

Edgar Filing: EI ACQUISITION INC - Form PREC14A

EI ACQUISITION INC  
Form PREC14A  
August 08, 2003

SCHEDULE 14A INFORMATION

Consent Statement Pursuant to Section 14(a) of  
the Securities Exchange Act of 1934

Filed by the Registrant  
Filed by a Party other than the Registrant X  
Check the appropriate box:  
Preliminary Consent Statement  
CONFIDENTIAL, FOR USE OF THE COMMISSION ONLY  
(AS PERMITTED BY RULE 14A-6(E) (2))  
Definitive Consent Statement  
Definitive Additional Materials  
X Soliciting Material Pursuant to Rule 14a-12

eXegenics Inc.  
(Name of Registrant as Specified In Its Charter)

Foundation Growth Investments LLC  
EI Acquisition Inc.  
(Name of Person(s) Filing Consent Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- X No fee required  
? Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11
- (1) Title of each class of securities to which transaction applies:
  - (2) Aggregate number of securities to which transaction applies:
  - (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
  - (4) Proposed maximum aggregate value of transaction:
  - (5) Total fee paid:

Fee paid previously with preliminary materials.

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

- (1) Amount Previously Paid:
- (2) Form, Schedule or Registration Statement No.:
- (3) Filing Party:
- (4) Date Filed:

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JOHN FERGUSON (INFORMATION AGENT)  
MORROW & CO.

NEWS RELEASE

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BANKS AND BROKERS: (800) 654-2468  
STOCKHOLDERS: (800) 607-0088  
ALL OTHERS: (212) 754-8000

RICK CONKLIN (DEALER MANAGER AND FINANCIAL ADVISER)  
WILLIAM BLAIR & COMPANY  
800-621-0687 ext. 5333

FOUNDATION GROWTH DEMANDS EXEGENICS DIRECTORS UPHOLD THEIR FIDUCIARY DUTIES

CHICAGO, ILLINOIS, August 8, 2003 - Foundation Growth Investments yesterday delivered the following letter to the board of eXegenics Inc. (Nasdaq: EXEG):

Foundation Growth Investments LLC  
225 West Washington Street, Suite 2320  
Chicago, Illinois 60606

August 7, 2003

Board of Directors  
eXegenics Inc.  
2110 Research Row  
Dallas, Texas 75235

Gentlemen:

The board of directors of eXegenics Inc. has ignored our attempt to negotiate a transaction with eXegenics and is actively interfering with our attempt to purchase the capital stock of eXegenics directly from its stockholders. Our offer to purchase the stock of eXegenics is financially superior to the offer by AVI BioPharma, Inc. The directors of eXegenics are violating their fiduciary duties to maximize the value of eXegenics for the benefit of the stockholders of eXegenics. The proposed transaction between eXegenics and AVI BioPharma inappropriately provides millions of dollars of benefits to the board and management of eXegenics -- in the form of, among other things, insurance and severance payments -- that Foundation Growth Investments believes should be preserved for the benefit of the stockholders of eXegenics. eXegenics may also be violating the SEC's tender offer rules by paying more to the officers of eXegenics than other stockholders in exchange for the officers' stock and support.

We demand that the board of eXegenics refrain from favoring AVI BioPharma's inferior offer. Specifically, we demand that eXegenics exempt Foundation Growth Investment's tender offer from triggering the terms of the stockholder rights plan and exempt Foundation Growth Investments from the application of the Delaware anti-takeover statute, in each case as the board has done with respect to AVI BioPharma. eXegenics' board is hiding behind the rights plan and Delaware law to further the personal interests of the directors and management of eXegenics and to protect a financially inferior offer.

We look forward to your immediate attention.

Very truly yours,

Foundation Growth Investments LLC  
By: Foundation Growth Management LLC

By: /s/ Timothy Leonard  
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