

BioRestorative Therapies, Inc.
Form DEF 14A
September 08, 2016
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A
(Rule 14a-101)
INFORMATION REQUIRED IN PROXY STATEMENT
SCHEDULE 14A INFORMATION

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

Filed by the Registrant [X]
Filed by a Party other than the Registrant []

Check the appropriate box:

- [] Preliminary Proxy Statement
- [] Confidential, For Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- [X] Definitive Proxy Statement
- [] Definitive Additional Materials
- [] Soliciting Material Pursuant to Section 240.14a-12

BIORESTORATIVE THERAPIES, INC.
(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy 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

Title of each class of securities to which transaction applies:

- 1) not applicable

Aggregate number of securities to which transaction applies:

- 2) not applicable

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):

3)

not applicable

Proposed maximum aggregate value of transaction:

4)

not applicable

Total fee paid:

5)

not applicable

[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:

BIORESTORATIVE THERAPIES, INC.
40 Marcus Drive, Suite One
Melville, New York 11747

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS
TO BE HELD ON OCTOBER 19, 2016

To the Stockholders of BioRestorative Therapies, Inc.:

NOTICE IS HEREBY GIVEN that the Annual Meeting of Stockholders of BioRestorative Therapies, Inc., a Delaware corporation (the "Company"), will be held on October 19, 2016 at 90 Merrick Avenue, 9th Floor, East Meadow, New York, at 4:00 p.m., local time, for the following purposes:

1. To elect two Class II directors to hold office until the 2019 Annual Meeting of Stockholders.
2. To hold a non-binding advisory vote on the Company's executive compensation.
3. To approve an amendment to the Company's 2010 Equity Participation Plan (the "Plan") to increase the number of shares of common stock authorized to be issued pursuant to the Plan from 2,250,000 to 4,250,000.
4. To ratify the selection of Marcum LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2016.
5. To authorize the adjournment of the meeting to permit further solicitation of proxies, if necessary or appropriate, if sufficient votes are not represented at the meeting to approve any of the foregoing proposals.
6. To transact such other business as may properly come before the meeting.

Only stockholders of record at the close of business on August 26, 2016 are entitled to notice of and to vote at the meeting or at any adjournment thereof.

Important notice regarding the availability of Proxy Materials: The proxy statement and the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2015 are available electronically to the Company's stockholders of record as of the close of business on August 26, 2016 at www.proxyvote.com.

Mark Weinreb
Chief Executive Officer
Melville, New York
September 7, 2016

WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING, PLEASE SUBMIT YOUR PROXY OR VOTING INSTRUCTIONS AS SOON AS POSSIBLE. FOR SPECIFIC INSTRUCTIONS ON HOW TO VOTE YOUR SHARES, PLEASE REFER TO THE INSTRUCTIONS ON THE NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS YOU RECEIVED IN THE MAIL OR, IF YOU REQUESTED TO RECEIVE PRINTED PROXY MATERIALS, YOUR ENCLOSED PROXY CARD. ANY STOCKHOLDER MAY REVOKE A SUBMITTED PROXY AT ANY TIME BEFORE THE MEETING BY WRITTEN NOTICE TO SUCH EFFECT, BY SUBMITTING A SUBSEQUENTLY DATED PROXY OR BY ATTENDING THE MEETING AND VOTING IN PERSON. THOSE VOTING BY INTERNET OR BY TELEPHONE MAY ALSO REVOKE THEIR PROXY BY VOTING IN PERSON AT THE MEETING OR BY VOTING AND SUBMITTING THEIR PROXY AT A LATER TIME BY INTERNET OR BY TELEPHONE.

BIORESTORATIVE THERAPIES, INC.
40 Marcus Drive, Suite One
Melville, New York 11747

PROXY STATEMENT

EXPLANATORY NOTE

All references in this proxy statement to numbers of shares of common stock and per share information give retroactive effect to the 1-for-20 reverse split of our shares of common stock effected as of July 7, 2015.

