

MIDDLEBROOK PHARMACEUTICALS, INC.

FORM 8-K (Current report filing)

Filed 05/04/10 for the Period Ending 04/30/10

Address	20425 SENECA MEADOWS PARKWAY GERMANTOWN, MD 20878
Telephone	(301) 944-6600
CIK	0001161924
Symbol	MBRK
SIC Code	2834 - Pharmaceutical Preparations
Industry	Biotechnology & Drugs
Sector	Healthcare
Fiscal Year	12/31

**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 30, 2010

MIDDLEBROOK PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

Delaware (State or other Jurisdiction of Incorporation)	000-50414 (Commission File Number)	52-2208264 (IRS Employer Identification No.)
7 Village Circle, Suite 100, Westlake, Texas (Address of Principal Executive Offices)		76262 (Zip Code)

Registrant's telephone number, including area code: **(817) 837-1200**

N/A

(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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Item 1.03. Bankruptcy or Receivership.

On April 30, 2010, MiddleBrook Pharmaceuticals, Inc. (“MiddleBrook” or the “Company”) issued a press release announcing that it had filed a voluntary petition for bankruptcy protection (the “Petition”) under Chapter 11 of the United States Bankruptcy Code. The filing was made in the United States Bankruptcy Court in the District of Delaware (the “Bankruptcy Court”), case number 10-11485. MiddleBrook will continue to manage and operate its business and assets during the pendency of the bankruptcy case, subject to the supervision and orders of the Bankruptcy Court and in accordance with applicable provisions of the United States Bankruptcy Code.

A copy of the press release is filed as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 3.01. Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

In accordance with NASDAQ Listing Rule 5250(b), on April 30, 2010, the Company notified The NASDAQ Stock Market (“NASDAQ”) that it had filed the Petition. On May 3, 2010, MiddleBrook received notice from NASDAQ notifying it that, due to the filing of the Petition, trading of the Company’s common stock will be suspended at the opening of business on May 12, 2010 and that the Company’s common stock will be de-listed from the NASDAQ Global Market that same day, pursuant to NASDAQ Listing Rules 5101, 5110(b) and IM-5101-1. At this time, the Company does not intend to appeal NASDAQ’s decision.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

The following exhibits are filed with this Current Report on Form 8-K:

Exhibit Number	Description
99.1	Press release dated April 30, 2010.

SIGNATURES

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: May 4, 2010

MIDDLEBROOK PHARMACEUTICALS, INC.

By: /s/ David Becker
David Becker
Executive Vice President, Chief Financial Officer and
Acting President and Chief Executive Officer

EXHIBIT INDEX

**Exhibit
Number**

99.1

Description

Press release dated April 30, 2010.



Press Release

7 Village Circle, Suite 100
Westlake, Texas 76262

MiddleBrook Pharmaceuticals Files for Chapter 11 Bankruptcy Protection

WESTLAKE, Texas (April 30, 2010) MiddleBrook Pharmaceuticals, Inc. (NASDAQ: MBRK) (“MiddleBrook” or the “Company”) has filed a voluntary petition (the “Petition”) for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). MiddleBrook will continue to manage and operate its business and assets during the pendency of the bankruptcy case, subject to the supervision and orders of the Bankruptcy Court and in accordance with applicable provisions of the United States Bankruptcy Code.

In conjunction with the filing, MiddleBrook is seeking customary authority from the Bankruptcy Court that will enable it to continue operations and deliver products to customers in the ordinary course of business and without interruption.

“During this process, we remain committed to continuing to promote MOXATAG through our third party partner’s electronic promotion program and maintaining product availability to our trade customers,” said David Becker, MiddleBrook Executive Vice President and Chief Financial Officer, and Acting President and Chief Executive Officer.

