

BERGER FRANKLIN M
Form 4
May 19, 2009

FORM 4

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

Check this box
if no longer
subject to
Section 16.
Form 4 or
Form 5
obligations
may continue.
See Instruction
1(b).

**STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF
SECURITIES**

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934,
Section 17(a) of the Public Utility Holding Company Act of 1935 or Section
30(h) of the Investment Company Act of 1940

OMB APPROVAL

OMB
Number: 3235-0287
Expires: January 31,
2005
Estimated average
burden hours per
response... 0.5

(Print or Type Responses)

1. Name and Address of Reporting Person *
BERGER FRANKLIN M

2. Issuer Name and Ticker or Trading
Symbol
EMISPHERE TECHNOLOGIES
INC [EMIS]

5. Relationship of Reporting Person(s) to
Issuer

(Check all applicable)

(Last) (First) (Middle)

240 CEDAR KNOLLS RD

(Street)

CEDAR KNOLLS, NJ 07927

(City) (State) (Zip)

3. Date of Earliest Transaction
(Month/Day/Year)
05/15/2009

☒ Director ☐ 10% Owner
☐ Officer (give title below) ☐ Other (specify below)

4. If Amendment, Date Original
Filed(Month/Day/Year)

6. Individual or Joint/Group Filing(Check
Applicable Line)
☒ Form filed by One Reporting Person
☐ Form filed by More than One Reporting
Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)	5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V Amount (D) Price			

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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SEC 1474
(9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security	2. Conversion or Exercise	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any	4. Transaction Code	5. Number of Derivative Securities	6. Date Exercisable and Expiration Date (Month/Day/Year)	7. Title and Ar Underlying Se (Instr. 3 and 4)
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(Instr. 3)	Price of Derivative Security	(Month/Day/Year)	(Instr. 8)	Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)							
			Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title		
Non-Qualified Stock Option (Right to Buy)	\$ 0.93	05/15/2009	A		25,000		05/15/2010 ⁽¹⁾	05/15/2019	Common Stock		
Non-Qualified Stock Option (Right to Buy)	\$ 0.93	05/15/2009	A		50,000		05/15/2010 ⁽²⁾	05/15/2019	Common Stock		

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
BERGER FRANKLIN M 240 CEDAR KNOLLS RD CEDAR KNOLLS, NJ 07927			X	

Signatures

/s/ Franklin M.
Berger

05/19/2009

__Signature of
Reporting Person

Date

Explanation of Responses:

- * If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).
- ** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- (1) Option subject to this grant vest according to the following schedule: 8,333 on May 15, 2010, 8,333 on May 15, 2011, 8,334 on May 15, 2012
- (2) Option subject to this grant vest according to the following schedule: 16,666 on May 15, 2010, 16,667 on May 15, 2011, 16,667 on May 15, 2012.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.
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