SOLICITING, VOTING AND REVOCABILITY OF PROXY

This proxy statement is being mailed or made available to all stockholders of record at the close of business on August 26, 2016 in connection with the solicitation by our Board of Directors of proxies to be voted at the 2016 Annual Meeting of Stockholders to be held on October 19, 2016 at 4:00 p.m., local time, or any adjournment thereof. Proxy materials for the 2016 Annual Meeting of Stockholders were mailed or made available to stockholders on or about September 8, 2016.

All shares represented by proxies duly executed and received will be voted on the matters presented at the meeting in accordance with the instructions specified in such proxies. Proxies so received without specified instructions will be voted as follows:

- (i) FOR the nominees named in the proxy to our Board of Directors.
- (ii) FOR the approval of the compensation of our named executive officers.
- (iii) FOR the proposal to approve an amendment to our 2010 Equity Participation Plan (the "Plan") to increase the number of shares of common stock authorized to be issued pursuant to the Plan from 2,250,000 to 4,250,000.
- (iv) FOR the ratification of the selection of Marcum LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2016.
- (v) FOR the proposal to adjourn the meeting to permit further solicitation of proxies, if necessary or appropriate, if sufficient votes are not represented at the meeting to approve any of the foregoing proposals.

If you are a beneficial owner of shares held in street name and you do not provide specific voting instructions to the organization that holds your shares, the organization will be prohibited under the current rules of the New York Stock Exchange from voting your shares on "non-routine" matters. This is commonly referred to as a "broker non-vote". The ratification of the selection of our independent registered public accounting firm is a routine matter. Each remaining proposal is considered a "non-routine" matter and therefore may not be voted on by your bank or broker absent specific instructions from you. Please instruct your bank or broker so your vote can be counted.

Our Board does not know of any other matters that may be brought before the meeting nor does it foresee or have reason to believe that the proxy holder will have to vote for a substitute or alternate nominee to the Board. In the event that any other matter should come before the meeting or either nominee is not available for election, the person named in the enclosed proxy will have discretionary authority to vote all proxies not marked to the contrary with respect to such matters in accordance with his best judgment.

The total number of shares of common stock outstanding and entitled to vote as of the close of business on August 26, 2016 was 4,150,294. The shares of common stock are the only class of securities entitled to vote on matters presented to our stockholders, each share being entitled to one vote. The holders of one-third of the shares of common stock outstanding as of the close of business on August 26, 2016, or 1,383,432 shares of common stock, must be present at the meeting in person or by proxy in order to constitute a quorum for the transaction of business.

With regard to the election of directors, votes may be cast in favor or withheld. The directors shall be elected by a plurality of the votes cast in favor. Accordingly, based upon there being two nominees, each person who receives one or more votes will be elected as a director. Shares of common stock as to which a stockholder withholds voting authority in the election of directors and broker non-votes will not be counted as voting thereon and therefore will not affect the election of the nominees receiving a plurality of the votes cast.

Stockholders may expressly abstain from voting on Proposals 2, 3, 4 and 5 by so indicating on the proxy. Abstentions are counted as present in the tabulation of votes on Proposals 2, 3, 4 and 5. Since Proposals 2, 3, 4 and 5 require the affirmative approval of a majority of the shares of common stock present in person or represented by proxy at the meeting and entitled to vote (assuming a quorum is present at the meeting), abstentions will have the effect of a negative vote while broker non-votes will have no effect.

Any person giving a proxy in the form accompanying this proxy statement has the power to revoke it at any time before its exercise. The proxy may be revoked by filing with us written notice of revocation or a fully executed proxy bearing a later date. The proxy may also be revoked by affirmatively electing to vote in person while in attendance at the meeting. However, a stockholder who attends the meeting need not revoke a proxy given and vote in person unless the stockholder wishes to do so. Written revocations or amended proxies should be sent to us at 40 Marcus Drive, Suite One, Melville, New York 11747, Attention: Corporate Secretary. Those voting by Internet or by telephone may also revoke their proxy by voting in person at the meeting or by voting and submitting their proxy at a later time by Internet or by telephone.

