

THERAVANCE INC  
Form DEF 14A  
March 09, 2009

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

**SCHEDULE 14A**

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

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

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

**THERAVANCE, INC.**

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(Name of Registrant as Specified In Its Charter)

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

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- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
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March 9, 2009

Dear Stockholder:

I am pleased to invite you to attend Theravance, Inc.'s 2009 Annual Meeting of Stockholders, to be held on Friday, April 24, 2009 at the Presidio Room, Embassy Suites Hotel, 250 Gateway Boulevard, South San Francisco, California 94080. The meeting will begin promptly at 1:00 p.m., local time.

Enclosed are the following:

our Notice of Annual Meeting of Stockholders and Proxy Statement for 2009;

our Annual Report on Form 10-K for 2008; and

a proxy card with a return envelope to record your vote.

Details regarding the business to be conducted at the Annual Meeting are more fully described in the accompanying Notice of Annual Meeting of Stockholders and Proxy Statement.

Your vote is important. Whether or not you expect to attend, please date, sign, and return your proxy card in the enclosed envelope, or vote via telephone or the Internet according to the instructions in the Proxy Statement, as soon as possible to assure that your shares will be represented and voted at the Annual Meeting. If you attend the Annual Meeting, you may vote your shares in person even though you have previously voted by proxy if you follow the instructions in the Proxy Statement.

On behalf of your Board of Directors, thank you for your continued support and interest.

Sincerely,

Rick E Winningham  
*Chief Executive Officer*

901 Gateway Boulevard  
South San Francisco, CA 94080

T 650.808.6000 F 650.827.8690  
[www.theravance.com](http://www.theravance.com)

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**Theravance, Inc.**

901 Gateway Boulevard  
South San Francisco, California 94080

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**To Be Held On April 24, 2009**

Dear Stockholder:

You are cordially invited to attend the Annual Meeting of Stockholders of Theravance, Inc., a Delaware corporation (the "Company"). The meeting will be held on Friday, April 24, 2009, at 1:00 p.m. local time at the Presidio Room, Embassy Suites Hotel, 250 Gateway Boulevard, South San Francisco, California 94080 for the following purposes:

1. To elect directors to serve for the ensuing year.
2. To approve an amendment to the Theravance, Inc. Employee Stock Purchase Plan ("ESPP") increasing the aggregate number of shares of common stock authorized for issuance thereunder by 550,000 shares.
3. To ratify the selection by the Audit Committee of the Board of Directors of Ernst & Young LLP as the independent registered public accounting firm of the Company for its fiscal year ending December 31, 2009.
4. To conduct any other business properly brought before the meeting.

These items of business are more fully described in the Proxy Statement accompanying this Notice.

The record date for the Annual Meeting is February 27, 2009. Only stockholders of record at the close of business on that date may vote at the meeting or any adjournment thereof.

By Order of the Board of Directors

Bradford J. Shafer  
*Senior Vice President, General Counsel and  
Secretary*

South San Francisco, California  
March 9, 2009

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**You are cordially invited to attend the meeting in person. Whether or not you expect to attend the meeting, please complete, date, sign and return the enclosed proxy card, or vote via telephone or the Internet as instructed in these materials, as promptly as possible in order to ensure your representation at the meeting. A return envelope (which is postage prepaid if mailed in the United States) is enclosed for your convenience. Even if you have voted by proxy, you may still vote in person if you attend the meeting. Please note, however, that if your shares are held of record by a broker, bank or other nominee and you wish to vote at the meeting, you must provide a valid proxy issued in your name from that record holder.**

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**Important Notice Regarding the Availability of Proxy Materials for the Annual Meeting of Shareholders to be held on April 24, 2009:**

**The proxy statement is available at <http://ir.theravance.com/proxy.cfm>.**

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**Theravance, Inc.**

901 Gateway Boulevard  
South San Francisco, California 94080

**PROXY STATEMENT  
FOR THE 2009 ANNUAL MEETING OF STOCKHOLDERS**

April 24, 2009

**QUESTIONS AND ANSWERS ABOUT THIS PROXY MATERIAL AND VOTING**

**Why am I receiving these materials?**

We sent you this Proxy Statement and the enclosed proxy card because the Board of Directors of Theravance, Inc. (sometimes referred to as the "Company" or "Theravance") is soliciting your proxy to vote at the 2009 Annual Meeting of Stockholders (the "Annual Meeting"). You are invited to attend the Annual Meeting to vote on the proposals described in this Proxy Statement. However, you do not need to attend the meeting to vote your shares. Instead, you may simply complete, sign and return the enclosed proxy card, or follow the instructions on the enclosed proxy card to submit your proxy via telephone or on the Internet.

The Company intends to mail this Proxy Statement and accompanying proxy card on or about March 12, 2009 to all stockholders of record entitled to vote at the Annual Meeting.

**Who can vote at the Annual Meeting?**

Only stockholders of record at the close of business on February 27, 2009 will be entitled to vote at the Annual Meeting. On this record date, there were 53,165,613 shares of Company common stock ("Common Stock") outstanding and 9,401,499 shares of Company Class A Common Stock ("Class A Common Stock") outstanding. All of these outstanding shares are entitled to vote at the Annual Meeting as the Class A Common Stock is entitled to vote with the Common Stock in connection with the matters set forth in this Proxy Statement. Entities affiliated with GlaxoSmithKline plc own all outstanding shares of Class A Common Stock. The holders of Common Stock and the holders of Class A Common Stock each have the right to one vote for each share they held as of the record date.

