

KING PHARMACEUTICALS INC

Form SC TO-T/A

December 15, 2008

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**SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
SCHEDULE TO/A
(Rule 14d-100)
TENDER OFFER STATEMENT UNDER SECTION 14(d)(1) OR
13(e)(1) OF THE SECURITIES EXCHANGE ACT OF 1934
(Amendment No. 8)
ALPHARMA INC.**

(Name of Subject Company (Issuer))

**ALBERT ACQUISITION CORP.
KING PHARMACEUTICALS, INC.**

(Names of Filing Persons (Offerors))

Class A Common Stock, Par Value \$0.20 Per Share

(Title of Class of Securities)

020813101

(CUSIP Number of Class of Securities)

Brian A. Markison

**Chairman, President and Chief Executive Officer
King Pharmaceuticals, Inc.**

501 Fifth Street

Bristol, Tennessee 37620

Telephone: (423) 989-8000

(Name, Address and Telephone Number of Person

Authorized to Receive Notices and Communications on Behalf of Filing Persons)

Copies to:

Morton A. Pierce, Esq.

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1301 Avenue of the Americas

New York, New York 10019

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| Transaction Valuation* | Amount of Filing Fee** |
|-------------------------------|-------------------------------|
| \$1,858,657,815 | \$73,046 |

* For purposes of calculating the amount of filing fee only. Based on the offer to purchase up to 50,233,995 shares of Class A Common Stock, par value \$0.20 per share (Class A Common Stock), of Alharma Inc., including the associated preferred stock purchase rights, at a purchase price of \$37.00 per share net to the seller in cash, without interest and subject to any required withholding of taxes. Such number of shares consists of (i) 41,763,544 shares of Class A Common Stock issued and outstanding as of July 27, 2008 as reported in Alharma Inc. s Form 10-Q for the quarter

ended June 30,
2008 (the
Alpharma
Form 10-Q),
(ii) 2,105,436
shares of
Class A
Common Stock
that may be
issued before
the expiration of
the offer
pursuant to the
exercise of
stock options
based on the
total number of
stock options
outstanding as
of June 30, 2008
as reported in
the Alpharma
Form 10-Q,
(iii) 2,302,921
shares of
Class A
Common Stock
that may be
issued before
the expiration of
the offer
pursuant to the
conversion of
Alpharma Inc. s
2.125%
Convertible
Senior Notes
due 2027 as
reported in the
Alpharma Form
10-Q and
Alpharma s other
publicly filed
documents and
(iv) a maximum
of 4,062,094
shares of Class
A Common
Stock that may
be issued
pursuant to the

exercise of warrants as reported in the Alparma Form 10-Q and Alparma s other publicly filed documents.

** The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, by multiplying the transaction value by 0.00003930.

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: | \$73,046.00 |
| Form or Registration No.: | SC TO-T |
| Filing Parties: | Albert Acquisition Corp. King Pharmaceuticals, Inc. |

Date Filed: September 12, 2008

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:

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ITEM 12. EXHIBITS

SIGNATURE

EXHIBIT INDEX

EX-99.B.3: AMENDMENT NO. 1 TO THE CREDIT AGREEMENT

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This Amendment No. 8 to Schedule TO (this Amendment) amends and supplements the Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission (the SEC) on September 12, 2008, as amended by Amendment No. 1 filed with the SEC on September 30, 2008, Amendment No. 2 filed with the SEC on October 3, 2008, Amendment No. 3 filed with the SEC on October 6, 2008, Amendment No. 4 filed with the SEC on October 14, 2008, Amendment No. 5 filed with the SEC on November 24, 2008, Amendment No. 6 filed with the SEC on December 8, 2008 and Amendment No. 7 filed with the SEC on December 11, 2008 (as amended, the Schedule TO) by King Pharmaceuticals, Inc., a Tennessee corporation (King), and Albert Acquisition Corp., a Delaware corporation and a wholly owned subsidiary of King (Purchaser), relating to the offer by Purchaser to purchase (1) all issued and outstanding shares of Class A Common Stock, par value \$0.20 per share (the Shares), of Alharma Inc., a Delaware corporation (Alharma), and (2) the associated rights to purchase shares of Series B Junior Participating Preferred Stock, par value \$1.00 per share, of Alharma (the Rights), at a price of \$37.00 per Share (and associated Right, if applicable), net to the seller in cash, without interest and subject to any required withholding of taxes, upon the terms and subject to the conditions set forth in the amended and restated Offer to Purchase (the Offer to Purchase) dated December 8, 2008, and in the related amended and restated Letter of Transmittal (which, together with the Offer to Purchase and any amendments or supplements thereto, constitute the Offer). This Amendment is being filed on behalf of King and Purchaser.

