APEX BIOVENTURES ACQUISITION CORP
Form 10-Q
November 13, 2008

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

FORM 10-Q

x	**Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the quarterly period ended September 30, 2008.

or

¨	**Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the transition period from______to______.

Commission File Number: 001-33516

Apex Bioventures Acquisition Corporation
(Exact Name of Registrant as Specified in its Charter)

Delaware	**20-4997725**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification No.)**

18 Farm Lane
Hillsborough, California 94010
(Address of Principal Executive Offices including Zip Code)

(650) 344-3029
(Registrant's Telephone Number, Including Area Code)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of “accelerated filer and large accelerated filer” in Rule 12b-2 of the Exchange. (Check one):

Large Accelerated Filer ¨ Accelerated Filer ¨ Non-Accelerated Filer x Smaller Reporting Company ¨

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes x No ¨

There were 10,781,250 shares of the Registrant's common stock issued and outstanding as of November 11, 2008.

Apex Bioventures Acquisition Corporation Form 10-Q
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PART I - FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

Apex Bioventures Acquisition Corporation and Subsidiary
(a development stage company)
Condensed Consolidated Balance Sheets

	September 30, 2008 (Unaudited)	December 31, 2007
Assets		
Current assets		
Cash and cash equivalents	$ 56,287	$ 1,060,427
Cash held in trust	65,553,274	65,514,688
Cash held in trust from underwriter	2,070,000	2,070,000
Refundable income taxes	373,180	-
Prepaid expenses	20,656	66,244
Due from stockholders	3,211	-
Total current assets	68,076,608	68,711,359
Deferred income taxes	287,534	198,106
Total assets	$ 68,364,142	$ 68,909,465
Liabilities and Stockholders' Equity		
Current liabilities		
Accounts payable and accrued expenses	$ 50,464	$ 126,007
Accounts payable, stockholders	-	2,776
Income taxes payable	-	704,281
Due to underwriter	2,070,000	2,070,000
Deferred Dividend	201,314	-
Total current liabilities	2,321,778	2,903,064
Common stock subject to conversion (2,587,499 shares at conversion value)	20,208,367	20,208,367
Commitments		
Stockholders' equity		
Preferred stock, $0.0001 par value; 1,000,000 authorized shares; none issued	-	-
Common Stock, $0.0001 par value; 60,000,000 shares authorized;		
10,781,250 shares (which includes 2,587,499 shares subject to possible conversion) issued and outstanding	1,078	1,078
Additional paid-in capital	45,152,355	45,152,355
Income accumulated during the development stage	680,564	644,601
Total stockholders' equity	45,833,997	45,798,034
Total liabilities and stockholders' equity	$ 68,364,142	$ 68,909,465

See notes to unaudited condensed consolidated financial statements.

Apex Bioventures Acquisition Corporation and Subsidiary
(a development stage company)
Condensed Consolidated Statements of Operations

	Three Months Ended September 30, 2008 (Unaudited)	Three Months Ended September 30, 2007 (Unaudited)	Nine Months Ended September 30, 2008 (Unaudited)	Nine Months Ended September 30, 2007 (Unaudited)	Period from Inception (June 1, 2006) to September 30, 2008 (Unaudited)
Formation and operating costs	$ (144,146)	$ (170,920)	$ (1,067,187)	$ (254,855)	$ (1,702,391)
Dividend and interest income	278,057	875,429	1,165,068	991,964	2,951,848
Income before provision for income taxes	133,911	704,509	97,881	737,109	1,249,457
Provision for income taxes	(60,158)	(293,120)	(61,918)	(293,120)	(568,893)
Net Income	$ 73,753	$ 411,389	$ 35,963	$ 443,989	$ 680,564
Net income per share - basic and diluted	$ 0.01	$ 0.04	$ 0.00	$ 0.08	
Weighted average number of common shares outstanding - basic and diluted	10,781,250	10,781,250	10,781,250	5,618,841	

See notes to unaudited condensed consolidated financial statements.