*Stockholder of Record: Shares Registered in Your Name*

If on February 27, 2009 your shares were registered directly in your name with our transfer agent, The Bank of New York Mellon, then you are a stockholder of record. As a stockholder of record, you may vote in person at the meeting or vote by proxy. Whether or not you plan to attend the meeting, we urge you to fill out and return the enclosed proxy card or vote by proxy via telephone or the Internet as instructed on your proxy card to ensure your vote is counted.

*Beneficial Owner: Shares Registered in the Name of a Broker or Bank*

If on February 27, 2009 your shares were held in an account at a brokerage firm, bank, dealer, or other similar organization, then you are the beneficial owner of shares held in "street name" and these proxy materials are being forwarded to you by that organization. The organization holding your account is considered the stockholder of record for purposes of voting at the Annual Meeting. As a beneficial owner, you have the right to direct your broker or other agent on how to vote the shares in your account. A number of brokers and banks enable beneficial holders to give voting instructions via telephone or the Internet. Please refer to the voting instructions provided by your bank or broker. You are also invited to attend the Annual Meeting. However, since you are not the stockholder of record, you may not vote your shares in person at the meeting unless you provide a valid proxy from your broker, bank or other custodian.

**What am I voting on?**

There are three matters scheduled for a vote:

Election of nine directors;

Approval of an amendment to our ESPP increasing the aggregate number of shares of Common Stock authorized for issuance thereunder by 550,000 shares; and

Ratification of Ernst & Young LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2009.

**How do I vote?**

You may either vote "For" all the nominees to the Board of Directors or you may withhold your vote from any nominee you specify. You may not vote your proxy "For" the election of any persons in addition to the nine named nominees. For the other matters to be voted on, you may vote "For" or "Against" or abstain from voting. The procedures for voting are explained below.

*Stockholder of Record: Shares Registered in Your Name*

If you are a stockholder of record, you may vote by proxy using the enclosed proxy card, vote by proxy on the Internet or by telephone, or vote in person at the Annual Meeting. Whether or not you plan to attend the meeting, we urge you to vote by proxy to ensure your vote is counted. You may still attend the meeting and vote in person if you have already voted by proxy.

- > To vote using the proxy card, simply complete, sign and date the enclosed proxy card and return it promptly in the envelope provided. If you return your signed proxy card to us before the Annual Meeting, we will vote your shares as you direct.
- > To vote on the Internet, please follow the instructions provided on your proxy card.
- > To vote by telephone, please follow the instructions provided on your proxy card.
- > To vote in person, come to the Annual Meeting and we will give you a ballot when you arrive.

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**We provide Internet proxy voting to allow you to vote your shares on-line, with procedures designed to ensure the authenticity and correctness of your proxy vote instructions. However, please be aware that you must bear any costs associated with your Internet access, such as usage charges from Internet access providers.**

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*Beneficial Owner: Shares Registered in the Name of Broker or Bank*

If you are a beneficial owner of shares registered in the name of your broker, bank, or other agent, you should have received instructions for granting proxies with these proxy materials from that organization rather than from the Company. A number of brokers and banks enable beneficial holders to give voting instructions via telephone or the Internet. Please refer to the voting instructions provided by your bank or broker. To vote in person at the Annual Meeting, you must provide a valid proxy from your broker, bank, or other custodian. Follow the instructions from your broker or bank included with these proxy materials, or contact your broker or bank to request a proxy form.

**How many votes do I have?**

On each matter to be voted upon, you have one vote for each share of Common Stock and of Class A Common Stock you owned as of February 27, 2009.



**What if I return a proxy card but do not make specific choices?**

If you return a signed and dated proxy card without marking any voting selections, your shares will be voted "**For**" the election of all nine nominees for director, "**For**" the proposed increase in the number of shares authorized for issuance under our ESPP and "**For**" ratification of Ernst & Young LLP as our independent registered public accounting firm. If any other matter is properly presented at the meeting, your proxy (one of the individuals named on your proxy card) will vote your shares using his best judgment.

**Who is paying for this proxy solicitation?**

We will pay for the entire cost of soliciting proxies. In addition to these mailed proxy materials, our directors and employees may also solicit proxies in person, by telephone, or by other means of communication. Directors and employees will not be paid any additional compensation for soliciting proxies. We may reimburse brokerage firms, banks and other agents for the cost of forwarding proxy materials to beneficial owners.

**What does it mean if I receive more than one proxy card?**

If you receive more than one proxy card, your shares are registered in more than one name or are registered in different accounts. Please complete, sign and return **each** proxy card to ensure that all of your shares are voted.

**Can I change my vote after submitting my proxy?**

Yes. You can revoke your proxy at any time before the final vote at the meeting. You may revoke your proxy in any one of three ways:

You may submit another properly completed proxy card with a later date.

You may send a written notice that you are revoking your proxy to the Secretary of the Company at 901 Gateway Boulevard, South San Francisco, California 94080.

You may attend the Annual Meeting and vote in person. Simply attending the meeting will not, by itself, revoke your proxy.

**How are votes counted?**

Votes will be counted by the inspector of election appointed for the meeting, who will separately count "For" and (with respect to proposals other than the election of directors) "Against" votes, abstentions and broker non-votes. Abstentions will be counted towards the vote total for each proposal, and will have the same effect as "Against" votes. Broker non-votes, as described in the next paragraph, have no effect and will not be counted towards the vote total for any proposal.

If your shares are held by your broker as your nominee (that is, in "street name"), you will need to obtain a proxy form from the institution that holds your shares and follow the instructions included on that form regarding how to instruct your broker to vote your shares. If you do not give instructions to your broker, your broker can vote your shares with respect to "discretionary" items, but not with respect to "non-discretionary" items. Discretionary items are proposals considered routine under the rules of the New York Stock Exchange ("NYSE") on which your broker may vote shares held in street name in the absence of your voting instructions. On non-discretionary items for which you do not give your broker instructions, the shares will be treated as broker non-votes.



