

AVI BIOPHARMA INC  
Form 3  
June 02, 2009

**FORM 3 UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

OMB APPROVAL

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**INITIAL STATEMENT OF BENEFICIAL OWNERSHIP OF SECURITIES**

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

(Print or Type Responses)

|   |         |          |                                      |  |  |
|---|---------|----------|--------------------------------------|--|--|
| 1. Name and Address of Reporting Person * |         |          | 2. Date of Event Requiring Statement | 3. Issuer Name <b>and</b> Ticker or Trading Symbol |  |
| Â EASTBOURNE CAPITAL MANAGEMENT LLC/CA    |         |          | (Month/Day/Year)                     | AVI BIOPHARMA INC [AVII]                           |  |
| (Last)                                    | (First) | (Middle) |                                      | 4. Relationship of Reporting Person(s) to Issuer   | 5. If Amendment, Date Original Filed(Month/Day/Year)                   |
| 1101 FIFTH AVENUE,Â SUITE 370             |         |          |                                      | (Check all applicable)                             |  |
| (Street)                                  |         |          |                                      | <input type="checkbox"/> Director                  | <input checked="" type="checkbox"/> 10% Owner                          |
| SAN RAFAEL,Â CAÂ 94901                    |         |          |                                      | <input type="checkbox"/> Officer                   | <input type="checkbox"/> Other   |
| (City)                                    | (State) | (Zip)    |                                      | (give title below)                                 | (specify below)  |
|   |         |          |                                      |  | 6. Individual or Joint/Group Filing(Check Applicable Line)             |
|   |         |          |                                      |  | <input checked="" type="checkbox"/> Form filed by One Reporting Person |
|   |         |          |                                      |  | <input type="checkbox"/> Form filed by More than One Reporting Person  |

**Table I - Non-Derivative Securities Beneficially Owned**

| 1. Title of Security (Instr. 4)    | 2. Amount of Securities Beneficially Owned (Instr. 4) | 3. Ownership Form: Direct (D) or Indirect (I) (Instr. 5) | 4. Nature of Indirect Beneficial Ownership (Instr. 5) |
|------------------------------------|---|--|---|
| Common Stock <u>(1)</u> <u>(2)</u> | 14,224,138  | D  | Â   |

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

SEC 1473 (7-02)

**Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.**

**Table II - Derivative Securities Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)**

| 1. Title of Derivative Security (Instr. 4) | 2. Date Exercisable and Expiration Date (Month/Day/Year) | 3. Title and Amount of Securities Underlying Derivative Security (Instr. 4) | 4. Conversion or Exercise Price of Derivative | 5. Ownership Form of Derivative Security: | 6. Nature of Indirect Beneficial Ownership (Instr. 5) |
|--|--|---|---|---|---|
|--|--|---|---|---|---|

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|                     |                    |       |                                  |          |  |
|---------------------|--------------------|-------|----------------------------------|----------|--|
| Date<br>Exercisable | Expiration<br>Date | Title | Amount or<br>Number of<br>Shares | Security | Direct (D)<br>or Indirect<br>(I)<br>(Instr. 5) |
|---------------------|--------------------|-------|----------------------------------|----------|--|

## Reporting Owners

| Reporting Owner Name / Address   | Relationships |              |         |       |
|--|---------------|--------------|---------|-------|
|  | Director      | 10%<br>Owner | Officer | Other |
| EASTBOURNE CAPITAL MANAGEMENT LLC/CA<br>1101 FIFTH AVENUE<br>SUITE 370<br>SAN RAFAEL, CA 94901 | Â             | Â X          | Â       | Â     |

## Signatures

Eric Sippel 06/02/2009

\_\_Signature of Date  
Reporting Person

## Explanation of Responses:

- \* If the form is filed by more than one reporting person, *see* Instruction 5(b)(v).
- \*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).  
 Eastbourne Capital Management, L.L.C. ("Eastbourne") is the general partner or manager and investment adviser of investment funds that hold these securities directly on behalf of those funds' investors. Richard Jon Barry is Eastbourne's manager and controlling person.  
 (1) Eastbourne and Mr. Barry hold these securities indirectly in their capacity as investment adviser and control person, respectively. Eastbourne is filing this Form 3 on behalf of itself and Mr. Barry, jointly, but not as members of a group, and each of them disclaims membership in a group, within the meaning of Rule 13d-5(b) under the Securities Exchange Act of 1934, as amended. In addition, each of them disclaims beneficial ownership of such securities, except to the extent of its pecuniary interest therein  
 Eastbourne Capital Management, L.L.C. is the beneficial owner of more than 10 percent of the outstanding common stock of Avi BioPharma, Inc. Under a Letter Agreement Regarding Board of Director Representation dated as of January 30, 2009, between  
 (2) Eastbourne Capital Management, L.L.C. and Avi BioPharma, Inc., Avi BioPharma, Inc. agreed to take all necessary actions to have one designee of Eastbourne Capital Management, L.L.C. nominated to Avi BioPharma, Inc.'s Board of Directors. Pursuant to this agreement, Dr. Kathleen Behrens currently serves on the Board of Directors of Avi BioPharma, Inc.

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