The proxy is being solicited by our Board of Directors. We will bear the cost of the solicitation of proxies, including the charges and expenses of brokerage firms and other custodians, nominees and fiduciaries for forwarding proxy materials to beneficial owners of our shares. Solicitations will be made primarily by Internet availability of proxy materials and by mail, but certain of our directors, officers or employees may solicit proxies in person or by telephone, fax or email without special compensation.

Summary Compensation Table

The following Summary Compensation Table sets forth all compensation earned in all capacities during the fiscal years ended December 31, 2015 and 2014 by our (i) principal executive officer and (ii) our two most highly compensated executive officers, other than our principal executive officer, whose total compensation for the 2015 fiscal year, as determined by Regulation S-K, Item 402, exceeded \$100,000 (the individuals falling within categories (i) and (ii) are collectively referred to as the "Named Executive Officers"):

Name and Principal Position	Year	Salary	Bonus	Option Awards Earned ⁽³⁾	All Other Compensation	Total
Mark Weinreb, Chief Executive Officer	2015	\$400,000	\$200,000 ⁽²⁾	\$743,300	⁽⁴⁾ \$7,200	\$1,350,500 ⁽⁹⁾
	2014	\$450,000	\$225,000 ⁽²⁾	\$1,097,000	⁽⁵⁾ \$34,400	\$1,806,400 ⁽¹⁰⁾
Edward L. Field President, Disc/Spine Division Francisco Silva	2015	\$252,500	\$7,612	\$291,900	⁽⁶⁾ \$-	\$552,012
	2014 ⁽¹⁾	\$-	\$-	\$-	\$-	\$-
VP of Research and Development	2015	\$250,000	\$-	\$91,500	⁽⁷⁾ \$-	\$341,500
	2014	\$230,000	\$25,000	\$283,558	⁽⁸⁾ \$-	\$538,558

⁽¹⁾Mr. Field was elected as President of our Disc/Spine Division in February 2015.

⁽²⁾Pursuant to Mr. Weinreb's employment agreement with us, he earned a bonus for 2014 and 2015 equal to 50% of his annual salary. See "Employment Agreement" below.

The amounts reported in this column represent the grant date fair value of the option awards granted during the years ended December 31, 2015 and 2014, calculated in accordance with FASB ASC Topic 718. For a detailed ⁽³⁾discussion of the assumptions used in estimating fair values, see Note 10 – Stockholders' Deficiency in the notes that accompany our consolidated financial statements included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2015, a copy of which accompanies this proxy statement.

During 2015, Mr. Weinreb was granted a ten year option under our 2010 Equity Participation Plan (the "Plan") for the purchase of 208,000 shares of common stock at an exercise price of \$7.00 per share, subject to stockholder approval of an increase in the number of shares of common stock authorized to be issued pursuant to the Plan. ⁽⁴⁾Stockholder approval of such increase was obtained in 2015. Such option is exercisable to the extent of 104,000 shares as of such stockholder approval, 34,667 shares as of each of the first and second anniversaries of the date of grant and 34,666 shares as of the third anniversary of the date of grant. See "Employment Agreements" below for a discussion of certain provisions relating to the options granted to Mr. Weinreb.

During 2014, Mr. Weinreb was granted a ten year option under the Plan for the purchase of 50,000 shares of common stock at an exercise price of \$13.00 per share. Such option is exercisable to the extent of 16,667 shares as of each of the date of grant and the first anniversary of the date of grant and 16,666 shares as of the second anniversary of the date of grant. In addition, during 2014, Mr. Weinreb was granted a ten year option under the ⁽⁵⁾Plan for the purchase of 150,000 shares of common stock at an exercise price of \$6.60 per share. Such option is exercisable to the extent of 50,000 shares as of each of the first, second and third anniversaries of the date of grant. See "Employment Agreements" below for a discussion of certain provisions relating to the options granted to Mr. Weinreb.