Apex Bioventures Acquisition Corporation and Subsidiary
(a development stage company)
Condensed Consolidated Statement of Stockholders' Equity (Deficiency)
For the period from June 1, 2006 (Inception) to September 30, 2008

	Common Stock		Additional	Income (Deficit) Accumulated During the Development	Total Stockholders' Equity
	Shares	Amount	Paid-in Capital	Stage	(Deficiency)
Common shares issued on June 27, 2006 at $0.01159 per share	2,156,250	$ 216	$ 24,784	$ -	$ 25,000
Net loss	-	-	-	(52,324)	(52,324)
Balances at December 31, 2006	2,156,250	216	24,784	(52,324)	(27,324)
Sale of private placement warrants	-	-	1,800,000	-	1,800,000
Sale of 8,625,000 Units net of underwritters' discount and offering expenses (includes 2,587,499 shares subject to conversion)	8,625,000	862	63,535,838	-	63,536,700
Proceeds subject to forfeiture of 2,587,499 shares	-	-	(20,208,367)	-	(20,208,367)
Sale of underwriter option	-	-	100	-	100
Net income	-	-	-	696,925	696,925
Balances at December 31, 2007	10,781,250	1,078	45,152,355	644,601	45,798,034
<u>Unaudited:</u>					
Net Income	-	-	-	35,963	35,963
Balances at September 30, 2008	10,781,250	$ 1,078	$ 45,152,355	$ 680,564	$ 45,833,997

See notes to unaudited condensed consolidated financial statements.

Apex Bioventures Acquisition Corporation and Subsidiary
(a development stage company)
Condensed Consolidated Statement of Cash Flows

	Nine Months Ended September 30, 2008 (Unaudited)	Nine Months Ended September 30, 2007 (Unaudited)	Period from June 1, 2006 (inception) to September 30, 2008 (Unaudited)
Cash flows from operating activities			
Net income	$ 35,963	$ 443,989	$ 680,564
Adjustments to reconcile net income to net cash used in operating activities			
Deferred income taxes	(89,428)	(88,298)	(287,534)
Dividends earned on trust account	(1,355,132)	(988,232)	(3,128,274)
Change in operating assets and liabilities:			-
Prepaid expenses	45,588	(90,658)	(20,656)
Accounts payable and accrued expenses	(75,543)	77,536	40,667
Refundable income taxes	(1,077,461)	381,418	(373,180)
Deferred Dividend	201,314	-	201,314
Net cash used in operating activities	(2,314,699)	(264,245)	(2,887,099)
Cash flows from investing activities			
Disbursements from trust account	1,316,546	709,526	2,835,000
Cash held in trust account	-	(67,330,000)	(67,330,000)
Net cash provided by (used in) investing activities	1,316,546	(66,620,474)	(64,495,000)
Cash flows from financing activities			
Proceeds from public offering	-	69,000,000	69,000,000
Proceeds from private placement of warrants	-	1,800,000	1,800,000
Proceeds from loans from stockholders	-	(225,000)	225,000
Repayment of loans from stockholders	-	-	(225,000)
Proceeds from advances from stockholders	130,088	144,119	281,153
Repayment of advances from stockholders	(136,075)	(108,775)	(284,364)
Proceeds from sale of option	-	100	100
Proceeds from the sale of common stock	-	-	25,000
Payment of offering expenses	-	(3,223,396)	(3,383,503)
Net cash (used in) provided by financing activities	(5,987)	67,387,048	67,438,386
Net increase (decrease) in cash and cash equivalents	(1,004,140)	(502,329)	56,287
Cash and cash equivalents, beginning of period	1,060,427	82,739	-
Cash and cash equivalents, end of period	$ 56,287	$ 585,068	$ 56,287
Supplemental schedule of non cash financing activities:			
Accrual of offering costs	$ -	$ 39,797	$ 9,797
Accrual of deferred underwriting fees	$ -	$ 2,070,000	$ 2,070,000
Supplemental schedule of cash paid for:			
Interest	$ -	$ -	$ -

Income taxes	$	1,235,000	$	800	$	1,235,800

See notes to unaudited condensed consolidated financial statements.

