

Raptor Pharmaceutical Corp  
Form SC14D9C  
September 20, 2016

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

**SCHEDULE 14D-9**

**Solicitation/Recommendation Statement**  
**Under Section 14(d)(4) of the Securities Exchange Act of 1934**

**RAPTOR PHARMACEUTICAL CORP.**

**(Name of Subject Company)**

**RAPTOR PHARMACEUTICAL CORP.**

**(Name of Person Filing Statement)**

**Common Stock, par value \$0.001 per share**

**(Title of Class of Securities)**

**75382F106**

**(CUSIP Number of Class of Securities)**

**Michael P. Smith**

**Chief Financial Officer**

**Raptor Pharmaceutical Corp.**

**7 Hamilton Landing, Suite 100**

**Novato, California 94949**

**(415) 408-6200**

**(Name, address and telephone number of person authorized to receive notices and communications**

**on behalf of the persons filing statement)**

*With copies to:*

**Charles K. Ruck**

**Kathleen M. Wells**

**Latham & Watkins LLP**

**140 Scott Drive**

**Menlo Park, California 94025**

**(650) 328-4600**

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

This Schedule 14D-9 filing consists of the following communication relating to the proposed acquisition of Raptor Pharmaceutical Corp., a Delaware corporation ( **Raptor** ) by Horizon Pharma plc, a public limited company organized under the laws of Ireland ( **Parent** or **Horizon Pharma** ), pursuant to the terms of an Agreement and Plan of Merger, dated September 12, 2016, by and among Raptor, Parent and Misneach Corporation, a Delaware corporation and an indirect wholly owned subsidiary of Parent ( **Merger Sub** ):

Communication from Julie Anne Smith, Raptor's President and Chief Executive Officer, to Raptor employees (the **Employee Communication** ). The Employee Communication was first used or made available on September 20, 2016.

Dear Raptor Employees,

We have had many questions regarding 2016 corporate bonuses given this week's announcement of our proposed acquisition by Horizon Pharma Public Limited Company. The following describes eligibility for 2016 corporate bonuses under our annual bonus plan and how such amounts will be calculated for and paid to eligible employees if the proposed transaction closes. There will be a separate communication to those employees who are instead eligible for our sales related incentive plans.

### **2016 Corporate Bonus**

**Eligibility:** If you are employed by Raptor at the closing of the proposed transaction and otherwise eligible to receive a bonus under the terms of our 2016 corporate bonus program you will receive early payment of your 2016 corporate bonus as soon as administratively practicable following the closing of the proposed transaction regardless of whether or not you continue to remain in our service following the closing of the proposed transaction. Following the early payments of these 2016 corporate bonuses in connection with the closing of the proposed transaction, no additional amounts will be payable to you under our 2016 corporate bonus program and you will not be eligible to earn any additional 2016 bonus amounts under our 2016 corporate bonus program or otherwise.

**Calculation of 2016 Corporate Bonus Amount:** Here is how your 2016 corporate bonus amount will be calculated if the proposed transaction closes:

Your bonus amount will be calculated using your current base salary and applicable bonus target percentage. The full 12 months of 2016 will be used to calculate your 2016 bonus, regardless of whether you were hired after January 1, 2016. For those hired after January 1, 2016 see the applicable pro-ration description below.

Your bonus amount will be calculated assuming that there had been 100% achievement of the Corporate, Personal and Leadership Achievement goals for the 2016 calendar year.

If you were hired by Raptor after January 2016, your bonus amount will be reduced pro-rata to reflect the number of complete calendar months during calendar year 2016 that preceded your date of hire. Full month service credit will be given for the month in which you were hired. See the proration table below for the applicable percentage of your target bonus amount that you are eligible to earn based on the calendar month during 2016 within which you were hired.

**Month Hired in 2016**

**Proration %**

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Jan	100%
Feb	92%
Mar	83%
Apr	75%
May	67%
June	58%
July	50%
Aug	42%
Sept	34%

**BONUS CALCULATION EXAMPLES:**

Employee A - Hired April 15, 2016

Base							2016 Bonus
Salary		Bonus Target %		Goal Achievement		New Hire Proration	Amount
\$100,000	x	10%	x	100%	x	75%	= \$7,500

Employee B - Hired July 1, 2015

Base							2016 Bonus
Salary		Bonus Target %		Goal Achievement		Proration - N/A	Amount
\$100,000	x	10%	x	100%			= \$10,000

