

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

SCHEDULE TO

(RULE 14d-100)
Tender Offer Statement under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934
(Amendment No. 3)

Pfenex Inc.

(Name of Subject Company)

Pelican Acquisition Sub, Inc.

(Offeror)

a wholly-owned subsidiary of

Ligand Pharmaceuticals Incorporated

(Offeror)

(Name of Filing Persons and Offerors)

COMMON STOCK, \$0.001 PAR VALUE
(Title of Class of Securities)

717071104

(Cusip Number of Class of Securities)

John L. Higgins

Chief Executive Officer

Ligand Pharmaceuticals Incorporated

3911 Sorrento Valley Boulevard, Suite 110

San Diego, CA 92121

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of Filing Persons)

With a copy to:

Matthew T. Bush, Esq.

R. Scott Shean, Esq.

Anthony Gostanian, Esq.

Latham & Watkins LLP

12670 High Bluff Drive

San Diego, CA 92130

(858) 523-5400

CALCULATION OF FILING FEE

Transaction Valuation*	Amount of Filing Fee**
\$489,001,004.56	\$63,472.34

* Estimated solely for purposes of calculating the filing fee. The transaction value was determined by multiplying \$12.56, the average of the high and low sales prices per share of Pfenex Inc. ("Pfenex") common stock, par value \$0.001 per share (collectively, the "Shares"), on August 27, 2020, as reported by the New York Stock Exchange American by 38,933,201 Shares (which consists of (i) 34,315,550 Shares outstanding and (ii) 4,617,651 Shares issuable pursuant to outstanding options to purchase Pfenex Shares with an exercise price of less than or equal to \$12.00 per Share). The calculation of the filing fee is based on information provided by Pfenex as of August 27, 2020.

** The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory No. 1 for Fiscal Year 2020, issued August 23, 2019, by multiplying the transaction value by 0.0001298

Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$63,472.34

Filing Party: Ligand Pharmaceuticals Incorporated and Pelican Acquisition Sub, Inc.

Form or Registration No.: Schedule TO-T

Date Filed: August 31, 2020

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- third-party tender offer subject to Rule 14d-1.
- issuer tender offer subject to Rule 13e-4.
- going-private transaction subject to Rule 13e-3.
- amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- Rule 13e-4(i) (Cross Border Issuer Tender Offer)
 - Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)
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This Amendment No. 3 (this “Amendment”) amends and supplements the Tender Offer Statement on Schedule TO (as further amended and supplemented, the “Schedule TO”), filed with the United States Securities and Exchange Commission on August 31, 2020 by Pelican Acquisition Sub, Inc. (the “Purchaser”), a Delaware corporation and a wholly-owned subsidiary of Ligand Pharmaceuticals Incorporated (“Ligand”), a Delaware corporation, to purchase all of the outstanding shares of common stock, par value \$0.001 per share (the “Shares”), of Pfenex Inc. (“Pfenex”), a Delaware corporation, at a price of \$12.00 per Share, in cash, plus a contingent value right (“CVR”), which shall represent the right to receive a contingent payment of \$2.00 in cash, without interest and less any applicable withholding taxes, if a specified milestone is achieved, pursuant to an Agreement and Plan of Merger, dated as of August 10, 2020, and subject to the conditions described in the offer to purchase, dated August 31, 2020 (the “Offer to Purchase”), and in the related letter of transmittal (the “Letter of Transmittal”), copies of which are attached hereto as Exhibits (a)(1)(i) and (a)(1)(ii), respectively, which Offer to Purchase and Letter of Transmittal collectively constitute the “Offer.”

The information in the Offer to Purchase and the Letter of Transmittal is incorporated in this Amendment by reference to all of the applicable items in the Schedule TO, except that such information is amended and supplemented to the extent specifically provided in this Amendment. Capitalized terms used and not otherwise defined in this Amendment shall have the meanings assigned to such terms in the Offer to Purchase or in the Schedule TO.