Apex Bioventures Acquisition Corporation and Subsidiary
(a development stage company)
Notes to Unaudited Condensed Consolidated Financial Statements
September 30, 2008

Note 1 — Basis of Presentation

The financial statements at September 30, 2008 and for the periods ended September 30, 2008 and 2007 are unaudited. The condensed financial statements include the accounts of Apex Bioventures Acquisition Corporation ("Apex") and its wholly owned subsidiary, Apex Acquisition Sub, Inc. ("Acquisition Sub") (collectively referred to as the "Company"). All significant intercompany transactions and balances have been eliminated. In the opinion of management, all adjustments (consisting of normal accruals) have been made that are necessary to present fairly the financial position of the Company as of September 30, 2008 and the results of its operations for the three and nine months ended September 30, 2008 and 2007 and for the period from June 1, 2006 (inception) through September 30, 2008 and its cash flows for the nine months ended September 30, 2008 and 2007 and for the period from June 1, 2006 (inception) through September 30, 2008. Operating results for the interim periods presented are not necessarily indicative of the results to be expected for a full year.

The financial statements and related notes have been prepared pursuant to the rules and regulations of the U.S. Securities and Exchange Commission. Accordingly, certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been omitted pursuant to such rules and regulations. Audited financial statements as of and for the year ended December 31, 2007, prepared in accordance with generally accepted accounting principles, are contained in the Company's 2007 annual report on Form 10-K filed with the Securities and Exchange Commission. The December 31, 2007 balance sheet included in this report has been derived from the audited financial statements included in said annual report.

Note 2 — Organization and Business Operations

The Company was incorporated in Delaware on June 1, 2006. The Company was formed to acquire one or more domestic or foreign operating businesses in the healthcare industry through a merger, capital stock exchange, asset acquisition or other similar business combination. All activities through September 30, 2008 relate to the Company's formation and public offering described below and the search for a suitable business combination. The Company has neither engaged in any operations nor generated revenue to date. The Company is considered to be in the development stage and is subject to the risks associated with activities of development stage companies.

The registration statement for the Company's initial public offering (the "Public Offering") (as described in Note 4) was declared effective on June 7, 2007. The Company consummated the Public Offering on June 13, 2007 and received net proceeds of approximately $65,300,000, including $1,800,000 of proceeds from the private placement (the "Private Placement") sale of 1,800,000 insider warrants to the Company's stockholders prior to the Public Offering (the "Initial Stockholders"). The warrants sold in the Private Placement are identical to the warrants sold in the Public Offering, except that such warrants are non-redeemable and can be exercised on a cashless basis as long as these persons hold such warrants. In addition, subject to certain limited exceptions, none of the warrants purchased by the Initial Stockholders are transferable or salable until six months after the consummation of a business combination.

The Company's management has broad discretion with respect to the specific application of the net proceeds of the Public Offering, although substantially all of the net proceeds of the Public Offering are intended to be generally applied toward consummating a business combination with (or acquisition of) one or more domestic or foreign operating businesses in the healthcare industry ("Business Combination"), which may not constitute a business combination for accounting purposes. Furthermore, there is no assurance that the Company will be able to successfully effect a Business Combination. Upon the closing of the Public Offering and Private Placement, $67,330,000, including $2,070,000 of the underwriters' discounts and commissions as described in Note 4, is being held in a trust account (the "Trust Account") invested, as of September 30, 2008, entirely in U.S. Treasury Securities.

The Trust Account will be maintained until the earlier of (i) the consummation of the Company's first Business Combination and (ii) liquidation of the Company. The placing of funds in the Trust Account may not protect those funds from third party claims against the Company. Although the Company will seek to have all vendors, prospective target businesses and other entities it engages, execute agreements with the Company waiving any right, title, interest or claim of any kind in or to any monies held in the Trust Account, there is no guarantee that they will execute such agreements. Our Initial Stockholders have agreed that they will be personally liable, on a joint and several basis, to cover claims made by such third parties, but only if, and to the extent, the claims reduce the amounts in the Trust Account available for payment to our public stockholders in the event of a liquidation and the claims are made by a vendor or service provider for services rendered, or products sold, to us or by a prospective acquisition target. However, our Initial Stockholders will not have any personal liability as to any claimed amounts owed to a third party who executed a waiver (including a prospective acquisition target) or the underwriters. However, there can be no assurance that that the Initial Stockholders will be able to satisfy those obligations. The remaining net proceeds (not held in the Trust Account), along with $1,600,000 in dividend income net of income taxes payable on such dividends, may be used to pay for business, legal or accounting due diligence on prospective acquisitions, negotiations with prospective targets and satisfaction of closing conditions, and continuing general and administrative expenses.