**How many votes are needed to approve each proposal?**

For the election of directors, the nine nominees receiving the most "For" votes (among votes properly cast in person or by proxy) will be elected. Broker non-votes will have no effect.

To be approved, Proposal 2 to increase the number of shares authorized for issuance under our ESPP must receive a "For" vote from the holders of a majority of issued and outstanding shares present in person or represented by proxy at the meeting and entitled to vote thereon. If you "Abstain" from voting, it will have the same effect as an "Against" vote. Broker non-votes will have no effect.

To be approved, Proposal 3 to ratify the selection by the Audit Committee of the Board of Directors of Ernst & Young LLP as the independent registered public accounting firm of the Company for its fiscal year ending December 31, 2009 must receive a "For" vote from the majority of all outstanding shares present in person or represented by proxy at the Annual Meeting and entitled to vote thereon either in person or by proxy. If you "Abstain" from voting, it will have the same effect as an "Against" vote. Broker non-votes will have no effect.

**What is the quorum requirement?**

A quorum of stockholders is necessary to hold a valid meeting. A quorum will be present if a majority of all shares outstanding on February 27, 2009, the record date, are represented at the meeting by stockholders present in person or by proxy. On the record date, there were 62,567,112 shares of Common Stock and Class A Common Stock outstanding and entitled to vote. Thus 31,283,557 shares must be represented by stockholders present at the meeting or by proxy to have a quorum.

Your shares will be counted towards the quorum only if you submit a valid proxy vote or vote at the meeting. Abstentions and broker non-votes will be counted towards the quorum requirement.

**How can I find out the results of the voting at the Annual Meeting?**

Preliminary voting results will be announced at the Annual Meeting. Final voting results will be published in our quarterly report on Form 10-Q for the second quarter of 2009.

**When are stockholder proposals due for next year's Annual Meeting?**

If you wish to submit a proposal to be considered for inclusion in next year's proxy materials or nominate a director, your proposal must be in proper form according to SEC Regulation 14A, Rule 14a-8 and received by the Secretary of the Company on or before November 9, 2009. If you wish to submit a proposal to be presented at the 2010 Annual Meeting of Stockholders but which will not be included in the Company's proxy materials, your Solicitation Notice, as defined in our Bylaws, must be received by the Secretary of the Company at Theravance, Inc., 901 Gateway Boulevard, South San Francisco, CA 94080, Attn: Secretary, no earlier than December 27, 2009 and no later than January 26, 2010. You are advised to review our Bylaws, which contain additional requirements about advance notice of stockholder proposals and director nominations. Theravance's current bylaws may be found on our website at [www.theravance.com](http://www.theravance.com).

**PROPOSAL 1****ELECTION OF DIRECTORS**

Our Board of Directors consists of nine directors. The nine directors who are nominated for election to the Board of Directors this year, their ages as of February 17, 2009, their positions and offices held with the Company and certain biographical information are set forth below. Each director to be elected will hold office until the next Annual Meeting of Stockholders, or until the director's death, resignation or removal. Each of the nominees listed below is currently a director of the Company. Each of the nominees was previously elected by the stockholders. It is our policy to encourage nominees for director to attend the Annual Meeting. Three of the nominees for election as a director at the 2008 Annual Meeting attended the meeting.

Directors are elected by a plurality of the votes properly cast in person or by proxy. The nine nominees receiving the highest number of affirmative votes will be elected. Shares represented by executed proxies will be voted, if authority to do so is not withheld, for the election of the nine nominees named below. If any nominee becomes unavailable for election as a result of an unexpected occurrence, your shares will be voted for the election of a substitute nominee proposed by our current Board of Directors, if any. Each person nominated for election has agreed to serve if elected. We have no reason to believe that any nominee will be unable to serve.

**NOMINEES**

<b>Name</b>	<b>Age</b>	<b>Positions and Offices Held With the Company</b>
P. Roy Vagelos, M.D.	79	Chairman of the Board of Directors
Rick E Winningham	49	Chief Executive Officer and Director
Jeffrey M. Drazan	50	Director
Robert V. Gunderson, Jr.	57	Director
Arnold J. Levine, Ph.D.	69	Director
Burton G. Malkiel, Ph.D.	76	Director
William H. Waltrip	71	Director
George M. Whitesides, Ph.D.	69	Director
William D. Young	64	Director

*P. Roy Vagelos, M.D.*, co-founded Theravance in 1996 and has served as Chairman of our Board of Directors since inception. Dr. Vagelos served as Chief Executive Officer of Merck & Co., Inc., from 1985 to 1994, and Chairman of the board of directors of Merck from 1986 until 1994. Dr. Vagelos is Chairman of the board of directors of Regeneron Pharmaceuticals, Inc. Dr. Vagelos holds an M.D. from Columbia University College of Physicians and Surgeons and an A.B. degree from the University of Pennsylvania.

*Rick E Winningham* joined Theravance as Chief Executive Officer and a member of our Board of Directors in October 2001. From 1997 to 2001 he served as President, Bristol-Myers Squibb Oncology/Immunology/ Oncology Therapeutics Network (OTN) and also as President of Global Marketing from 2000 to 2001. In addition to operating responsibility for U.S. Oncology/Immunology/OTN at Bristol-Myers Squibb, Mr. Winningham also had full responsibility for Global Marketing in the Cardiovascular, Infectious Disease, Immunology, Oncology/ Metabolics and GU/GI/Neuroscience therapeutic areas. Mr. Winningham held various management positions with Bristol-Myers Squibb and its predecessor, Bristol-Myers, since 1986. Mr. Winningham holds an M.B.A. from Texas Christian University and a B.S. degree from Southern Illinois University.

