Board appointed Jeffrey F. Eisenberg, who previously served as Noven's Senior Vice President of Strategic Alliances, to serve as Noven's Executive Vice President and Interim Chief Executive Officer. The search for Mr. Strauss' permanent successor as Chief Executive Officer was led by the special committee on succession planning, working closely with a national executive search firm. On April 29, 2008, Noven appointed Peter C. Brandt to the offices of Chief Executive Officer and President and to the Board. The terms of Mr. Brandt's employment agreement are summarized below beginning on page 45. Mr. Eisenberg continues to serve as Noven's Executive Vice President.

In connection with its succession planning, the Board separated the roles of Chairman of the Board and Chief Executive Officer. In January 2008, Wayne P. Yetter was appointed Noven's non-executive Chairman of the Board upon Mr. Strauss' resignation. Mr. Yetter previously served as Noven's lead independent director.

The Board has adopted a Code of Business Conduct and Ethics that applies to all of our directors, officers and employees. The Board has also adopted Corporate Governance Guidelines which, in conjunction with Noven's Certificate of Incorporation, By-Laws, committee charters and the Code of Business Conduct and Ethics, form the framework for the governance of Noven. Noven's Corporate Governance Guidelines and the Code of Business Conduct and Ethics are posted in the Investor Relations-Governance section of our company website: <http://www.noven.com>. If, in the future, we should amend our Code of Business Conduct and Ethics or grant a waiver to our Chief Executive Officer, Chief Financial Officer or principal accounting officer with respect to our Code of Business Conduct and Ethics, then we will post the amendment or a description of the waiver in the Investor Relations-Governance section of our company website. We did not amend our Code of Business Conduct and Ethics or grant any such waivers during 2007.

Noven's Corporate Governance Guidelines provide that the Board should have a significant majority of independent directors and that the expectation of the Board is that the number of employee directors should not exceed two. The Board has determined that all of the directors, other than Messrs. Brandt and Satow, are independent as such term is defined by the applicable listing standards of the Nasdaq Global Select Market. The Board based this determination primarily on a review of the responses of the directors to questions regarding their employment, affiliations and family and other relationships.

The Board held 18 meetings in 2007, and each director who served as a director during 2007 attended more than 75% of the aggregate of the meetings of the Board and the Committees on which he served. Noven typically schedules a Board meeting in conjunction with our annual

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meeting and expect that directors will attend the annual meeting, absent a valid reason, such as a schedule conflict. Last year, six of the seven individuals then serving as directors attended Noven's annual meeting.

The Board has three standing committees: (1) Nominating and Corporate Governance, (2) Audit and (3) Compensation. The Board has adopted a written charter for each of the three committees. The committee charters are posted in the Investor Relations-Governance section of our company website: <http://www.noven.com>. Under these charters, each of the standing committees has the authority to retain and pay the fees of any advisor it deems necessary to carry out its duties.

In addition to the three standing committees, the Board may establish such other standing or special committees as it deems necessary or advisable. In 2007, the Board established two special committees. The special committee on succession planning, which consists of Messrs. Yetter, Granadillo and Savage and is responsible for reviewing and making recommendations to the Board on the Chief Executive Officer succession planning process, formally met four times during 2007. The special committee on acquisitions, which consisted of Messrs. Braginsky and Savage and was responsible for initially reviewing Noven's acquisition strategy and process, formally met four times in 2007. Attendance fees for the meetings of the special committees are paid in the same amounts as meetings of the Board and three standing committees, as described below under Director Compensation.

**Nominating and Corporate Governance Committee**

The Nominating and Corporate Governance Committee provides assistance to the Board in identifying, screening and recommending candidates to serve as directors of Noven. The Committee also oversees matters of corporate governance and provides advice to the Board with respect to Board organization, membership and function.

The Nominating and Corporate Governance Committee is responsible for proposing to the Board nominees for election or re-election to the Board, based upon recommendations from the Chairman, the Chief Executive Officer, other Board members, and Noven stockholders. Recommendations from stockholders should be submitted to Noven in accordance with the procedures set forth in the Q&A information on page 5. The Nominating and Corporate Governance Committee is empowered to engage third-party executive search firms to assist it in identifying candidates.

Board candidates are considered by the Nominating and Corporate Governance Committee on a case-by-case basis using various criteria, such as a candidate's business and industry experience, personal and professional reputation, professional skill, status as an independent director, financial expertise and the current composition of the Board. There are no minimum criteria for nomination to the Board, and there are no separate processes or criteria for evaluating candidates nominated by stockholders. After completing its review of the candidate and conducting in-person or telephone interviews, the Nominating and Corporate Governance Committee recommends which candidate or candidates should be nominated for election to the Board. As a general matter, the Nominating and Corporate Governance Committee believes



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that the continuing services of qualified incumbents promotes stability and continuity in the Board, contributing to the Board's ability to work as a collective body, while giving Noven the benefit of the familiarity and insight into the Company's affairs that its directors have accumulated during their tenure. Noven has no term limits or mandatory retirement age with respect to its Board members.