The Company, after signing a definitive agreement for a Business Combination is required to submit such transaction for stockholder approval. In the event that stockholders owning 30% or more of the shares sold in the Public Offering vote against the Business Combination and exercise their conversion rights described below, the Business Combination will not be consummated. All of the Company's Initial Stockholders have agreed to vote their 2,156,250 founding shares of common stock, as well as any shares of common stock acquired in connection with or following the Public Offering, in accordance with the vote of the majority in interest of all other stockholders of the Company ("Public Stockholders") with respect to any Business Combination. After the consummation of a Business Combination, these voting agreements will terminate.

With respect to a Business Combination which is approved and consummated, any Public Stockholder who voted against the Business Combination may demand that the Company convert his or her shares to cash. The per share conversion price will equal the amount in the Trust Account (including dividends, but less amounts reserved or released to us for working capital and net of income taxes payable), calculated as of two business days prior to the consummation of the proposed Business Combination, divided by the number of shares of common stock held by Public Stockholders at the consummation of the Public Offering. Accordingly, Public Stockholders holding 29.99% of the aggregate number of shares owned by all Public Stockholders may seek conversion of their shares in the event of a Business Combination. Such Public Stockholders are entitled to receive their per share interest in the Trust Account (subject to distributions for working capital and amounts paid or accrued for taxes) computed without regard to the shares held by Initial Stockholders. Accordingly, a portion of the net proceeds from the Public Offering (29.99% of the amount that was placed in the Trust Fund) has been classified as common stock subject to possible conversion on the accompanying September 30, 2008 balance sheet. Deferred interest represents 29.99% of the excess interest and dividends earned on the investments held in the Trust Fund above the $1,600,000 allowable to be released to the Company to fund working capital requirements, net of any income tax obligations.

The Company's Second Amended and Restated Certificate of Incorporation provides that the Company will continue in existence only until 18 months from the date of the consummation of the Public Offering, or 24 months from the consummation of the Public Offering if certain extension criteria have been satisfied. The Company is in preliminary discussions with potential targets. If the Company has not entered into a letter of intent, an agreement in principle or a definitive agreement to complete a Business Combination by December 13, 2008, its corporate existence will cease and, subject to stockholder approval, it will dissolve and liquidate for the purposes of winding up its affairs. There is no assurance that the Company will be able to successfully effect a Business Combination during this period. This factor raises substantial doubt about the Company's ability to continue as a going concern. The accompanying financial statements are prepared assuming the Company will continue as a going concern. The financial statements do not include any adjustments that might result from the outcome of this uncertainty. In the event of liquidation, it is likely that the per share value of the residual assets remaining available for distribution (including Trust Fund assets) will be less than the initial public offering per share in the Public Offering (assuming no value is attributed to the Warrants contained in the Units sold in the Public Offering discussed in Note 4).

Note 3 — Summary of Significant Accounting Policies

New Accounting Pronouncements

In December 2007, the FASB released SFAS No. 141(R), Business Combinations (revised 2007) ("SFAS 141(R)"), which changes many well-established business combination accounting practices and significantly affects how acquisition transactions are reflected in the financial statements. Additionally, SFAS 141(R) will affect how companies negotiate and structure transactions, model financial projections of acquisitions and communicate to stakeholders. SFAS 141(R) must be applied prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. The Company is currently evaluating the impact the adoption of this statement could have on its financial condition, results of operations and cash flows.