**Forward-Looking Statements**

This letter contains forward-looking statements, including, but not limited to, statements related to the anticipated consummation of the acquisition of Raptor and the timing and benefits thereof, Horizon Pharma's strategy, plans, objectives, expectations (financial or otherwise) and intentions, future financial results and growth potential, expected sources of funding for the acquisition of Raptor, anticipated product portfolio, expected patent terms, development programs and other statements that are not historical facts, including net sales guidance provided by Raptor for 2016. These forward-looking statements are based on Horizon Pharma's and Raptor's current expectations and inherently involve significant risks and uncertainties. Actual results and the timing of events could differ materially from those anticipated in such forward looking statements as a result of these risks and uncertainties, which include, without limitation, risks related to Horizon Pharma's ability to complete the transaction on the proposed terms and schedule; risks associated with acquisitions, such as the risk that the businesses will not be integrated successfully, that such integration may be more difficult, time-consuming or costly than expected or that the expected benefits of the transaction will not occur; risks related to future opportunities and plans for the acquired company and its products, including uncertainty of the expected financial performance of the acquired company and its products; Horizon Pharma's ability to obtain expected financing to consummate the acquisition; disruption from the proposed transaction, making it more difficult to conduct business as usual or maintain relationships with customers, employees or suppliers; the calculations of, and factors that may impact the calculations of, the acquisition price in connection with the proposed merger and the allocation of such acquisition price to the net assets acquired in accordance with applicable accounting rules and methodologies; and the possibility that if the acquired company does not achieve the perceived benefits of the proposed transaction as rapidly or to the extent anticipated by financial analysts or investors, the market price of the combined company's shares could decline, as well as other risks related to Horizon Pharma's business detailed from time-to-time under the caption "Risk Factors" and elsewhere in Horizon Pharma's SEC filings and reports, including in its Annual Report on Form 10-K for the year ended December 31, 2015. Risks related to the achievement of sales projections provided by Raptor with respect to QUINSAIR and PROCYSBI include: continued and increased market acceptance and sales of PROCYSBI and QUINSAIR; expansion of the use of RP103 and MP-376 and receipt of regulatory approval for other indications; reliance on single active pharmaceutical ingredient suppliers for PROCYSBI and QUINSAIR and other third parties in connection with drug product development; compliance with healthcare regulations, ongoing regulatory requirements and potential penalties; any serious adverse side effects associated with PROCYSBI and QUINSAIR; any product liability claims; third-party payor coverage, reimbursement and pricing for PROCYSBI and QUINSAIR and the ability to obtain and maintain orphan drug or other regulatory exclusivity for PROCYSBI and QUINSAIR. These risks and uncertainties, among others are

described in greater detail in Raptor's filings from time to time with the SEC including: Raptor's annual report on Form 10-K for the twelve months ended December 31, 2015 filed with the SEC on February 26, 2016, as amended by Amendment No. 1 to Form 10-K filed with the SEC on April 29, 2016, Raptor's quarterly report on Form 10-Q for the quarter ended March 31, 2016 filed with the SEC on May 5, 2016, Raptor's quarterly report on Form 10-Q for the quarter ended June 30, 2016 filed with the SEC on August 4, 2016 and Raptor's other periodic reports filed with SEC. Horizon Pharma and Raptor undertake no duty or obligation to update any forward-looking statements contained in this press release as a result of new information, future events or changes in its expectations.

#### **Additional Information and Where to Find It**

The tender offer described in this communication (the *Offer*) has not yet commenced, and this communication is neither an offer to purchase nor a solicitation of an offer to sell any shares of the common stock of Raptor or any other securities. On the commencement date of the Offer, a tender offer statement on Schedule TO, including an offer to purchase, a letter of transmittal and related documents, will be filed with the SEC by Horizon Pharma and a Solicitation/Recommendation Statement on Schedule 14D-9 will be filed with the SEC by Raptor. The offer to purchase shares of Raptor common stock will only be made pursuant to the offer to purchase, the letter of transmittal and related documents filed as a part of the Schedule TO. **INVESTORS AND SECURITY HOLDERS ARE URGED TO READ BOTH THE TENDER OFFER STATEMENT AND THE SOLICITATION/RECOMMENDATION STATEMENT REGARDING THE OFFER, AS THEY MAY BE AMENDED FROM TIME TO TIME, WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION.** The tender offer statement will be filed with the SEC by Misneach Corporation a wholly owned subsidiary of Horizon Pharma, Inc., which is an indirect wholly owned subsidiary of Horizon Pharma plc, and the solicitation/recommendation statement will be filed with the SEC by Raptor. Investors and security holders may obtain a free copy of these statements (when available) and other documents filed with the SEC at the website maintained by the SEC at [www.sec.gov](http://www.sec.gov) or by directing such requests to the Information Agent for the Offer, which will be named in the tender offer statement.