Mr. Satow was appointed to the Board on August 14, 2007 in connection with Noven's acquisition of JDS Pharmaceuticals, LLC, the specialty pharmaceutical company that Mr. Satow co-founded and served as its Chief Executive Officer. Mr. Brandt was appointed to the Board on April 29, 2008 in connection with his appointment as Noven's President and Chief Executive Officer.

In addition to identifying, screening and recommending qualified candidates to serve as directors, the Nominating and Corporate Governance Committee:

reviews potential conflicts of interest involving prospective Board members;

annually reviews and makes recommendations to the Board concerning the Corporate Governance Guidelines;

reviews the structure of the Board and the skills and experience of its members;

studies and makes recommendations to the Board concerning the size, composition, compensation and functioning of the Board; and

reviews and makes recommendations to the Board regarding the composition and responsibilities of Board Committees.

All of the members of the Nominating and Corporate Governance Committee are independent as such term is defined by the applicable listing standards of the Nasdaq Global Select Market.

Members: Mr. Yetter (Chairperson) and Dr. Clarkson

Meetings held last year: Three

**Audit Committee**

The primary responsibility of the Audit Committee is to oversee Noven's financial reporting processes and the audits of Noven's financial statements on behalf of the Board and to report the results of its activities to the Board. The Committee:

is directly responsible for the appointment and termination (subject, if applicable, to stockholder ratification), compensation, evaluation and oversight of the work of the independent registered public accounting firm;

oversees the resolution of disagreements between management and the independent registered public accounting firm in the event that they arise, including resolution of disagreements between management and the auditor regarding financial reporting;

reviews with the individual responsible, if any, for the internal audit function, the independent registered public accounting firm and

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management of Noven the scope of their proposed audits for the current year and the proposed audit procedures to be utilized;

reviews and pre-approves both audit and permissible non-audit services provided by the independent registered public accounting firm and their possible impact on that firm's independence;

reviews and discusses with the independent registered public accounting firm any relationships between the auditor and Noven that may impact that firm's independence;

reviews and advises the Board on the selection, performance, compensation and removal of the individual, if any, responsible for Noven's internal audit function, and the activities, organizational structure, and qualifications of the individuals involved in the internal audit function;

reviews and discusses with management and the independent registered public accounting firm the financial statements of Noven to be included in its periodic filings with the Securities and Exchange Commission and other relevant reports (such as reports of internal control over financial reporting) or financial information submitted by Noven to any governmental body, or the public;

discusses with management and the independent registered public accounting firm the quality, not just acceptability, of the accounting principles (including accounting policies that may be viewed as critical), and the reasonableness of significant judgments, and reviews and considers with the independent registered public accounting firm the matters required to be discussed by Statement of Auditing Standards No. 61, Communication With Audit Committees, as amended by SASs 89 and 90 and Rule 2-07 of Regulation S-X;

discusses with management and the independent registered public accounting firm Noven's critical accounting policies and confers with management and the independent registered public accounting firm on significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including analyses of the effects on the financial statements of alternative methods permitted by generally accepted accounting principles;

discusses with management and the independent registered public accounting firm as appropriate the integrity of Noven's financial reporting processes and the quality and adequacy of Noven's internal control over financial reporting and disclosure controls, including Noven's systems to monitor and manage business risks;

reviews management's assertion on its assessment of the effectiveness of internal control over financial reporting as of the end of the most recent calendar year, as well as all material issues raised by management's assessment of internal control over financial reporting;

meets with the independent registered public accounting firm outside the presence of management, and discusses the independent registered public accounting firm's evaluation of Noven's financial and accounting personnel and the cooperation that the

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independent registered public accounting firm received during the course of the audit;

reviews and, if appropriate, approves or ratifies related party transactions ;

establishes procedures for the receipt, retention and treatment of complaints regarding Noven s accounting, internal accounting controls, or auditing matters; and

sets Noven s hiring policies with respect to the hiring of current or former partners, principals, or professional employees of the independent registered public accounting firm.

The Board of Directors, in its business judgment, has determined that each Audit Committee member is independent as such term is defined by the applicable listing standards of the Nasdaq Global Select Market and under Section 10A(m)(3) of the Securities Exchange Act of 1934. Noven has identified Donald A. Denkhaus as an audit committee financial expert as that term is defined in applicable regulations of the Securities and Exchange Commission.