In December 2007, the FASB released SFAS No. 160, Noncontrolling Interests in Consolidated Financial Statements an amendment of ARB No. 51 (“SFAS 160”), which establishes accounting and reporting standards for the noncontrolling interests in a subsidiary and for the deconsolidation of a subsidiary. SFAS 160 requires consolidated net income to be reported at amounts that include the amounts attributable to both the parent and the noncontrolling interests and requires disclosure, on the face of the consolidated statement of income, of the amounts of consolidated net income attributable to the parent and to the noncontrolling interest. Previously, net income attributable to the noncontrolling interest was reported as an expense or other deduction in arriving at consolidated net income. SFAS 160 is effective for financial statements issued for fiscal years beginning after December 15, 2008. The Company believes the adoption of this statement will not have a material impact on its consolidated financial statements.

The Company does not believe that any other recently issued, but not yet effective, accounting standards if currently adopted would have a material effect on the accompanying financial statements.

Net Income (Loss) per Common Share

Income per share is computed by dividing the net income by the weighted average number of common shares outstanding for the period. The effect of the 8,625,000 outstanding warrants issued in connection with the initial public offering, the 1,800,000 outstanding warrants issued in connection with the private placement and the 450,000 units included in the underwriters purchase option has not been considered in diluted income per share calculations since the warrants cannot be exercised until the later of the Company's initial Business Combination or June 7, 2008.

Reclassifications

Certain reclassifications have been made to the prior year’s financial statements to conform to the current year’s presentation.

Note 4 — Initial Public Offering & Value of Unit Purchase Option

On June 13, 2007, the Company sold 8,625,000 units (“Units”), including 1,125,000 Units pursuant to the over-allotment option granted to the underwriters, in the Public Offering at a price of $8.00 per Unit. Each Unit consists of one share of the Company's common stock, $0.0001 par value, and one Common Stock Purchase Warrant (“Warrant”). Each Warrant entitles the holder to purchase from the Company one share of common stock at an exercise price of $6.00 commencing on the later of the completion of a Business Combination with a target business and one year from the effective date of the registration statement for the Public Offering and expiring four years from such effective date. The Warrants will be redeemable at a price of $0.01 per Warrant upon 90 days' notice after the Warrants become exercisable, only in the event that the last sale price of the common stock is at least $11.50 per share for any 20 trading days within a 30 trading day period ending on the third business day prior to the date on which notice of redemption is given. In accordance with the warrant agreement relating to the Warrants sold and issued in the Public Offering, the Company is only required to use its best efforts to maintain the effectiveness of the registration statement covering the Warrants. The Company will not be obligated to deliver securities, and there are no contractual penalties for failure to deliver securities, if a registration statement is not effective at the time of exercise. Additionally, in the event that a registration statement is not effective at the time of exercise, the holder of such Warrant shall not be entitled to exercise such Warrant and in no event (whether in the case of a registration statement not being effective or otherwise) will the Company be required to net cash settle the warrant exercise. Consequently, the Warrants may expire unexercised and unredeemed.

In connection with the Public Offering, the Company paid Lazard Capital Markets LLC and Ladenburg Thalmann & Co. Inc., the underwriters of the Public Offering, underwriting discounts and commissions of 7% of the gross proceeds of the Public Offering, of which 3% of the gross proceeds ($2,070,000) are held in the Trust Account and payable only upon the consummation of a Business Combination. If a Business Combination is approved and completed, Public Stockholders who voted against the combination and have exercised their conversion rights will be entitled to their pro rata share of the deferred underwriters' discounts and commissions.

Each of the common stock and Warrants began separate trading on June 20, 2007.

Simultaneously with the consummation of the Public Offering, the Initial Stockholders purchased 1,800,000 warrants (“Private Placement Warrants”) at a purchase price of $1.00 per warrant, in a private placement. The proceeds of $1,800,000 were placed in the Trust Account. The Private Placement Warrants are identical to the Warrants underlying the Units sold in the Public Offering except that such Private Placement Warrants are non-redeemable and are exercisable on a cashless basis as long as they are still held by the initial purchasers. The purchasers have agreed that the Private Placement Warrants will not be sold or transferred by them (other than to certain permitted transferees who agree to be similarly bound), until six months after the completion of a Business Combination.

