

SECURITIES & EXCHANGE COMMISSION EDGAR FILING

PROVECTUS BIOPHARMACEUTICALS, INC.

Form: 8-K

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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): April 19, 2017

PROVCTUS BIOPHARMACEUTICALS, INC.

(Exact name of registrant as specified in charter)

Delaware
(State or other jurisdiction
of incorporation)

001-36457
(Commission
File Number)

90-0031917
(IRS Employer
Identification No.)

7327 Oak Ridge Hwy., Knoxville, Tennessee 37931
(Address of Principal Executive Offices)

(866) 594-5999
(Registrant's Telephone Number, Including Area Code)

(Former Name or Former Address, If Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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On April 19, 2017, the Board of Directors (the "Board") of Provectus Biopharmaceuticals, Inc. (the "Company") retained Bruce Horowitz as the Company's chief operations consultant.

Mr. Horowitz, 61, is a member of the Board and has served as the Managing Director of Capital Strategists, LLC, which provides corporate, strategic, and financial consulting services, since September 2006. He also serves as a trusted advisor to family trusts and private individuals, with a focus on financial asset management, real estate management and special situation investments. Earlier in his career Mr. Horowitz was a charter member of the New York Futures Exchange, a Senior Vice President managing principal equity investment accounts, private equity investments and public offerings at Drake Capital Securities, and managed the trading department at Laidlaw Equities. He was also a partner at Stanley Capital, a private equity buyout firm. Mr. Horowitz was the chairman and a member of two general obligation bond fund committees, raising more than \$500 million in general revenue bonds for the Beverly Hills Unified School District. Subsequently, he was named the first chairman of both the state of California-mandated Citizens' Oversight Committee and Facilities Advisory Committee, overseeing expenditure of all BHUSD general obligation bond funds. Mr. Horowitz is a founding member of the Los Angeles Chapter of the Positive Coaching Alliance. He founded and is currently the president of the Beverly Hills Basketball League, a youth basketball program that serves more than 35,000 families. Mr. Horowitz has also served as a member of the board of directors of the American Youth Soccer Organization and Beverly Hills Little League. He holds a Juris Doctor degree from Benjamin N. Cardozo School of Law in New York City and Bachelor of Arts degree from Washington University in St. Louis.

Mr. Horowitz does not have a family relationship with any of the current officers or directors of the Company. As previously disclosed by the Company in a Current Report on Form 8-K, filed with the Securities and Exchange Commission (the "Commission") on March 23, 2017, the Company entered into an exclusive Definitive Financing Commitment Term Sheet effective as of March 19, 2017, which sets forth the terms on which a group of the Company's stockholders, including Mr. Horowitz, will provide financing to the Company.

In connection with the engagement of Mr. Horowitz, on April 19, 2017, the Company and Mr. Horowitz entered into an independent contractor agreement (the "Agreement"), pursuant to which Mr. Horowitz will serve as the primary business operations consultant of the Company and will perform duties and services including but not limited to designing and implementing new business strategies and plans, and operating processes and procedures; establishing policies to promote a new company culture; overseeing company operations and the work of executives, managers, and staff members; prioritizing and continuing the Company's search for a Chief Medical Officer and a new Chief Executive Officer; assisting in fundraising activities; and managing certain partner and vendor relationships. In consideration for such services, Mr. Horowitz will be paid \$125 per hour, up to a maximum of \$20,000 in a calendar month. The Company will reimburse Mr. Horowitz for all reasonable and necessary expenses relating to his provision of services under the Agreement. The initial term of the Agreement is from April 1, 2017 to June 30, 2017, and thereafter will continue on a month-to-month basis unless terminated by either party upon 30 days prior written notice.

The Company agreed to indemnify Mr. Horowitz and Capital Strategists, LLC for claims made against Mr. Horowitz based upon the performance of his services. The Agreement contains customary confidentiality, customer non-solicitation, and employee non-solicitation provisions.

The foregoing description of the Agreement does not purport to be complete and is qualified in its entirety by reference to the Agreement, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K.

Item 7.01. Regulation FD Disclosure.

