

BERK BERNARD
Form 4
September 07, 2005

FORM 4

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

OMB APPROVAL

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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

(Print or Type Responses)

1. Name and Address of Reporting Person *
BERK BERNARD

2. Issuer Name and Ticker or Trading Symbol
ELITE PHARMACEUTICALS INC
/DE/ [ELI]

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

(Last) (First) (Middle)

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

Director 10% Owner
 Officer (give title below) Other (specify below)
Chief Exec Officer & Chairman

C/O ELITE PHARMACEUTICALS, INC., 165 LUDLOW AVENUE

(Street)

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

NORTHVALE, NJ 06830

(City) (State) (Zip)

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 Reported Transaction(s) (Instr. 3 and 4) | 6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4) | 7. Nature of Ownership Indirect Beneficial Ownership (Instr. 4) | | |
|---------------------------------|--------------------------------------|--|--------------------------------|---|---|--|---|-----|-------|
| | | | | (A) or (D) | 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 | 2. Conversion | 3. Transaction Date (Month/Day/Year) | 3A. Deemed Execution Date, if | 4. Transaction | 5. Number of Derivative Securities | 6. Date Exercisable and Expiration Date | 7. Title and Amount of Underlying Security |
|------------------------|---------------|--------------------------------------|-------------------------------|----------------|------------------------------------|---|--|
|------------------------|---------------|--------------------------------------|-------------------------------|----------------|------------------------------------|---|--|

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| Security (Instr. 3) | or Exercise Price of Derivative Security | any (Month/Day/Year) | Code (Instr. 8) | Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5) | (Month/Day/Year) | (Instr. 3 and 4) | | |
|---------------------|--|----------------------|-----------------|--|------------------|------------------|--------------|------------|
| | | | Code | V (A) (D) | Date Exercisable | Expiration Date | Title | Am Num Sha |
| Option | \$ 2.69 | 09/02/2005 | A | 200,000 | (1) | 09/02/2015 | Common Stock | 90 |
| Option | \$ 2.69 | 09/02/2005 | A | 400,000 | (2) | 09/02/2015 | Common Stock | 40 |
| Option | \$ 2.15 | 06/23/2003 | J | \$ 75,000 (3) | 09/02/2005 | 06/22/2013 | Common Stock | 22 |

Reporting Owners

| Reporting Owner Name / Address | Relationships | | | |
|---|---------------|-----------|-------------------------------|-------|
| | Director | 10% Owner | Officer | Other |
| BERK BERNARD C/O ELITE PHARMACEUTICALS, INC. 165 LUDLOW AVENUE NORTHVALE, NJ 06830 | X | | Chief Exec Officer & Chairman | |

Signatures

/s/ Bernard J. Berk
09/02/2005

**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) 100,000 of the options shall vest on September 2, 2006 and 100,000 of the options shall vest on September 2, 2007.

The options vest as follows: (i) 50,000 options upon the closing of each product license or product sale transaction (on a product by product basis and only once for each product) in which the Registrant receives an aggregate of at least \$5,000,000 in net cash proceeds (including royalties and signing, license and milestone payments) in connection with such product transaction; (ii) 10,000 options upon the filing by the Registrant (in the Registrant's name) with the United States Food and Drug Administration (the "FDA") of either an Abbreviated New Drug Application ("ANDA") or New Drug Application (including 505(b)(2) applications) ("NDA") for a product not covered by a previous FDA application; and (iii) 40,000 options s upon the approval by the FDA of any ANDA or NDA of the Registrant (filed in the Registrant's name) for a product not previously approved by the FDA; provided however, that on September 2, 2009 all unvested options shall terminate.

The Reporting Person was granted 300,000 options of the Registrant on July 23, 2003 which would vest upon a Strategic Transaction.
(3) The Registrant determined that a Strategic Transaction has occurred as of September 2, 2005. Furthermore, in connection with entering into an amended and restated employment agreement, the Reporting Person waived rights to 75,000 options.

(4) In addition to the transactions described above, this amount also includes options to purchase 300,000 shares of common stock but does not include 167,300 shares of Common Stock beneficially owned by the Reporting Person.

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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