The items of the Schedule TO set forth below are hereby amended and supplemented as follows:

Items 1 through 9 and 11

The Offer to Purchase and Items 1 through 9 and Item 11 of the Schedule TO, to the extent such Items incorporate by reference the information contained in the Offer to Purchase, are hereby amended and supplemented by adding the following text:

The Offer expired at midnight (New York City Time), at the end of the day on Tuesday, September 29, 2020. The Depositary has advised Ligand and Purchaser that, as of the expiration of the Offer, a total of 24,744,327 Shares (excluding Shares with respect to which Notices of Guaranteed Delivery were delivered) were validly tendered and not properly withdrawn pursuant to the Offer, representing approximately 72.0% of the Shares outstanding as of the expiration of the Offer. In addition, Notices of Guaranteed Delivery have been delivered with respect to approximately 2,847,227 Shares that have not yet been tendered, representing approximately 8.3% of the outstanding Shares.

As of the expiration of the Offer, the number of Shares validly tendered and not validly withdrawn pursuant to the Offer satisfied the Minimum Condition, and all other conditions to the Offer were satisfied or waived. Promptly after the expiration of the Offer, Purchaser irrevocably accepted for payment, and expects to promptly pay for, all Shares validly tendered and not validly withdrawn pursuant to the Offer.

As a result of its acceptance of the Shares tendered in the Offer, Purchaser acquired sufficient Shares to complete the Merger without the affirmative vote of the stockholders of Pfenex pursuant to Section 251(h) of the DGCL. Ligand and Purchaser expect to effect the Merger as soon as practicable in accordance with the terms of the Merger Agreement. At the Effective Time of the Merger, each Share issued and outstanding immediately prior to the Effective Time, other than any Shares (i) that are owned by Ligand, Purchaser or Pfenex, or by any wholly-owned subsidiary of Ligand or Purchaser, in each case immediately prior to the commencement of the Offer, or (ii) in respect of which appraisal rights were perfected in accordance with Section 262 DGCL, will be automatically converted into the right to receive \$12.00 per Share, in cash, plus a CVR, which represents the right to receive a contingent payment of \$2.00 in cash, if a specified milestone is achieved, without interest and less any applicable withholding taxes.

Following consummation of the Merger, the Shares will be delisted and will cease to trade on the NYSE American. Ligand and Purchaser intend to take steps to cause the termination of the registration of the Shares under the Exchange Act and suspend all of Pfenex’s reporting obligations under the Exchange Act as promptly as practicable.

On September 30, 2020, Ligand issued a press release announcing the expiration and results of the Offer. The full text of the press release is attached as Exhibit (a)(5)(xi) hereto and is incorporated herein by reference.

Item 12

The Exhibit Index appearing after the signature page hereto is hereby amended and supplemented by adding the following:

- (a)(5)(xi) Press release issued by Ligand Pharmaceuticals Incorporated announcing the expiration and results of the offer on September 30, 2020.

EXHIBIT INDEX

Index No.

- (a)(1)(i) Offer to Purchase dated August 31, 2020.*
- (a)(1)(ii) Form of Letter of Transmittal (including Guidelines for Certification of Taxpayer Identification Number on IRS FormW-9).*
- (a)(1)(iii) Form of Notice of Guaranteed Delivery.*
- (a)(1)(iv) Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
- (a)(1)(v) Form of Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
- (a)(1)(vi) Summary Advertisement as published in The New York Times on August 31, 2020.*
- (a)(5)(i) Joint press release issued by Ligand Pharmaceuticals Incorporated and Pfenex Inc. announcing the signing of the Agreement and Plan of Merger on August 10, 2020 (incorporated by reference to Exhibit 99.1 to the Schedule TO-C filed by Ligand Pharmaceuticals Incorporated with the SEC on August 11, 2020).*
- (a)(5)(ii) Social media content issued on August 10, 2020 by Ligand Pharmaceuticals Incorporated (incorporated by reference to Exhibit 99.2 to the Schedule TO-C filed by Ligand Pharmaceuticals Incorporated with the SEC on August 11, 2020).*
- (a)(5)(iii) Form of email to Pfenex Inc. partners, first used August 10, 2020 (incorporated by reference to Exhibit 99.3 to the Schedule 14D-9 filed by Pfenex Inc. with the SEC on August 11, 2020).*
- (a)(5)(iv) Pfenex Inc. Employee Q&A, first used August 10, 2020 (incorporated by reference to Exhibit 99.4 to the Schedule 14D-9 filed by Pfenex Inc. with the SEC on August 11, 2020).*
- (a)(5)(v) Pfenex Inc. Employee Townhall Slides, first used August 10, 2020 (incorporated by reference to Exhibit 99.5 to the Schedule 14D-9 filed by Pfenex Inc. with the SEC on August 11, 2020).*
- (a)(5)(vi) Form of email to Pfenex Inc. employees regarding ESPP Plan, first used August 10, 2020 (incorporated by reference to Exhibit 99.6 to the Schedule 14D-9 filed by Pfenex Inc. with the SEC on August 11, 2020).*
- (a)(5)(vii) Form of email to Pfenex Inc. employees regarding ESPP Plan, first used August 13, 2020 (incorporated by reference to Exhibit 99.1 to the Schedule 14D-9 filed by Pfenex Inc. with the SEC on August 13, 2020).*
- (a)(5)(viii) Press release issued by Ligand Pharmaceuticals Incorporated announcing commencement of the Offer on August 31, 2020.*
- (a)(5)(ix) Email Regarding ESPP Plan to Employees, first used August 13, 2020 (incorporated by reference to Exhibit 99.1 to the Schedule 14D-9 filed by Pfenex Inc. with the SEC on August 13, 2020).*
- (a)(5)(x) Notice to Optionholders and Employee FAQ, first used August 21, 2020 (incorporated by reference to Exhibit 99.1 to the Schedule 14D-9 filed by Pfenex Inc. with the SEC on August 24, 2020).*