*Jeffrey M. Drazan* has served as a director of Theravance since December 1999. Mr. Drazan has been a General Partner with Sierra Ventures, a private venture capital firm, since 1984. Mr. Drazan has

also been a Managing Director of Bertram Capital, a private equity firm, since September 2006. He also serves as a director of several private companies. Mr. Drazan holds an M.B.A. degree from New York University's Graduate School of Business Administration and a B.S.E. degree in Engineering from Princeton University.

*Robert V. Gunderson, Jr.* has served as a director of Theravance since September 1999. He is a founding partner of the law firm of Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP, where he has practiced since 1995. Mr. Gunderson currently serves as a director of a number of private companies. Mr. Gunderson holds a J.D. from the University of Chicago, where he was Executive Editor of The University of Chicago Law Review. Mr. Gunderson also received an M.B.A. in Finance from The Wharton School, University of Pennsylvania and an M.A. from Stanford University.

*Arnold J. Levine, Ph.D.*, served as a director of Theravance from inception until February 2002. He rejoined our Board of Directors in June 2003. Dr. Levine is currently a professor at The Cancer Institute of New Jersey, Robert Wood Johnson School of Medicine, New Brunswick, NJ, and a professor at the Institute for Advanced Study, Princeton, NJ, positions he has held since January 2003. He was President of The Rockefeller University from 1998 until his retirement in February 2002. He was the Harry C. Wiess Professor in Life Sciences and former Chairman of the Department of Molecular Biology at Princeton University from 1984 until 1996. Dr. Levine is a member of the board of directors of Life Technologies, Inc. and Infinity Pharmaceuticals, Inc. He is a member of the National Academy of Sciences. Dr. Levine was Editor-in-Chief of the Journal of Virology from 1984 to 1994 and is a member of scientific advisory boards of several cancer centers. Dr. Levine holds a Ph.D. in Microbiology from the University of Pennsylvania and a B.A. from Harpur College, State University of New York at Binghamton.

*Burton G. Malkiel, Ph.D.*, joined the Board of Directors of Theravance in July 2007. Dr. Malkiel is the Chemical Bank Chairman's Professor of Economics at Princeton University. He is widely published in finance, the valuation of stocks and bonds and the operation of financial markets in the United States. He has also served as a member of the Council of Economic Advisors under the administration of U.S. President Gerald R. Ford and was Dean at the School of Management and the William S. Beinecke Professor of Management at Yale University. Dr. Malkiel served as an officer in the United States Army Finance Corps and as an investment banker at Smith, Barney & Co. before earning his doctoral degree. Dr. Malkiel is an investment committee member of the American Philosophical Society and the Corvina Foundation and serves on the boards of several companies including Vanguard Group Ltd and Genmab A/S. He is also the Chief Investment Officer of Alpha Shares. He received his B.A. degree in Economics from Harvard University, a M.B.A. from Harvard Graduate School of Business Administration and a Ph.D. in Economics and Finance from Princeton University.

*William H. Waltrip* has served as a director of Theravance since April 2000. Mr. Waltrip served from 1993 until 2003 as Chairman of the board of directors of Technology Solutions Company, a systems integration company, and from 1993 until 1995 he was Chief Executive Officer of that company. From 1995 to 1998 he also served as Chairman of Bausch & Lomb Inc., and during 1996 and 2002 was the company's Chief Executive Officer. From 1991 to 1993 he was Chairman and Chief Executive Officer of Biggers Brothers, Inc., a food service distribution company, and was a consultant to private industry from 1988 to 1991. From 1985 to 1988 he served as President and Chief Operating Officer of IU International Corporation, a transportation, environmental and distribution company. Earlier, he had been President, Chief Executive Officer and a director of Purolator Courier Corporation. He is a member of the board of directors of Charles River Laboratories Corporation and Thomas & Betts Corporation.

*George M. Whitesides, Ph.D.*, co-founded Theravance in 1996 and has served as a member of our Board of Directors since inception. He has been Woodford L. and Ann A. Flowers University Professor

at Harvard University since 2004. From 1986 until 2004, Dr. Whitesides was Mallinckrodt Professor of Chemistry at Harvard University. From 1982 until 1991 he was a member of the Department of Chemistry at Harvard University and Chairman of the Department of Chemistry from 1986 until 1989. He was a faculty member of the Massachusetts Institute of Technology from 1964 until 1982. Dr. Whitesides was a 1998 recipient of the National Medal of Science. He is a member of the editorial boards of 14 scientific journals. He is also a member of the board of directors of Surface Logix, Inc., Nano-Terra Inc., Arsenal Biomedical, Inc., Rohm and Haas Company, and Hughes Research Laboratories, L.L.C. Dr. Whitesides holds a Ph.D. in Chemistry from the California Institute of Technology and a B.A. from Harvard University.

*William D. Young* has served as a director of Theravance since April 2001. Mr. Young has been Chairman of the board of directors and Chief Executive Officer of Monogram Biosciences, Inc. since 1999. From 1980 to 1999 Mr. Young was employed at Genentech, Inc., most recently as Chief Operating Officer. Prior to joining Genentech, Mr. Young worked at Eli Lilly and Company for 14 years and held various positions in production and process engineering, antibiotic process development and production management. He is a member of the board of directors of Biogen Idec, Inc. Mr. Young received his M.B.A. from Indiana University and his B.S. in Chemical Engineering from Purdue University, and an honorary Doctorate of Engineering from Purdue University. Mr. Young is a member of The National Academy of Engineering.