The Initial Stockholders and the holders of the Private Placement Warrants will be entitled to registration rights with respect to their securities pursuant to an agreement signed as of the effective date of the Public Offering. With respect to the Private Placement Warrants (and underlying shares), from and after the date on which the Company files a current report on Form 8-K announcing that it has entered into a definitive agreement with respect to a Business Combination, the holders of a majority of these securities are entitled to demand registration of the resale of these securities. However, the Company is not required to effect such registration until six months following the consummation of a Business Combination. With respect to the shares issued to the Initial Stockholders prior to the Public Offering and the Private Placement Warrants (and underlying shares), from and after the first anniversary of the consummation of the Business Combination, the holders of a majority of these securities are entitled to demand registration of the resale of these securities. In addition, such holders have certain “piggy back” registration rights on registration statements filed subsequent to the Company’s consummation of a Business Combination. The Company will bear the expenses incurred in connection with the filing of any such registration statements.

In connection with this Offering, the Company issued an option to the underwriters, for $100, to purchase up to a total of 450,000 Units at $10.00 per Unit. The Units issuable upon exercise of this option are identical to those offered in the Public Offering. The purchase option and its underlying securities have been registered under the registration statement. The option has a useful life of five years.

The sale of the option was accounted for as an equity transaction. Accordingly, there was no net impact on the Company's financial position or results of operations, except for the recording of the $100 proceeds from the sale. The Company has determined, based upon a Black-Scholes model, that the fair value of the option on the date of sale was approximately $1.35 million, using an expected life of five years, volatility of 43% and a risk free interest rate of 4.75%.

The volatility calculation of 43% is based on the actual volatilities of other similarly situated blank check companies. Because the Company did not have a trading history at the time of the issuance of the option, the Company needed to estimate the potential volatility of its unit price, which will depend on a number of factors which could not be ascertained at that time. Although an expected life of five years was taken into account for the purposes of assigning a fair value to the option, if the Company does not consummate a business combination within the prescribed time period and liquidate the Trust Account as part of any plan of dissolution and distribution approved by the Company's stockholders, the option will become worthless.

Note 5 — Dynogen

On February 5, 2008, Apex and Acquisition Sub entered into an Agreement and Plan of Merger (the "Merger Agreement") with Dynogen Pharmaceuticals, Inc., a Delaware corporation ("Dynogen") and Kate Bingham and Michael Bigham, acting jointly as representatives of the Company Holders (defined in the Merger Agreement to refer collectively to the holders of Dynogen capital stock, options, warrants and other securities), pursuant to which Acquisition Sub would merge with and into Dynogen and Dynogen would become a wholly-owned subsidiary of Apex (the "Merger").

On April 16, 2008, Apex, Acquisition Sub and Dynogen entered into a Termination and Release Agreement (the "Termination Agreement") to mutually terminate the Merger Agreement. Due to current market conditions, particularly those for small capitalization public biotech companies, Apex and Dynogen determined that terminating the merger agreement was in the best interest of both companies and their respective stockholders. Under the terms of the Termination Agreement, the parties agreed to release claims they may have against the other.

Note 6 — Related Party Transactions

As of September 30, 2008 and December 31, 2007, amounts due from officers and directors and amounts due to officers and directors for operating costs incurred on behalf of the Company, were $3,211 and $2,776, respectively.

Note 7 - Income Taxes

The provision for income taxes for the three and nine months ended September 30, 2008 consists of the following:

	Three months ended September 30, 2008 (Unaudited)	Nine months ended September 30, 2008 (Unaudited)
Current:		
Federal	$ 85,856	$ 106,838
State	24,418	44,508
Total current	110,274	151,346
Deferred:		
Federal	(43,786)	(71,632)
State	(6,330)	(17,796)
Total deferred	(50,116)	(89,428)
	$ 60,158	$ 61,918

The tax effect of temporary differences that give rise to the net deferred tax asset at September 30, 2008 is as follows:

Expenses deferred for income tax purposes	$	260,349
Interest and dividends deferred for reporting purposes		86,243
		346,592
Valuation allowance		(59,058)
	$	287,534

The Company has recorded a valuation allowance against the state deferred tax asset since it cannot determine realizability for tax purposes and therefore can not conclude that the deferred tax asset is more likely than not recoverable at this time.