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- (a)(5)(xi) Press release issued by Ligand Pharmaceuticals Incorporated announcing the expiration and results of the offer on September 30, 2020.
- (b) Not Applicable.
- (d)(1) Agreement and Plan of Merger, dated August 10, 2020, by and among Ligand Pharmaceuticals Incorporated, Pelican Acquisition Sub, Inc. and Pfenex Inc. (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by Ligand Pharmaceuticals Incorporated with the SEC on August 11, 2020).*
- (d)(2) Confidentiality Agreement, dated May 20, 2020, by and between Ligand Pharmaceuticals Incorporated and Pfenex Inc.*
- (d)(3) Tender and Support Agreement, dated August 10, 2020, by and among Ligand Pharmaceuticals Incorporated, Pelican Acquisition Sub, Inc., Eef Schimmelpennink, Martin Brenner, Patrick K. Lucy, Shawn Scranton, Robin D. Campbell, Jason Grenfell-Gardner, Magda Marquet, Lorianne Masuoka, Phillip Schneider and John M. Taylor (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K filed by Ligand Pharmaceuticals Incorporated with the SEC on August 11, 2020).*
- (d)(4) Form of Contingent Value Rights Agreement (incorporated by reference to Exhibit 99.2 to the Current Report on Form 8-K filed by Ligand Pharmaceuticals Incorporated with the SEC on August 11, 2020).*
- (g) Not Applicable.
- (h) Not Applicable.

*Previously filed.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: September 30, 2020

PELICAN ACQUISITION SUB, INC.

By: /s/ Charles S. Berkman
Name: Charles S. Berkman
Title: Senior Vice President, General Counsel and
Secretary

LIGAND PHARMACEUTICALS INCORPORATED

By: /s/ Charles S. Berkman
Name: Charles S. Berkman
Title: Senior Vice President, General Counsel and
Secretary

Ligand Announces Expiration of Tender Offer for Shares of Pfenex Inc.

SAN DIEGO, Calif. (September 30, 2020) – Ligand Pharmaceuticals Incorporated (NASDAQ: LGND) today announced that its tender offer to purchase any and all issued and outstanding shares of common stock of Pfenex Inc. (**NYSE American: PFNX**) at an offer price of \$12.00 per share in cash, plus one non-transferable contractual contingent value right per share representing the right to receive a contingent payment of \$2.00 in cash, if a certain specified milestone is achieved, expired at midnight (New York City time), at the end of the day on Tuesday, September 29, 2020.

The depository for the tender offer has advised that, as of the expiration of the tender offer, a total of approximately 27,591,554 shares were validly tendered and not withdrawn in the tender offer (including shares delivered through notices of guaranteed delivery), representing approximately 80.3% of Pfenex's outstanding shares. Ligand's wholly-owned subsidiary will accept for payment all shares that were validly tendered and not withdrawn prior to expiration of the tender offer, and payment for such shares will be made promptly, in accordance with the terms of the tender offer.

