### Edgar Filing: AVI BIOPHARMA INC - Form 4

AVI BIOPHARMA INC Form 4 November 13, 2009 FORM 4

Check this box

if no longer

Section 16.

Form 4 or

obligations

Form 5

1(b).

subject to

## UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

## STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF **SECURITIES**

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section may continue. 30(h) of the Investment Company Act of 1940 See Instruction

(Print or Type Responses)

11/11/2009

Stock (1)

EASTB	nd Address of Reporting OURNE CAPITAL GEMENT LLC/CA	Symbol	uer Name <b>and</b> Ticker or Trading I BIOPHARMA INC [AVII]	5. Relationship of Reporting Person(s) to Issuer			
(Last)	(First) FTH AVENUE, SU	(Middle) 3. Date (Month	of Earliest Transaction /Day/Year)	(Check all applicable) DirectorX 10% Owner Officer (give title Other (specify			
110111	(Street)	4. If An	nendment, Date Original Ionth/Day/Year)	below) below) 6. Individual or Joint/Group Filing(Check Applicable Line)			
	AFAEL, CA 94901			_X_ Form filed by One Reporting Person Form filed by More than One Reporting Person			
(City)	(State)	(Zip) Ta	ble I - Non-Derivative Securities A	cquired, Disposed of, or Beneficially Owned			
1.Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)		Code (Instr. 3, 4 and 5) (Instr. 8) (A) or Code V Amount (D) Pr	A) 5. Amount of 6. 7. Nature of Securities Ownership Indirect Beneficially Form: Beneficial Owned Direct (D) Ownership Following or Indirect (Instr. 4) Reported (I) Transaction(s) (Instr. 4) (Instr. 3 and 4)			
Commo	n 11/11/2000		S 283 400 D <sup>\$</sup>	13 040 738 D			

Common 11/11/2009 S D 33,450 D 13,907,288 1.4099 Stock (1) Common S 11/11/2009 D D 12,000 \$ 1.425 13,895,288 Stock (1) Common 11/11/2009 S 5,100 D \$ 1.45 13,890,188 D Stock (1)

283,400 D

S

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

Persons who respond to the collection of information contained in this form are not

13,940,738

1.4165

D

SEC 1474 (9-02)

**OMB APPROVAL** 

3235-0287

January 31,

2005

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Number:

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#### Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of	2.	3. Transaction Date		4.	5.	6. Date Exer		7. Titl		8. Price of	9. Nu
Derivative	Conversion	(Month/Day/Year)	Execution Date, if	Transactio	onNumber	Expiration D	ate	Amou	int of	Derivative	Deriv
Security	or Exercise		any	Code	of	(Month/Day/	Year)	Under	lying	Security	Secu
(Instr. 3)	Price of		(Month/Day/Year)	(Instr. 8)	Derivative	e		Secur	ities	(Instr. 5)	Bene
	Derivative				Securities			(Instr.	3 and 4)		Owne
	Security				Acquired						Follo
					(A) or						Repo
					Disposed						Trans
					of (D)						(Instr
					(Instr. 3,						(
					(insul 3, 4, and 5)						
					., and 5)						
									Amount		
						Date	Expiration		or		
						Exercisable	Date	Title	Number		
									of		
				Code V	(A) (D)				Shares		

# **Reporting Owners**

	Relationships					
<b>Reporting Owner Name / Address</b>		Director	10% Owner	Officer	Other	
EASTBOURNE CAPITAL MANAGEMENT LLC/CA 1101 FIFTH AVENUE SUITE 370 SAN RAFAEL, CA 94901			X			
Signatures						
Eric Sippel	11/13/2009					
**Signature of	Date					

## **Explanation of Responses:**

- If the form is filed by more than one reporting person, see Instruction 4(b)(v).
- \*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

Eastbourne Capital Management, L.L.C. ("Eastbourne") is the general partner or manager and investment adviser of investment funds that hold these securities directly on behalf of those funds' investors. Richard Jon Barry is Eastbourne's manager and controlling person. Eastbourne and Mr. Barry hold these securities indirectly in their capacity as investment adviser and control person, respectively.

(1) Eastbourne is filing this Form 4 on behalf of itself and Mr. Barry, jointly, but not as members of a group, and each of them disclaims membership in a group, within the meaning of Rule 13d-5(b) under the Securities Exchange Act of 1934, as amended. In addition, each of them disclaims beneficial ownership of such securities, except to the extent of its pecuniary interest therein.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, see Instruction 6 for procedure. Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.

Reporting Person