**THE BOARD OF DIRECTORS RECOMMENDS  
A VOTE IN FAVOR OF EACH NAMED NOMINEE.**

**INDEPENDENCE OF THE BOARD OF DIRECTORS**

As required under the listing standards of the Nasdaq Global Market ("Nasdaq"), a majority of the members of a Nasdaq-listed company's board of directors must qualify as "independent," as affirmatively determined by its board of directors. Our Board of Directors consults with counsel to ensure that the Board of Directors' determinations are consistent with all relevant laws and regulations regarding the definition of "independent," including those set forth in pertinent listing standards of Nasdaq, as in effect from time to time.

Management has reviewed the directors' responses to a questionnaire asking about their transactions, relationships and arrangements with the Company (and those of their immediate family members) and other potential conflicts of interest. Other than as set forth in this Proxy Statement, these questionnaires did not disclose any transactions, relationships, or arrangements that question the independence of our directors. After reviewing this information, our Board of Directors affirmatively determined that all of our directors are independent directors within the meaning of the applicable Nasdaq listing standards except for Rick E Winningham and P. Roy Vagelos.

**INFORMATION REGARDING THE BOARD OF DIRECTORS AND ITS COMMITTEES**

As required under Nasdaq listing standards, our independent directors meet in regularly scheduled executive sessions at which only independent directors are present. William H. Waltrip presides over these executive sessions. The Board has an Audit Committee, a Compensation Committee, a Nominating/Corporate Governance Committee, a Science and Technology Advisory

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Committee, a Stock Option Committee and a New Hire Award Committee. The following table provides membership and meeting information for each of the Board committees during 2008:

Name	Audit	Compensation	Nominating/ Corporate Governance	Science and Technology Advisory Committee	Stock Option Committee	New Hire Award Committee
P. Roy Vagelos, M.D.				X		
Rick E Winningham				X	X	
Jeffrey M. Drazan	X	X				
Robert V. Gunderson, Jr.			X			
Arnold J. Levine, Ph.D				X*		
Burton G. Malkiel, Ph.D.	X					
William H. Waltrip	X*		X*			
George M. Whitesides, Ph.D		X		X		
William D. Young		X*	X			X
Total meetings in fiscal year 2008	8	6	1	2	0#	0#

\*  
Committee Chairperson.

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One-person committees did not meet in 2008, but acted by written consent during the year.

Below is a description of each committee of the Board of Directors. The Board of Directors has determined that each member of the Audit, Compensation and Nominating/Corporate Governance Committees meets the applicable rules and regulations regarding "independence" and that each such member is free of any relationship that would interfere with his individual exercise of independent judgment with regard to the Company.

*Audit Committee*

The Audit Committee of the Board of Directors oversees our accounting practices, systems of internal controls and financial reporting processes. For this purpose, the Audit Committee performs several functions. The Audit Committee determines and approves the engagement of the independent auditors; determines whether to retain or terminate the existing independent auditors or to appoint and engage new independent auditors; reviews and approves audit and permissible non-audit services provided by the independent auditors to the Company; confers with management and the independent auditors regarding the effectiveness of internal controls, financial reporting processes and disclosure controls; consults with management and the independent auditors regarding Company policies governing financial risk management; reviews and discusses reports from the independent auditors on critical accounting policies used by the Company; establishes procedures, as required under applicable law, for the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters and the confidential and anonymous submission by employees of concerns regarding questionable accounting or auditing matters; reviews and approves related-person transactions in accordance with the Company's Policies and Procedures with respect to Related-Person Transactions and applicable Nasdaq rules; reviews the financial statements to be included in our Annual Report on Form 10-K; and discusses with management and the independent auditors the results of the annual audit and the results of quarterly reviews and any significant changes in our accounting principles. Our Audit Committee charter can be found on the corporate governance section of our corporate website at [www.theravance.com](http://www.theravance.com). Each of Jeffrey M. Drazan, Burton G. Malkiel, Ph.D. and William H. Waltrip served on the Audit Committee of the Board of Directors during 2008. On January 29, 2008, the Board of Directors appointed Dr. Malkiel to the Audit Committee and Dr. Levine resigned from the Audit Committee. The Audit Committee met eight times during 2008, all of which meetings occurred after January 29, 2008.

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The Board of Directors annually reviews the Nasdaq listing standards definition of independence for Audit Committee members and has determined that all members of our Audit Committee are independent (as independence is currently defined in the Nasdaq listing standards). The Board of Directors has determined that Burton G. Malkiel, Ph.D. is an audit committee financial expert as defined by Item 407(d) of Regulation S-K. The Board made a qualitative assessment of Dr. Malkiel's level of knowledge and experience based on a number of factors, including his post-graduate education in finance and his experience serving on the audit committees of the board of directors of several public companies.

### *Compensation Committee*

The Compensation Committee of the Board of Directors reviews and approves the overall compensation strategy and policies for the Company. Specifically, the Committee reviews and approves corporate performance goals and objectives relevant to the compensation of our executive officers and other senior management; reviews and approves the compensation and other terms of employment of our principal executive officer and other executive officers; approves the individual bonus programs in effect for the principal executive officer, other executive officers and key employees for each fiscal year; recommends to the Board of Directors the compensation of the directors; recommends to the Board of Directors the adoption or amendment of equity and cash incentive plans; approves amendments to these plans; grants stock options and other equity awards; and administers our 2004 Equity Incentive Plan ("2004 Incentive Plan"), our 2008 New Employee Equity Incentive Plan ("2008 Incentive Plan"), our ESPP, and similar programs. A more detailed description of the Committee's functions can be found in our Compensation Committee Charter. The charter is published in the corporate governance section of our website at [www.theravance.com](http://www.theravance.com). Three directors comprise the Compensation Committee of the Board of Directors: Messrs. Drazan, Whitesides and Young. All members of the Committee are independent (as independence is currently defined in the Nasdaq listing standards).