Ligand expects the merger to close on October 1, 2020, with Pfenex becoming a wholly owned subsidiary of Ligand. As a consequence of the merger, each outstanding Pfenex share not tendered and purchased in the offer (other than those as to which holders properly exercise dissenters' rights and those owned at the commencement of the tender offer by Ligand or its direct and indirect subsidiaries) will be converted into the right to receive the same \$12.00 per share in cash, plus one non-transferable contractual contingent value right per share representing the right to receive a contingent payment of \$2.00 in cash, if a certain specified milestone is achieved, without interest and less any required withholding taxes, that was offered in the tender offer. Following completion of the merger, Pfenex's common stock will cease to be traded on the New York Stock Exchange American.

About Ligand

Ligand is a revenue-generating biopharmaceutical company focused on developing or acquiring technologies that help pharmaceutical companies discover and develop medicines. Ligand's business model creates value for stockholders by providing a diversified portfolio of biotech and pharmaceutical product revenue streams that are supported by an efficient and low corporate cost structure. Ligand's goal is to offer investors an opportunity to participate in the promise of the biotech industry in a profitable, diversified and lower-risk business than a typical biotech company. Ligand's business model is based on doing what Ligand does best: drug discovery, early-stage drug development, product reformulation and partnering. Ligand partners with other pharmaceutical companies to leverage what they do best (late-stage development, regulatory management and commercialization) to ultimately generate our revenue. Ligand's OmniAb® technology platform is a patent-protected transgenic animal platform used in the discovery of fully human mono- and bispecific therapeutic antibodies. The Captisol platform technology is a patent-protected, chemically modified cyclodextrin with a structure designed to optimize the solubility and stability of drugs. The Vernalis Design Platform (VDP) integrates protein structure determination and engineering, fragment screening and molecular modeling, with medicinal chemistry, to help enable success in novel drug discovery programs against highly-challenging targets. Ab Initio™ technology and services for the design and preparation of customized antigens enable the successful discovery of therapeutic antibodies against difficult-to-access cellular targets. Ligand has established multiple alliances, licenses and other business relationships with the world's leading pharmaceutical companies including Amgen, Merck, Pfizer, Sanofi, Janssen, Takeda, Servier, Gilead Sciences and Baxter International. For more information, please visit www.ligand.com.

Follow Ligand on Twitter @Ligand_LGND.

Cautionary Statement Regarding Forward-Looking Statements

This press release contains forward-looking statements by Ligand that involve risks and uncertainties and reflect Ligand's judgment as of the date of this release. These forward-looking statements include, without limitation, statements regarding the timing of the anticipated acquisition and when and whether the anticipated acquisition ultimately will close. Actual events or results may differ from Ligand's expectations due to risks and uncertainties inherent in Ligand's business, including, without limitation: the risk that the conditions to the closing of the transaction are not satisfied; litigation relating to the transaction; uncertainties as to the timing of the consummation of the transaction and the ability of each of Ligand or Pfenex to consummate the transaction; risks that the proposed transaction disrupts the current plans and operations of Ligand or Pfenex; the ability of Pfenex to retain key personnel; competitive responses to the proposed transaction; unexpected costs, charges or expenses resulting from the transaction; potential adverse reactions or changes to business relationships resulting from the announcement or completion of the transaction; Ligand's ability to achieve the growth prospects and synergies expected from the transaction, as well as delays, challenges and expenses associated with integrating Pfenex with its existing businesses; the impact of COVID-19 on Ligand's and Pfenex's businesses and the timing of the transaction; legislative, regulatory and economic developments; and other risks described in Ligand's prior press releases and filings with the SEC. The failure to meet expectations with respect to any of the foregoing matters may reduce Ligand's stock price. Ligand disclaims any intent or obligation to update these forward-looking statements after the date hereof. This caution is made under the safe harbor provisions of the Private Securities Litigation Reform Act of 1995.

Contacts:

Ligand Pharmaceuticals Incorporated
Patrick O'Brien
investors@ligand.com
(858) 550-7893
Twitter: @Ligand_LGND

LHA Investor Relations
Bruce Voss
bvoss@lhai.com
(310) 691-7100

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