On April 20, 2017, the Company issued a press release (the “Press Release”) announcing the reestablishment of the Company’s Strategic Advisory Board, the appointment of Ed Pershing as the Strategic Advisory Board Chairman and an observer of the Board and all Board committees (serving all exclusively in an advisory capacity only), and the retention of Mr. Horowitz as chief operations consultant. A copy of the Press Release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Pursuant to the rules and regulations of the Commission, the information in this Item 7.01 disclosure, including Exhibit 99.1 and information set forth therein, is deemed to have been furnished and shall not be deemed to be “filed” under the Securities Exchange Act of 1934, as amended.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
10.1	Independent Contractor Agreement, dated April 19, 2017, between the Company and Bruce Horowitz.
99.1	Press Release, dated April 20, 2017.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: April 20, 2017

PROVECTUS BIOPHARMACEUTICALS, INC.

By: /s/ Timothy C. Scott
Timothy C. Scott, Ph.D.
President

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
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10.1	Independent Contractor Agreement, dated April 19, 2017, between the Company and Bruce Horowitz.
99.1	Press Release, dated April 20, 2017.

INDEPENDENT CONTRACTOR AGREEMENT

THIS AGREEMENT is made and entered by and between PROVECTUS BIOPHARMACEUTICALS, INC., a Delaware corporation (the "Company") and BRUCE HOROWITZ, a California citizen (the "Contractor"). Collectively the Company and the Contractor shall be referred to herein as "the Parties."

WHEREAS, the Company is a development-stage biopharmaceutical company that is primarily engaged in the business of developing ethical pharmaceuticals for oncology and dermatology indications; and

WHEREAS, the Company wishes to engage Contractor to provide services to the Company as its chief operations consultant; and

WHEREAS, Contractor agrees to perform the services specified herein;

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, it is agreed:

1. Services of Contractor. Contractor agrees to serve as the chief operations consultant of the Company, performing such duties and services that are consistent with the position of Chief Operating Officer for a public company and as may be assigned from time to time by the Chief Executive Officer and/or the Company's Board of Directors ("Board"), such as but not limited to designing and implementing new business strategies and plans, and operating processes and procedures; establishing policies to promote a new company culture; overseeing company operations and the work of executives, managers, and staff members; prioritizing and continuing the Company's search for a Chief Medical Officer and a new Chief Executive Officer; assisting in fundraising activities; and, managing mutually agreed upon partner and vendor relationships. The Contractor agrees to provide an average of approximately thirty (30) hours of services to the Company each calendar week; deviations in excess of 10 hours more or less than this amount must be approved in advance by the Board. Contractor will perform these services from either the Company's headquarters at 7327 Oak Ridge Highway, Suite A, Knoxville, Tennessee or the Contractor's headquarters in Beverly Hills, California.

2. Term. The minimum term of this Agreement shall be from April 1, 2017, to June 30, 2017. This Agreement shall remain in effect on a month-to-month basis thereafter unless either party provides thirty (30) days prior written notice of nonrenewal.

3. Independent Contractor Status. Contractor's status is that of an independent contractor and not that of an employee, agent, partner or joint venture partner of the Company. Nothing in this Agreement shall be construed or applied to create a partnership, agency, joint venture or employer/employee relationship. Contractor acknowledges that, as an independent contractor, he is not eligible for any employee benefits that the Company offers to its employees, including without limitation, health insurance, life insurance, disability insurance, retirement benefits, paid vacation, sick leave, and holiday pay. All taxes applicable to any amounts paid by the Company to Contractor under this Agreement shall be Contractor's liability, and the Company shall not withhold or pay any amounts for federal, state, or municipal income tax, Social Security taxes, or unemployment or workers' compensation taxes. Contractor hereby acknowledges his personal liability for the self-employment tax imposed by the Internal Revenue Code, and the payment, when applicable, of estimated quarterly taxes and the filing, when applicable, of quarterly Internal Revenue Service Forms for the declaration of estimated tax by

individuals. Upon request by the Company, Contractor agrees that he will provide documentation evidencing compliance with all applicable federal, state and municipal tax laws, rules and regulations. The Company will report its payments to Contractor on IRS Form 1099. The Company makes no representations to Contractor regarding the tax treatment or consequences of any sums paid in connection with this Agreement. Contractor agrees that he will indemnify Company for any amounts the Company is required to pay due to Contractor's failure to pay taxes on the amounts the Company pays the Contractor pursuant to this Agreement. Contractor indemnification obligation shall not extend to any amounts the Company is required to pay due to its classification of the Contractor as an independent contractor. Contractor's scope of authority consists solely of providing services to Company. Contractor is authorized to make decisions necessary to facilitate the day-to-day operations of the Company, but is not authorized to make any material changes regarding customers or employees or to make any representations or agreements on the Company's behalf with third parties, unless specifically authorized to do so in writing by the Board of Directors.