Note 8 — Preferred Stock

The Company is authorized to issue 1,000,000 shares of preferred stock with such designations, voting and other rights and preferences as may be determined from time to time by the Company's board of directors.

Note 9 — Reserved Common Stock

At September 30, 2008, 11,325,000 shares of common stock were reserved for issuance upon exercise of redeemable warrants and the underwriters' purchase option.

Note 10 — Commitments

On July 23, 2008, the Company entered into finders agreements with a third-party. The agreements expire by their terms on April 30, 2009, but are terminable by either party upon 15 days prior written notice. If either the Company or the third-party introduces the other to a potential target with whom such other party consummates a Business Combination, such other third-party is obligated to pay the introducing party a success fee between 1% and 1.5% of the total value of the transaction. Neither the Company nor the third-party is obligated to pay the other any fee unless a Business Combination is consummated with a referred target. In addition, the Company entered into two separate finders agreements with third parties as of October 30, 2008 and November 3, 2008, respectively. The agreements both expire by their terms on December 13, 2008, but are terminable by either party upon 10 days prior written notice. If either third-party introduces the Company to a potential target with whom the Company consummates a Business Combination, the Company is obligated to pay such introducing third-party a success fee equal to 0.5% of the total value of the transaction. The Company is not obligated to pay any fee unless a Business Combination is consummated with a referred target.

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

Forward Looking Statements

This Quarterly Report on Form 10-Q includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). We have based these forward-looking statements on our current expectations and projections about future events. These forward-looking statements are subject to known and unknown risks, uncertainties and assumptions about us that may cause our actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by such forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as “may,” “should,” “could,” “would,” “expect,” “plan,” “anticipate,” “believe,” “estimate,” “continue,” or the negative of such te similar expressions. Factors that might cause or contribute to such a discrepancy include, but are not limited to, those described in our other Securities and Exchange Commission filings.
The following discussion should be read in conjunction with our unaudited Financial Statements and related Notes thereto included elsewhere in this report.

Critical Accounting Policies

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. Actual results could differ from those estimates.

Management does not believe that any recently issued, but not yet effective, accounting standards if currently adopted would have a material effect on the accompanying financial statements.

Overview

We were formed on June 1, 2006 as a blank check company for the purpose of acquiring, through a merger, capital stock exchange, asset acquisition or other similar business combination, one or more operating businesses in the healthcare industry. Until the closing of our initial public offering on June 13, 2007 (“Public Offering”), all of our activity related to our formation and our Public Offering. We intend to use cash derived from the net proceeds of our initial public offering, together with any additional financing arrangements that we undertake, to effect a business combination.

Apex Acquisition Sub, Inc. is a Delaware corporation and a wholly-owned subsidiary of Apex (“Acquisition Sub”). Acquisition Sub was formed for the purpose of effecting a Business Combination and has engaged in no other business activities or operations since its formation.

Results of Operations

The Company's net income of $73,753 for the three months ended September 30, 2008 consisted of formation and operating costs of $144,146 offset by dividend and interest income of $278,057. During the same three month period, we recorded a provision for income taxes in the amount of $60,158. For the three months ended September 30, 2007, the Company had net income of $411,389, consisting of formation and operating costs of $170,920, dividend and interest income of $875,429 and a provision for income taxes of $293,120. Net income during the three months ended September 30, 2008 was lower than the prior year's quarter primarily due to reduced interest income resulting from lower interest rates on investment balances.

The net income for the nine months ended September 30, 2008 amounted to $35,963 and consisted of formation and operating costs of $1,067,187, dividend and interest income of $1,165,068 and a provision for income taxes of $61,918. For the nine months ending September 30, 2007, the net income of $443,989 consisted of formation and operating costs of $254,855, dividend and interest income of $991,964 and a provision for income taxes of $293,120.