The information set forth in the Offer to Purchase, including Schedule I thereto, and the related amended and restated Letter of Transmittal is hereby incorporated by reference in answer to all applicable Items of this Amendment, except as otherwise set forth below. This Amendment should be read together with the Schedule TO.

ITEM 12. EXHIBITS.

Item 12 of the Schedule TO is hereby amended and supplemented to add the following:

- (b)(3) Amendment No. 1, dated as of December 5, 2008, to the Credit Agreement, dated as of April 19, 2007, among King Pharmaceuticals, Inc., the Lenders party thereto, Credit Suisse, Cayman Islands Branch, and the other agents party thereto.

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SIGNATURE

After due inquiry and to the best of my knowledge and belief, I hereby certify as of December 15, 2008 that the information set forth in this statement is true, complete and correct.

ALBERT ACQUISITION CORP.

By: /s/ Brian A. Markison
Name: Brian A. Markison
Title: Chairman, President and Chief
Executive Officer

KING PHARMACEUTICALS, INC.

By: /s/ Brian A. Markison
Name: Brian A. Markison
Title: Chairman, President and Chief
Executive Officer

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EXHIBIT INDEX

| Exhibit No. | Description |
|--------------------|---|
| (a)(1)(A) | Offer to Purchase, dated September 12, 2008.* |
| (a)(1)(B) | Letter of Transmittal.* |
| (a)(1)(C) | Notice of Guaranteed Delivery.* |
| (a)(1)(D) | Letter to Brokers, Dealers, Commercial Banks, Trust Companies and other Nominees.* |
| (a)(1)(E) | Form of Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Nominees.* |
| (a)(1)(F) | Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9.* |
| (a)(1)(G) | Summary Advertisement published on September 12, 2008.* |
| (a)(1)(H) | Amended and Restated Offer to Purchase, dated December 8, 2008. * |
| (a)(1)(I) | Amended and Restated Letter of Transmittal. * |
| (a)(1)(J) | Amended and Restated Notice of Guaranteed Delivery. * |
| (a)(1)(K) | Amended and Restated Letter to Brokers, Dealers, Commercial Banks, Trust Companies and other Nominees. * |
| (a)(1)(L) | Amended and Restated Form of Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees. * |
| (a)(5)(A) | Press release issued by King Pharmaceuticals, Inc., dated September 12, 2008, announcing the commencement of the Offer.* |
| (a)(5)(B) | Complaint by King Pharmaceuticals, Inc. against Alharma Inc. and its directors, filed in the Court of Chancery of the State of Delaware on September 12, 2008.* |
| (a)(5)(C) | Press release issued by King Pharmaceuticals, Inc., dated September 26, 2008.* |
| (a)(5)(D) | Press release issued by King Pharmaceuticals, Inc., dated October 13, 2008.* |
| (a)(5)(E) | Joint press release issued by King Pharmaceuticals, Inc. and Alharma Inc., dated November 24, 2008 (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K filed by King Pharmaceuticals, Inc. with the SEC on November 24, 2008). |
| (b)(1) | Commitment Letter, dated as of September 11, 2008, among King Pharmaceuticals, Inc., Credit Suisse, Credit Suisse Securities (USA) LLC, Wachovia Bank, National Association and Wachovia Capital Markets, LLC.* |

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- (b)(2) Amended and Restated Commitment Letter, dated as of November 23, 2008, among King Pharmaceuticals, Inc., Credit Suisse, Credit Suisse Securities (USA) LLC, Wachovia Bank, National Association and Wachovia Capital Markets, LLC (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by King Pharmaceuticals, Inc. with the SEC on November 24, 2008).
- (b)(3) Amendment No. 1, dated as of December 5, 2008, to the Credit Agreement, dated as of April 19, 2007, among King Pharmaceuticals, Inc., the Lenders party thereto, Credit Suisse, Cayman Islands Branch, and the other agents party thereto.
- (c) Not applicable.
- (d)(1) Agreement and Plan of Merger, dated as of November 23, 2008, among Alpharma Inc., King Pharmaceuticals, Inc. and Albert Acquisition Corp. (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by King Pharmaceuticals, Inc. with the SEC on November 24, 2008).
- (e) Not applicable.
- (f) Not applicable.
- (g) Not applicable.
- (h) Not applicable.

* Previously filed
with the
Schedule TO.