4. Payment for Services. For services rendered under this Agreement, Contractor shall receive \$125 per hour, up to a maximum of \$20,000 per calendar month. Invoices indicating payment and expenses owed shall be submitted to the Company bi-weekly. Payment shall be made to Contractor within 7 days following the Company's receipt of each such invoice, unless there is a bona fide dispute over the amount or other terms of an invoice, in which case the Company shall pay the undisputed amount only.

5. Reimbursement of Expenses. As stated in Paragraph 3 herein, Contractor is an independent contractor. Notwithstanding the foregoing, Company will reimburse Contractor for all reasonable and necessary expenses relating to Contractor's provision of services under this Agreement, including air and ground transportation, and lodging expenses at a hotel mutually agreed upon by the parties during the term of this Agreement. The Company will reimburse Contractor for all reasonable and necessary expenses incurred in the performance of services for the Company upon presentation of receipts documenting such expenditures, submitted on a bi-weekly basis.

6. Termination. The Company may terminate the Agreement immediately upon learning of (a) misconduct by Contractor in connection with the performance of his services (including, without limitation, misappropriation of funds or property of the Company; misrepresentation to the Company; intentional actions that are injurious to the business interests of the Company; violation or attempted violation of federal or state securities laws; or breach of this Agreement); (b) commission by Contractor of a crime, an act involving moral turpitude, dishonesty, theft, or unethical business conduct, or conduct that impairs or injures the reputation of, or harms, the Company; or (c) Contractor aiding a competitor. In addition, this Agreement shall terminate immediately upon the event of death, disability or incapacity of Contractor.

7. Indemnification. As a material inducement to the Company to enter into this Agreement, Contractor hereby agrees to indemnify and hold harmless the Company for any claims made against the Company based upon the Contractor's gross negligence in the performance of his services. The Company shall indemnify and hold harmless the Contractor and Capital Strategists, LLC for all other claims made against the Contractor based upon the Contractor's performance of his services. This provision shall survive the termination of this Agreement.

8. Confidential and Proprietary Business Information and Trade Secrets. Contractor acknowledges and agrees that all materials and information provided by the Company or obtained by

Contractor during the term of the relationship with the Company are the sole property of the Company and agrees that such materials and information may only be used by Contractor during the term of this Agreement. Contractor also agrees that he will not at any time, reveal, divulge or disclose to any person or other entity or use for his own benefit or for the benefit of any person or entity any confidential or proprietary business information or trade secrets concerning the business of the Company obtained or developed by Contractor during the term of this Agreement. Upon termination of this Agreement, Contractor shall deliver to the Company all notes, lists, plans, records, spreadsheets, reports, invoices, equipment, and other documents relating to any of the foregoing confidential or proprietary business information or trade secrets which Contractor may then possess or have under Contractor's control. The provisions of this paragraph shall survive the termination of this Agreement. For purposes of this Agreement "Confidential Information" includes data and information relating to clinical trials, patient information, marketing information, research and development efforts, production, sales, technologies, finances and financial controls, legal proceedings, and personnel information, which is or has been disclosed to Contractor or of which Contractor became aware as a consequence of or through his relationship with the Company and which has value to the Company, is not generally known to its competitors or disclosed through public filings, and which the Company otherwise maintains as confidential. Notwithstanding the foregoing, nothing in this confidentiality provision prohibits Contractor from reporting possible violations of law to any governmental agency or entity or making other disclosures that are protected under the whistleblower provisions of federal, state, or local laws or regulations. Nothing herein is intended to prevent the Contractor from responding to any lawful subpoena or governmental inquiry, provided that the Contractor provides the Company with prompt notice of the subpoena and/or inquiry prior to responding.

9. Solicitation of Customers. During the term of this Agreement and for a period of two (2) years following the termination of the Agreement for any reason whatsoever, Contractor shall not, either directly or indirectly, on Contractor's behalf or on behalf of others, solicit or attempt to solicit on behalf of a Competing Business, any business from any customers or actively-sought prospective customers of the Company with whom Contractor has had any contact during the Term of the Agreement or about whom Contractor has acquired Confidential Information during the term of the Agreement. As used in this Agreement, "Competing Business" means any development-stage biopharmaceutical company.