The Compensation Committee met six times during 2008. Mr. Winningham, our principal executive officer, does not participate in the determination of his own compensation or the compensation of directors. However, he makes recommendations to the Committee regarding the amount and form of the compensation of the other executive officers and key employees, and he often participates in the Committee's deliberations about their compensation. Mr. Shafer, our General Counsel, and Dennis Driver, our Vice President, Human Resources, also assist the Committee in its executive officer, director and employee compensation deliberations. No other executive officers participate in the determination of the amount or form of the compensation of executive officers or directors.

The Compensation Committee has retained Frederic W. Cook & Co. ("FW Cook") as its independent compensation consultant. FW Cook serves at the pleasure of the Committee rather than the Company and its fees are approved by the Committee. FW Cook provides the Committee with data about the compensation paid by our peer group and other employers who compete with the Company for executives, updates the Committee on new developments in areas that fall within the Committee's jurisdiction and is available to advise the Committee regarding all of its responsibilities. FW Cook also provides data and recommendations concerning the compensation of directors.

The Compensation Committee, in consultation with FW Cook, reviews and approves the overall strategy for compensating members of the Board of Directors. Specifically, the Committee reviews the compensation of the directors and recommends to the Board any changes to the compensation of the directors.

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### *Nominating/Corporate Governance Committee*

The Nominating/Corporate Governance Committee of the Board of Directors is responsible for identifying, reviewing and evaluating candidates to serve as directors of the Company (consistent with criteria approved by the Board), reviewing and evaluating incumbent directors, recommending to the Board for selection candidates for election to the Board, making recommendations to the Board regarding the membership of the committees of the Board, assessing the performance of the Board and advising the Board on corporate governance principles for the Company. Our Nominating/Corporate Governance Committee charter can be found on the corporate governance section of our corporate website at [www.theravance.com](http://www.theravance.com). Three directors comprise the Nominating/Corporate Governance Committee: Messrs. Gunderson, Waltrip and Young. All members of the Nominating/Corporate Governance Committee are independent (as independence is currently defined in the Nasdaq listing standards). The Nominating/Corporate Governance Committee met one time during 2008. During 2008, the Nominating/Corporate Governance Committee prepared and distributed to directors a Board of Directors self-evaluation questionnaire and then analyzed and presented the results from the completed questionnaires to the full Board of Directors.

The Nominating/Corporate Governance Committee believes that candidates for director should have certain minimum qualifications, including being able to read and understand basic financial statements and having the highest personal integrity and ethics. The Committee also considers such factors as having relevant expertise upon which to be able to offer advice and guidance to management, sufficient time to devote to the affairs of the Company, demonstrated excellence in his or her field, the ability to exercise sound business judgment and the commitment to rigorously represent the long-term interests of our stockholders. However, the Committee retains the right to modify these qualifications from time to time. Candidates for director nominees are reviewed in the context of the current composition of the Board, the operating requirements of the Company and the long-term interests of stockholders. In conducting this assessment, the Committee considers diversity, age, skills, and such other factors as it deems appropriate given the then current needs of the Board and the Company, to maintain a balance of knowledge, experience and capability. In the case of incumbent directors, the Nominating/Corporate Governance Committee reviews such directors' overall service to the Company during their term, including the number of meetings attended, level of participation, quality of performance, and any other relationships and transactions that might impair such directors' independence. In the case of new director candidates, the committee also determines whether the nominee must be independent for Nasdaq purposes, which determination is based upon applicable Nasdaq listing standards, applicable SEC rules and regulations and the advice of counsel, if necessary. The Committee uses its network of contacts to compile a list of potential candidates, but may also engage, if it deems appropriate, a professional search firm. The Committee conducts any appropriate and necessary inquiries into the backgrounds and qualifications of possible candidates after considering the function and needs of the Board. The Committee meets to discuss and consider such candidates' qualifications and then selects a nominee for recommendation to the Board by majority vote.

The Nominating/Corporate Governance Committee will consider director candidates recommended by stockholders and evaluate them using the same criteria as candidates identified by the Board or the Nominating/Corporate Governance Committee for consideration. If a stockholder of the Company wishes to recommend a director candidate for consideration by the Nominating/Corporate Governance Committee, the stockholder recommendation should be delivered to the Secretary of the Company at the principal executive offices of the Company, and must include information regarding the candidate and the stockholder making the recommendation as required by the Stockholder-Director Communications Policy. Our Stockholder-Director Communications Policy can be found on the corporate governance section of our website at [www.theravance.com](http://www.theravance.com).

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### *Science And Technology Advisory Committee*

The Science and Technology Advisory Committee of the Board of Directors reviews and discusses scientific and technological matters affecting the Company. The Science and Technology Advisory Committee also identifies scientific and technological matters that may affect the Company in the future, and develops strategies to address these issues in our research plans. The Science and Technology Advisory Committee reports to the Board periodically. Four directors comprise the Science and Technology Advisory Committee: Drs. Levine, Vagelos and Whitesides and Mr. Winningham. The Science and Technology Advisory Committee met two times during 2008.

### *Stock Option Committee*

The Stock Option Committee, of which Mr. Winningham is the sole member, may grant equity awards under the 2004 Incentive Plan to employees who are not executive officers. During 2008, the Stock Option Committee did not meet, but acted by written consent four times.