Members: Messrs. Denkhaus (Chairperson), Braginsky and Granadillo

Meetings held last year: Eight

**Compensation Committee**

The Compensation Committee provides assistance to the Board in fulfilling its responsibility to oversee and participate in the creation and administration of Noven s executive compensation programs and practices. The Committee:

reviews and determines the annual salary, bonus, equity compensation and other benefits of the executive officers of Noven;

reviews, approves and, if appropriate, negotiates all employment, termination and other compensation-related agreements with the executive officers of Noven;

reviews the operation of Noven s executive compensation programs and establishes and reviews policies for their administration; and

administers Noven s equity compensation plans including approving grants of equity compensation under Noven s 1999 Long-Term Incentive Plan.

The Compensation Committee has retained a compensation consultant to assist the Compensation Committee in the design and implementation of various compensation policies and programs for Noven s executive officers. This consultant, Pearl Meyer & Partners ( PM&P ), reports directly to the Compensation Committee and any new projects undertaken by PM&P on behalf of Noven must be approved by the Chairman of the Compensation Committee.

Noven s Chief Executive Officer and Vice President Human Resources work closely with the Compensation Committee on compensation matters and Noven s Chief Executive Officer recommends compensation amounts for Noven s other executive officers to the Compensation Committee. The Compensation Committee meets with the Chief Executive Officer to discuss his performance, but ultimately decisions

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regarding his compensation and the terms of his employment agreement are made solely based upon the Compensation Committee's deliberations. The Compensation Committee has final approval of all compensation amounts and formulas applicable to benefit plans in which executive officers participate.

All of the members of the Compensation Committee are independent within the meaning of the applicable listing standards of the Nasdaq Global Select Market.

Members: Dr. Clarkson (Chairperson), Messrs. Granadillo and Savage

Meetings held last year: Eleven

**Related Party Transactions**

The Board has adopted a policy and procedures for the review and approval of transactions in which Noven and its directors, executive officers or their immediate family members are participants to determine whether such persons have a direct or indirect material interest and whether Noven should enter into the applicable transaction. The policy covers any related party transaction that meets the minimum threshold for disclosure in Noven's proxy statement under the relevant Securities and Exchange Commission rules. The Audit Committee is responsible for reviewing and, if appropriate, approving or ratifying any related party transactions.

In determining whether to approve, disapprove or ratify a related party transaction, the Audit Committee will take into account, among other factors it deems appropriate, (i) whether the transaction is on terms no less favorable to Noven than terms that would otherwise be generally available to Noven if the transaction was entered into under the same or similar circumstances with a party unaffiliated with Noven and (ii) the extent of the interest of the related party in the transaction.

Set forth below is a description of certain transactions between Mr. Phillip M. Satow and Noven.

On August 14, 2007 (the Closing Date), Noven acquired JDS Pharmaceuticals, LLC (JDS), then a privately-held specialty pharmaceutical company which was founded by Phillip Satow and his son Michael Satow. The purchase price for the acquisition was \$125.0 million cash paid at closing, subject to certain working capital adjustments (the Merger Consideration). On the Closing Date, a portion of the Merger Consideration in an amount equal to \$10.0 million was placed in an escrow account to be held until December 31, 2008 to satisfy, among other things, any post-closing indemnity claims by Noven. Noven has recorded a \$1.95 million receivable for claims that Noven has made against the amounts held in the escrow account.

Prior to Noven's acquisition of JDS, Phillip Satow was JDS's Chairman and Chief Executive Officer and his son Michael Satow was JDS's President and Chief Operating Officer. Phillip Satow is a current Noven director and a nominee for director at the 2008 Annual Meeting of Stockholders. In connection with Noven's acquisition of JDS, Noven entered into a Non-Competition Agreement and a Consulting Agreement with Phillip Satow and a Non-Competition and Employment Agreement with Michael Satow.

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The Non-Competition Agreement (the **Non-Competition Agreement** ), dated August 14, 2007, with Phillip Satow restricts Mr. Satow's ability, during the three-year period which commenced on the Closing Date, to become associated with (as such term is defined in the Non-Competition Agreement) any business that is engaged in the acquisition, manufacture, development or sale of pharmaceutical or biotechnology products that compete with any JDS products that are sold or are under active development. During this three-year period, Mr. Satow also agreed not to (1) solicit, call upon or sell, indirectly or directly, to any purchaser (including prospective purchasers) or distributor of Noven's or JDS's products, for the purpose of inducing such purchaser or distributor to purchase a product that competes with any JDS product, (2) solicit any person (subject to limited exceptions) to leave the employ of Noven or JDS, or (3) induce any supplier, vendor, consultant or contractor of Noven or JDS to terminate or negatively alter its relationship with Noven or JDS. In accordance with the Non-Competition Agreement, Mr. Satow received on the Closing Date stock-settled stock appreciation rights ( **SSARs** ) with respect to 44,297 shares of Noven common stock, which reflects an aggregate Black-Scholes value equal to \$265,200. All such SSARs fully vest upon grant and are exercisable at an exercise price of \$16.67 per share for a period of seven years from the grant date.