10. Solicitation of Company Employees. During the term of this Agreement and for a period of two (2) years following the termination of the Agreement for any reason whatsoever, Contractor shall not, either directly or indirectly, on Contractor's own behalf or on behalf of others, solicit or hire away, or attempt to solicit or hire away, any person any person employed by the Company with whom Contractor had regular contact in the course of his relationship with the Company, regardless of whether the employment of any such person is for a determined period of time or is "at-will."

11. Notices. Any notice or other communications required or permitted hereunder shall be sufficiently given if delivered in person or sent by electronic mail or by registered or certified mail, postage prepaid, addressed as follows: if to Contractor, at 269 S. Beverly Drive, Beverly Hills, California 90212 and/or bhorowitz@capitalstrategists.net, and if to the Company, John Glass, interim Chief Financial Officer, 7327 Oak Ridge Highway, Suite A, Knoxville, Tennessee 37931, jrglass@pvct.com; such notice or communication shall be deemed to have been given as of the date so hand-delivered and/or e-mailed, and three (3) days after the date of mailing.

12. Governing Law and Venue. This Agreement is made and entered into in the State of Tennessee and shall be interpreted, enforced and governed by the laws of that state. The appropriate state

or federal court in Knox County, Tennessee will be the exclusive jurisdiction and venue for any dispute arising out of this Agreement. The parties voluntarily submit to the jurisdiction of these courts for any litigation arising out of or concerning the application, interpretation or any alleged breach of this Agreement.

13. Severability. Should any provision of this Agreement be declared by any court of competent jurisdiction to be illegal or invalid, the parties agree that the court shall modify the Agreement so that the invalid provision is made to be valid. If the court determines that such provision cannot be judicially modified so as to make it valid, the validity of the remaining provisions shall not be affected thereby, and the invalid provision shall be deemed to not be a part of this Agreement.

14. Duty to Report and Cooperation. Contractor acknowledges and embraces a zero-tolerance policy regarding any violation or potential violation of any federal, state, or local law or professional rule. Accordingly, Contractor has an affirmative duty to report any alleged, actual or potential misconduct that Contractor or its agents perceive, witness, uncover, or that otherwise comes to Contractor's attention or knowledge immediately and in writing to the Chairman of the Board. Contractor agrees during the Term of this Agreement and thereafter to reasonably cooperate with the Company in any pending or future matters, including without limitation any litigation, investigation, or other dispute, in which Contractor, by virtue of his engagement with the Company, has relevant knowledge or information; provided, however that the Company agrees to pay reasonable hourly compensation and costs (in accordance with Paragraph 4 of this Agreement) resulting from the Company's request.

15. Assignability. The services contracted for hereunder are dependent upon the qualifications of Contractor and may not be assigned by Contractor without the express written consent of the Company. In the event of death, disability or incapacity of Contractor, this Agreement shall terminate, and any amounts owed to Contractor by Company will be paid to Contractor's Estate.

16. Entire Agreement. This Agreement sets forth the entire agreement between the parties hereto, and fully supersedes any and all prior agreements or understandings between them pertaining to the subject matter hereof. It is agreed that this Agreement may be modified only in writing, executed by both parties.

17. Acknowledgments. Contractor and the Company acknowledge and agree that they have had a sufficient opportunity to review the terms of this Agreement. Contractor further acknowledges that in executing this Agreement he is not relying nor has he relied upon any other representation or statement made by the Company or by any of the Company's agents with regard to the subject matter hereof. Contractor has carefully read and fully understands all of the provisions of this Agreement and is voluntarily entering into this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement or caused this Agreement to be executed on this 19th day of April, 2017.

Bruce Horowitz

/s/ Bruce Horowitz

Contractor

By: /s/ Timothy C. Scott

Title: President



Contact:
Provectus Biopharmaceuticals, Inc.
Timothy C. Scott, President
Phone: 866-594-5999

Allison + Partners
Tom Smith, Managing Director –
Investor Relations
Phone: 646-428-0653

FOR IMMEDIATE RELEASE

PROVECTUS BIOPHARMACEUTICALS REESTABLISHES STRATEGIC ADVISORY BOARD

**Ed Pershing Named Strategic Advisory Board Chairman, Also Appointed Board of Directors Observer;
Bruce Horowitz Retained as Chief Operations Consultant**

KNOXVILLE, TN, April 20, 2017 — Provectus Biopharmaceuticals, Inc. (OTCQB: PVCT, www.provectusbio.com) ("Provectus" or the "Company"), a clinical-stage oncology and dermatology biopharmaceutical company, today announced the reestablishment of the Company's Strategic Advisory Board (the "SAB"). The SAB will comprise business, medical, clinical, and biopharmaceutical industry experience elements. Initial SAB appointees are John W. 'Jack' Lacey III, M.D., and Ed Pershing as SAB Chairman.