### *New Hire Award Committee*

The New Hire Award Committee, of which William Young is the sole member, may grant equity awards to newly hired employees under the 2008 Incentive Plan. During 2008, the New Hire Award Committee did not meet, but acted by written consent three times.

## **COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION**

Each of Jeffrey M. Drazan, George M. Whitesides, Ph.D. and William D. Young served on the Compensation Committee of the Board of Directors during 2008. None of the members of the Compensation Committee was at any time during the 2008 fiscal year (or at any other time) an officer or employee of the Company. None of our executive officers serves as a member of the board of directors or compensation committee of any entity that has one or more executive officers serving as a member of our Board of Directors or Compensation Committee.

## **MEETINGS OF THE BOARD OF DIRECTORS**

The Board of Directors met nine times during 2008. Each Board member attended 75% or more of the aggregate of the meetings of the Board and of the committees on which he served, held during the period for which he was a director or committee member.

## **STOCKHOLDER COMMUNICATIONS WITH THE BOARD OF DIRECTORS**

Stockholders interested in communicating with the Board or a particular director should send correspondence to Theravance, Inc. at 901 Gateway Boulevard, South San Francisco, CA 94080, Attn: Secretary. Each communication should set forth (i) the name and address of the stockholder as it appears on the Company's books and, if the stock is held by a nominee, the name and address of the beneficial owner of the stock, and (ii) the number of shares of the Company's stock that are owned of record by the record holder and beneficially by the beneficial owner. Pursuant to our Stockholder-Director Communications Policy, the Secretary has been instructed, in his discretion, to screen out communications from stockholders that are not related to the duties and responsibilities of the Board. If deemed an appropriate communication, the Secretary will forward it, depending on the subject matter, to the chairperson of a committee of the Board or a particular director, as appropriate.

## **CODE OF BUSINESS CONDUCT**

The Company has adopted the Theravance, Inc. Code of Business Conduct that applies to all directors, officers and employees. The Code of Business Conduct, as amended and restated on



December 10, 2008, is available on the corporate governance section of our website at [www.theravance.com](http://www.theravance.com). If the Company makes any substantive amendments to the Code of Business Conduct or grants any waiver from a provision of the Code to any executive officer or director, the Company will promptly disclose the nature of the amendment or waiver on its website.

## 2008 DIRECTOR COMPENSATION

Non-employee directors of the Company receive compensation for services provided as a director. Each member of our Board who is not an employee receives a \$30,000 annual retainer as well as \$1,000 for each board and committee meeting attended in person (\$500 for meetings attended by video or telephone conference). The chairpersons of the Compensation Committee, the Nominating/Corporate Governance Committee and the Science and Technology Advisory Committee receive \$2,000 for each committee meeting attended in person (\$1,000 for meetings attended by video or telephone conference), and the chairperson of the Audit Committee receives \$3,000 for each audit committee meeting attended in person (\$1,500 for meetings attended by video or telephone conference). Dr. Vagelos receives a flat rate of \$87,500 per year for his service as Chairman of the Board. The members of our Board are eligible for reimbursement for their expenses incurred in attending Board meetings in accordance with Company policy.

Each of our independent directors receives periodic automatic grants of equity awards under a program implemented under our 2004 Incentive Plan. These grants are non-discretionary. Only independent directors of the Company or affiliates of such directors are eligible to receive automatic grants under the 2004 Incentive Plan. Beginning in 2008, the automatic grants to our independent directors consist of restricted stock unit ("RSU") awards. Each individual who first becomes an independent director will automatically be granted a one-time grant of RSU awards covering 12,000 shares of our Common Stock on the date such individual joins the Board. This initial grant will vest monthly over the director's first two years of service. In addition, each independent director will be automatically granted an RSU award covering 6,000 shares of our Common Stock annually on the date of each Annual Meeting of Stockholders. These annual RSU awards will vest monthly over the 12 month period following the date of grant. In addition, automatic RSU awards vest in full if the Company is subject to a change in control or the Board member dies while in service. Each RSU award granted pursuant to the automatic grant program will be settled and shares issued thereunder on the earliest to occur of (A) the four-year anniversary of the grant date, (B) 60 days after the director's service terminates or (C) the occurrence of a change in control.

In addition to RSU awards, directors are also eligible to receive options and restricted stock under our 2004 Incentive Plan.

Dr. Vagelos was granted an RSU award for 28,898 shares of our Common Stock on April 22, 2008. The Compensation Committee determined that the grant to Dr. Vagelos was warranted in light of his significant contributions to Theravance. Subject to Dr. Vagelos' continuous service, the RSU award vests in 48 equal monthly installments over a 4-year period measured from the date of grant. The RSU award will fully vest if we are subject to a change in control or Dr. Vagelos dies or becomes disabled. The RSU award will be settled and shares will be issued thereunder on the earliest to occur of (A) the four-year anniversary of the grant date, (B) 60 days after Dr. Vagelos's service terminates or (C) the occurrence of a change in control.

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The following table sets forth all of the compensation awarded to, earned by, or paid to each person who served as a director during 2008, other than a director who also served as a named executive officer.