The net income of $680,564 for the period from June 1, 2006 (date of inception) to September 30, 2008 consisted of formation and operating costs of $1,702,391, dividend and interest income of $2,951,848 and a provision for income taxes of $568,893.

Operating costs during the nine month period ending September 30, 2008 included $395,483 in expenses related to due diligence associated with the terminated merger with Dynogen. In addition, $150,000 of legal expenses, associated with the potential merger, were incurred.

Liquidity and Capital Resources

We will likely use all or substantially all of the net proceeds of the Public Offering and private placement that occurred immediately prior thereto held outside the trust account and the up to $1,600,000 of dividend income (net of income taxes payable thereon) available to us for working capital to acquire a target business, including identifying and evaluating prospective acquisition candidates, selecting the target business, and structuring, negotiating and consummating the business combination. Certain of our Directors (or, in some cases, affiliates of our Directors) will provide additional working capital funding on an as-needed basis on terms to be agreed upon by the Board of Directors. We believe the funds currently available to us outside of the trust account, plus the advances from Directors, will be sufficient to allow us to operate through the end of 2008 and to consummate a business combination. To the extent that our capital stock is used in whole or in part as consideration to effect a business combination the proceeds held in the trust account as well as any other net proceeds not expended will be used to finance the operations of the target business.

Off-Balance Sheet Arrangements

Options and warrants issued in conjunction with our initial public offering are equity linked derivatives and accordingly represent off-balance sheet arrangements. The options and warrants meet the scope exception in paragraph 11(a) of Statement of Financial Accounting Standards 133 “Accounting for Derivative Instruments and Hedging Activities” (“SFAS 133”) and are accordingly not accounted for as derivatives for purposes of SFAS 133, but instead are accounted for as equity. See Note 4 to the financial statements for more information.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market risk is the sensitivity of income to changes in interest rates, foreign exchanges, commodity prices, equity prices, and other market-driven rates or prices. We are not presently engaged in, and if a suitable business target is not identified by us prior to the prescribed liquidation date of the trust fund we may not engage in, any substantive commercial business. Accordingly, we are not and, until such time as we consummate a business combination, we will not be, exposed to risks associated with foreign exchange rates, commodity prices, equity prices or other market-driven rates or prices. The net proceeds of our initial public offering held in the trust account are to be invested only in money market funds meeting certain conditions under Rule 2a-7 promulgated under the Investment Company Act of 1940 or United States treasury bills having a maturity of 180 days or less. Given our limited risk in our exposure to money market funds and treasury bills, we do not view the interest rate risk to be significant.

ITEM 4. CONTROLS AND PROCEDURES

An evaluation of the effectiveness of our disclosure controls and procedures as of September 30, 2008 was made under the supervision and with the participation of our management. Based on that evaluation, our management concluded that our disclosure controls and procedures are effective as of the end of the period covered by this report to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in Securities and Exchange Commission rules and forms. During the most recently completed fiscal quarter, there has not been any change in our internal control over financial reporting in connection with the evaluation required by Rule 13a-15(d) of the Exchange Act that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

None.

ITEM 1A. RISK FACTORS

In addition to the other information set forth in this report, you should carefully consider the factors discussed in the section titled “Risk Factors” in our December 31, 2007 annual report on Form 10-K as filed with the Securities and Exchange Commission, which could materially affect our business, financial condition or future results. There have been no material updates or changes to such Risk Factors that are required to be disclosed in this Item 1A.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Exhibit No.	Description
31.1	Section 302 Certification of Chief Executive Officer
31.2	Section 302 Certification of Chief Financial Officer
32.1	Section 906 Certification of Chief Executive Officer and Chief Financial Officer

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

APEX BIOVENTURES ACQUISITION CORPORATION

November 13, 2008	By:	/s/ Darrell J. Elliott Darrell J. Elliott Chief Executive Officer
November 13, 2008	By:	/s/ Gary E. Frashier Gary E. Frashier Chief Financial Officer

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