The filing of the Petition places an automatic stay that restrains most actions a creditor could commence or continue against MiddleBrook and its assets, under applicable bankruptcy law, without the permission of the Bankruptcy Court. Stockholders of a company in Chapter 11 generally receive value only if all claims of the company’s secured and unsecured creditors are fully satisfied. MiddleBrook is unsure if there will be value available for distribution to the common stockholders in the bankruptcy process, and therefore makes no guarantees that such claims will be satisfied.

Probable NASDAQ De-listing

MiddleBrook anticipates it will receive a letter from NASDAQ notifying it that its common stock will be de-listed from the NASDAQ Global Market for failure to pay certain fees required by NASDAQ Listing Rule 5210(d), as well as due to the filing of the Petition pursuant to NASDAQ’s discretionary authority. At this time, the Company does not intend to appeal the decision and expects that the Company’s common stock will be de-listed.

About MiddleBrook Pharmaceuticals

MiddleBrook Pharmaceuticals, Inc. (NASDAQ: MBRK) is a pharmaceutical company focused on commercializing anti-infective products that fulfill unmet medical needs. MiddleBrook's proprietary delivery technology, PULSYS, enables the pulsatile delivery, or delivery in rapid bursts, of certain drugs. MiddleBrook currently markets MOXATAG, the first and only FDA-approved once-daily amoxicillin, and KEFLEX (cephalexin, USP), the immediate-release brand of cephalexin. For more information about MiddleBrook, please visit www.middlebrookpharma.com.

KEFLEX, KEFLEX 750 MG, MiddleBrook, MiddleBrook Pharmaceuticals (stylized), MiddleBrook Pharmaceuticals, Inc., MOXATAG, and PULSYS are MiddleBrook's trademarks and have been registered in the U.S. Patent and Trademark Office or are the subject of pending U.S. trademarks applications. Each of the other trademarks, tradenames, or service marks appearing in this document belongs to the respective holder, as used herein, except as otherwise indicated by the context. References to "we," "us," "our," "MiddleBrook," or the "Company," refer to MiddleBrook Pharmaceuticals, Inc., and its subsidiaries.

FORWARD-LOOKING STATEMENTS

Some of the statements contained in this press release contain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, such as statements related to MiddleBrook's plans to continue to operate, promote MOXATAG and maintain product availability and the availability of value for the common stockholders in the bankruptcy process. In some cases, forward-looking statements are identified by words such as "intend," "believe," "anticipate," "expect," "estimate," "will," "may," "should," "could," "would" and similar expressions. Such forward-looking statements reflect MiddleBrook's current plans, beliefs, estimates and views and involve a number of known and unknown risks, uncertainties and other factors that may cause actual results to differ materially from those expressed or implied by such forward-looking statements. These factors include, among others, Bankruptcy Court approval for the Company to continue its operations and deliver products; the Company's ability to manage expenses and fund its working capital needs during the Chapter 11 process; the Company's ability to manage its relationships with its creditors, vendors, and customers during the Chapter 11 process; the Company's ability to successfully commercialize and market MOXATAG or KEFLEX during the Chapter 11 process due to the limitations on the Company's resources and experience in the commercialization of products; the elimination of a substantial portion of the Company's commercial organization; the lack of acceptance by physicians, patients and third party payors of the Company's products; unanticipated safety, product liability, efficacy, or other regulatory issues; problems relating to manufacturing or supply; delays in the supply of products by the third party manufacturers and suppliers on which the Company relies; inadequate distribution of the products by wholesalers, pharmacies, and other customers; competition from other products; and other risks identified in the sections titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Risk Factors" in MiddleBrook's Annual Report on Form 10-K for the year ended Dec. 31, 2009. You should not place undue reliance on these forward-looking statements, which speak only as of the date of this press release. MiddleBrook undertakes no obligation to update publicly or review any of the forward-looking statements made in this press release, whether as a result of new information, future developments or otherwise.

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Source: MiddleBrook Pharmaceuticals, Inc.

Investor Relations/Media Contact: David Becker 817-837-1200