⁽⁶⁾During 2015, Mr. Field was granted a ten year option under the Plan for the purchase of 25,000 shares of common stock at an exercise price of \$9.20 per share. Such option is exercisable to the extent of 8,334 shares as of the first anniversary of the date of grant and 8,333 shares as of each of the second and third anniversaries of the date of grant. In addition, during 2015, Mr. Field was granted a ten year option under the Plan for the purchase of 25,000 shares of common stock at an exercise price of \$7.00 per share, subject to stockholder approval of an increase in

the number of shares of common stock authorized to be issued pursuant to the Plan. Stockholder approval of such increase was obtained in 2015. Such option is exercisable to the extent of 8,334 shares as of the first anniversary of the date of grant and 8,333 shares as of each of the second and third anniversaries of the date of grant.

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During 2015, Mr. Silva was granted a ten year option under the Plan for the purchase of 25,000 shares of common stock at an exercise price of \$7.00 per share, subject to stockholder approval of an increase in the number of (7) shares of common stock authorized to be issued pursuant to the Plan. Stockholder approval of such increase was obtained in 2015. Such option is exercisable to the extent of 8,334 shares as of the first anniversary of the date of grant and 8,333 shares as of each of the second and third anniversaries of the date of grant.

(8) During 2014, Mr. Silva was granted a ten year option under the Plan for the purchase of 12,500 shares of common stock at an exercise price of \$13.00 per share. Such option is exercisable to the extent of 4,167 shares as of each of the first and second anniversaries of the date of grant and 4,166 shares as of the third anniversary of the date of grant. In addition, during 2014, Mr. Silva was granted a ten year option under the Plan for the purchase of 37,500 shares of common stock at an exercise price of \$6.60 per share. Such option is exercisable to the extent of 12,500 shares of common stock as of each of the first, second and third anniversaries of the date of grant.

Of the aggregate \$1,350,500 earned during 2015, \$743,300 represents the grant date value of non-cash stock-based compensation awards, irrespective of the vesting period of those awards. Of the \$607,200 earned cash (9) compensation, \$7,200 and \$283,817 were paid in cash during 2015 and 2016 (prior to the date of the filing of this proxy statement), respectively, and \$316,183 remains unpaid for 2015. All Other Compensation represents automobile allowance paid to Mr. Weinreb in 2015.

(10) Of the aggregate \$1,806,400 earned during 2014, \$1,097,000 represents the grant date value of non-cash stock-based compensation awards, irrespective of the vesting period of those awards. Of the \$709,400 earned cash compensation, \$135,122, \$376,702 and \$197,576 were paid in cash during 2014, 2015 and 2016 (prior to the date of the filing of this proxy statement), respectively, and \$0 remains unpaid for 2014. All Other Compensation represents \$14,400 of automobile allowance paid to, and \$20,000 of unpaid vacation for, Mr. Weinreb in 2014.

Outstanding Equity Awards at Fiscal Year-End

The following table provides information on outstanding equity awards as of December 31, 2015 to the Named Executive Officers:

Name	Option Awards			Stock Awards			Equity incentive plan awards: number of unearned shares, units or other rights that have not vested	Equity incentive plan awards: number of unearned shares, units or other rights that have not vested	
	Number of common shares underlying unexercised options- Exercisable	Number of common shares underlying unexercised options- Unexercisable	Equity incentive plan awards: number of common shares underlying unexercised unearned options	Option exercise price	Option expiration date	Number of shares or units of stock that have not vested			Market value of shares of units that have not vested
Mark Weinreb	4,000	-	-	\$10.00	12/14/2020	-	\$-	-	\$-

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Mark Weinreb	50,000	-	-	\$21.00	2/10/2022	-	\$-	-	\$-
Mark Weinreb	20,000	-	-	\$30.00	12/7/2022	-	\$-	-	\$-

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