Name (a)	Fees Earned or Paid in			Total (\$) (h)
	Cash (\$)(1) (b)	Stock Awards (\$)(2)(3) (c)	Option Awards (\$)(4)(5) (d)	
P. Roy Vagelos	89,500	64,880	1,016,645	1,171,025
Jeffrey M. Drazan	43,000	53,887	89,752	186,639
Robert V. Gunderson, Jr.	38,000	53,887	89,752	181,639
Arnold J. Levine	40,500	53,887	89,752	184,139
Burton G. Malkiel	43,000	53,887	249,129	346,016
William H. Waltrip	49,000	53,887	89,752	192,639
George M. Whitesides	41,000	53,887	89,752	184,639
William D. Young	47,500	53,887	89,752	191,139

- (1) Includes the annual retainer each director receives as well as fees for attendance at Board and committee meetings. Mr. Drazan's retainer and meeting fees are paid to Sierra Ventures VI, LP of which he is an affiliate.
- (2) The amounts in this column represent the dollar amount recognized for financial statement reporting purposes with respect to RSU awards held by each director during the fiscal year in accordance with FAS123R, excluding forfeiture estimates. This amount consisted of: (a) \$53,887 per director with respect to the RSU award granted to each independent director on the date of our Annual Meeting of Stockholders in 2008 (the aggregate grant date fair value of each such RSU award was \$78,000); and (b) \$64,880 with respect to the RSU award granted to Dr. Vagelos on April 22, 2008 (the aggregate grant date fair value of such RSU award was \$375,674).
- (3) As of December 31, 2008, the above-listed directors held outstanding RSU awards under which the following number of shares of our Common Stock are issuable: Messrs. Drazan, Gunderson, Waltrip and Young and Drs. Levine, Malkiel and Whitesides (6,000 each); and Dr. Vagelos (28,898).
- (4) The amounts in this column represent the dollar amount recognized for financial statement reporting purposes with respect to options held by each director during the fiscal year in accordance with FAS123R, excluding forfeiture estimates. This amount consisted of: (a) \$249,129 with respect to the option granted to Burton Malkiel on July 3, 2007 (the aggregate grant date fair value of such option was \$498,258); (b) \$89,752 per director with respect to the option granted to each independent director on the date of our Annual Meeting of Stockholders in 2007 (the aggregate grant date fair value of each such option was \$243,707); (c) \$312,535 with respect to the option granted to Dr. Vagelos on March 29, 2004 (the aggregate grant date fair value of such option was \$3,986,100); (d) \$329,544 with respect to the option granted to Dr. Vagelos on April 26, 2006 (the aggregate grant date fair value of such option was \$1,318,182); and (e) \$374,566 with respect to the option granted to Dr. Vagelos on April 25, 2007 (the aggregate grant date fair value of such option was \$1,498,228). See Note 11 of the notes to our consolidated financial statements in our Annual Report on Form 10-K filed on February 26, 2009 and Note 10 of the notes to our consolidated financial statements in our Annual Report on Form 10-K filed on March 1, 2007 for a discussion of all assumptions made by the Company in determining the grant date fair value of its equity awards.
- (5) As of December 31, 2008, the above-listed directors held outstanding options to purchase the following number of shares of our Common Stock: Dr. Vagelos (944,355); Messrs. Waltrip and Young (98,870 each); Messrs. Drazan and Gunderson and Drs. Levine and Whitesides (66,612 each); and Dr. Malkiel (30,000).

**PROPOSAL 2**

**APPROVAL OF AMENDMENT TO EMPLOYEE STOCK PURCHASE PLAN**

The Company is asking stockholders to approve an amendment to the Theravance, Inc. Employee Stock Purchase Plan (the "ESPP") to increase the number of authorized shares of our Common Stock issuable thereunder from 925,000 shares to 1,475,000 shares. Theravance established the ESPP in connection with its initial public offering to provide employees of Theravance and designated parent or subsidiary corporations (collectively, the "participating companies") an opportunity to participate in the ownership of Theravance by purchasing its Common Stock through payroll deductions. The ESPP, and the right of participants to make purchases thereunder, is intended to meet the requirements of an employee stock purchase plan as defined in Section 423 of the Internal Revenue Code.

If approved by our stockholders, the amendment to the ESPP will become effective for the offering period beginning May 16, 2009. If the stockholders do not approve the amendment to the ESPP, the amendment will be rescinded and the ESPP will continue in effect in accordance with its existing terms. The ESPP is intended to benefit Theravance as well as its stockholders and employees. The ESPP gives employees an opportunity to purchase shares of Common Stock at a favorable price. Theravance believes that the stockholders will correspondingly benefit from the increased interest on the part of participating employees in the performance of Theravance. Theravance will also benefit from the periodic investments of equity capital provided by participants in the ESPP. In December 2008, the Board of Directors approved amendments to the ESPP which, among other things, increased the number of authorized shares of our Common Stock issuable thereunder from 925,000 shares to 1,475,000 shares.

The principal terms and provisions of the ESPP are summarized below. The summary, however, is not intended to be a complete description of all the terms of the ESPP. This summary is qualified in its entirety by reference to the complete text of the ESPP, which is attached hereto as *Appendix A*. To the extent there is a conflict between this summary and the ESPP, the terms of the ESPP will govern.

**Administration.** The Compensation Committee of the Board of Directors, which is comprised of two or more members of our Board of Directors, administers the ESPP. All costs and expenses incurred in administration of the ESPP are paid by Theravance without charge to participants.

**Eligibility.** Generally, any individual who is customarily employed by a participating company more than 20 hours per week and for more than five months per calendar year is eligible to participate in the ESPP. Although officers have always been excluded from participation in the ESPP, the Board of Directors may elect to permit participation by officers in the future.

As of February 17, 2009, approximately 177 employees and no officers were eligible to participate in the ESPP.

**Securities Subject to ESPP.** The securities available for purchase under the ESPP are shares of our Common Stock. 925,000 shares of our Common Stock have been authorized for issuance under the ESPP, without giving effect to the 550,000-share increase that is the subject of this Proposal No. 2. As of December 31, 2008