Provectus today also announced Mr. Pershing was appointed an observer (serving exclusively in an advisory capacity only) of the Company's board of directors (the "Board"), and Bruce Horowitz was retained as Provectus' chief operations consultant.

Dr. Lacey was the former Chief Medical Officer and Senior Vice President of University of Tennessee Medical Center ("UTMC"), a 600+ bed academic medical center based in Knoxville, since 1998, and retired from UTMC in 2016. He also operated his own internal medicine practice for 32 years. Dr. Lacey graduated from the University of Tennessee with a Bachelor's degree in nuclear engineering and the University of Tennessee (Memphis) with a Doctor of Medicine degree. He was with UTMC for 40 of the academic medical center and hospital's 60+ years. Dr. Lacey also helped create Knoxville Area Project Access, a partnership with the Knoxville Academy of Medicine and providers to give primary and specialty health services to the uninsured and medically underserved, and was the inaugural chair of the Governor's Health and Wellness Task Force, which helped raise Tennessee's national health ranking.

Dominic Rodrigues, Chairman of the Board of Provectus, said, "Provectus is extremely fortunate to gain the involvement of Dr. Lacey, who is widely recognized as having left a profound and lasting legacy at University of Tennessee Medical Center, as a physician, a chief medical officer, a business executive, and a team and community leader."

Mr. Pershing has co-founded multiple professional services firms specializing in healthcare related matters. His healthcare experience and expertise includes turnaround/performance improvement initiatives, long-range planning studies, development of numerous hospital and medical office projects, restructuring of healthcare organizations, liaison between boards of directors and management in crafting corporate visions and strategies, mergers, acquisitions, divestitures, and leasing arrangements. Mr. Pershing also has served as an expert witness on healthcare industry matters and in several Certificate of Need appeals, and represented healthcare organizations before regulatory agencies. He graduated from the University of Tennessee with a Bachelor of Science in Accounting. Mr. Pershing is a Certified Professional Accountant.

Mr. Rodrigues added, "Ed brings impeccable integrity and accountability across the country back to the Company. We owe it to patients around the world, their family and friends, and their physicians to finish the Company's development work, and enable them to share in and own this legacy of outcome."

As chief operations consultant to Provectus, Mr. Horowitz's responsibilities will include overseeing company operations and the work of executives, managers, and staff members; prioritizing and continuing the Company's search for a Chief Medical Officer and a new Chief Executive Officer; assisting in fundraising activities; and, managing certain partner and vendor relationships.

Mr. Rodrigues concluded, "Bruce brings much needed leadership to the Company as we continue its transition towards executing the new business plan, which includes fortifying the management team."

About Provectus

Provectus is a clinical-stage biopharmaceutical company developing new therapies for the treatment of solid tumor cancers and dermatologic diseases. Provectus' investigational oncology drug, PV-10, is an oncolytic immunotherapy currently enrolling patients in Phase 3 clinical trials for metastatic melanoma. The Company has received orphan drug designations from the FDA for its melanoma and hepatocellular carcinoma indications. PH-10, its topical investigational drug, has completed Phase 2 clinical trials as a treatment for atopic dermatitis and psoriasis. Information about these and the Company's other clinical trials can be found at the NIH registry, www.clinicaltrials.gov. For additional information about Provectus, please visit the Company's website at www.provectusbio.com or contact Allison + Partners.

FORWARD-LOOKING STATEMENTS: This release contains "forward-looking statements" as defined under U.S. federal securities laws. These statements reflect management's current knowledge, assumptions, beliefs, estimates, and expectations

and express management's current views of future performance, results, and trends and may be identified by their use of terms such as "anticipate," "believe," "could," "estimate," "expect," "intend," "may," "plan," "predict," "project," "will," and other similar terms. Forward-looking statements are subject to a number of risks and uncertainties that could cause our actual results to materially differ from those described in the forward-looking statements. Readers should not place undue reliance on forward-looking statements. Such statements are made as of the date hereof, and we undertake no obligation to update such statements after this date.

Risks and uncertainties that could cause our actual results to materially differ from those described in forward-looking statements include those discussed in our filings with the Securities and Exchange Commission (including those described in Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2016).