The Consulting Agreement (the **Consulting Agreement** ), dated August 14, 2007, with Phillip Satow has a term of one year, which term commenced on the Closing Date. Under the Consulting Agreement, Mr. Satow agrees to provide such consulting services with respect to JDS's business as may be reasonably requested by Noven. Mr. Satow will be paid a service fee of \$250 per hour of consulting services rendered and will be reimbursed for the necessary and reasonable expenses he may incur in the performance of his services. The Consulting Agreement provides that, unless otherwise agreed to by the parties, Mr. Satow is not required to provide consulting services under the Consulting Agreement for more than 20 hours per week during the first three months of the term, 15 hours per week for the next three months of the term, and 10 hours per week for the final six months of the term, in each case not including any travel time. The Consulting Agreement further provides that, regardless of the number of hours actually billed by Mr. Satow, he will generally be paid for a minimum of 10 hours per week during the first three months of the term, 7.5 hours per week for the second three months of the term, and 5 hours per week for the final six months of the term. The Consulting Agreement includes provisions requiring Noven to provide secretarial support for Mr. Satow as well as customary covenants by Mr. Satow regarding confidentiality and proprietary information. Noven has provided Mr. Satow with full-time use of a Noven office in connection with providing the services under the Consulting Agreement.

Pursuant to the Non-Competition and Employment Agreement (the **Employment Agreement** ), dated August 14, 2007, with Michael Satow, JDS agreed to employ Michael Satow for a period of six months, which commenced on the Closing Date (the **Retention Period** ), at the same rate of base salary as in effect immediately prior to the Closing Date, which was \$265,200 per year. Mr. Satow, who ceased to be a JDS employee at the end of the Retention Period, was paid the following additional amounts under the Employment Agreement for his continued employment through the Retention Period: (i) an annual bonus for JDS's 2007 fiscal year of \$63,000; and (ii) a lump sum payment of \$132,600 (together, the **Bonus Payments** ). Under the Employment Agreement, Mr. Satow also received a lump sum cash payment of \$265,200. In connection with these payments and benefits, the Employment Agreement restricts Michael Satow's ability, during the two-year period, which commenced on the Closing Date, to become associated with (as such term is defined in the Employment Agreement) any business that is engaged in the acquisition, manufacture, development or sale of pharmaceutical or biotechnology products that compete with

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any JDS products that are sold or are under active development. During this two-year period, he also agreed not to (1) solicit, call upon or sell, indirectly or directly, to any purchaser (including prospective purchasers) or distributor of Noven's or JDS's products, for the purpose of inducing such purchaser or distributor to purchase a product that competes with any JDS product, (2) solicit any person (subject to limited exceptions) to leave the employ of Noven or JDS, or (3) induce any supplier, vendor, consultant or contractor of Noven or JDS to terminate or negatively alter its relationship with Noven or JDS.

The foregoing descriptions of the Non-Competition Agreement, the Consulting Agreement and the Employment Agreement are qualified in their entirety by reference to the full text of such agreements, which Noven previously filed as exhibits to its reports filed with the U.S. Securities and Exchange Commission.

**Stockholder Communication with Directors**

As specified in Noven's Corporate Governance Guidelines, Noven stockholders who want to communicate with the Board or any individual director may write to:

Noven Pharmaceuticals, Inc.

11960 S.W. 144<sup>th</sup> Street

Miami, Florida 33186

Attn: General Counsel

The letter should include a statement indicating that the sender is a Noven stockholder. The General Counsel will review all stockholder letters to the Board and depending on the subject matter will:

Regularly forward any letter that deals with the function of the Board or committees of the Board (or is otherwise appropriate for Board attention) to the director or directors to whom it is addressed;

Attempt to handle the inquiry directly if it relates to routine or ministerial matters, including requests for information about Noven and stock-related matters; or

Not forward the letter if it relates to an improper or irrelevant topic.

The General Counsel or another member of management will, at each meeting of the Board, present a summary of all letters received since the last meeting that were not forwarded to the Board and will make those letters available to the Board upon request.

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**Director Compensation**

The following table provides information on Noven's compensation and reimbursement practices for non-employee directors. Directors who are employed by Noven do not receive any additional compensation for their Board activities and are not included in this table.

**Director Compensation in 2007**

	<b>Non-</b>	<b>Change in Pension Value and Non-</b>
&nb		