

EMISPHERE TECHNOLOGIES INC

Form 4

January 05, 2016

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

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(Print or Type Responses)

1. Name and Address of Reporting Person *
RACHESKY MARK H MD

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)

1345 AVENUE OF THE
AMERICAS, 42ND FLOOR

(Street)

3. Date of Earliest Transaction
(Month/Day/Year)
12/31/2015

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

NEW YORK, NY 10105

(City) (State) (Zip)

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)
				(A) or (D)			
				Code V Amount (D) Price			

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

**Persons who respond to the collection of
information contained in this form are not
required to respond unless the form
displays a currently valid OMB control
number.**

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	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if	4. Transaction	5. Number of Derivative	6. Date Exercisable and Expiration Date	7. Title and Underlying
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(Instr. 3)	or Exercise Price of Derivative Security	any (Month/Day/Year)	Code (Instr. 8)	Securities 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
Convertible Note <u>(1)</u> <u>(2)</u>	\$ 1.25	12/31/2015	J <u>(1)(2)</u>		\$ 586,736		<u>(11)</u>	03/31/2022	Common Stock
Convertible Note <u>(1)</u> <u>(2)</u>	\$ 1.25	12/31/2015	J <u>(1)(2)</u>		\$ 80,237		<u>(11)</u>	03/31/2022	Common Stock
Convertible Note <u>(1)</u> <u>(2)</u>	\$ 1.25	12/31/2015	J <u>(1)(2)</u>		\$ 638,416		<u>(11)</u>	03/31/2022	Common Stock
Convertible Note <u>(1)</u> <u>(2)</u>	\$ 1.25	12/31/2015	J <u>(1)(2)</u>		\$ 1,608,366		<u>(11)</u>	03/31/2022	Common Stock
Bridge Note <u>(1)</u> <u>(2)</u>	\$ 0.5	12/31/2015	J <u>(1)(2)</u>		\$ 35,379		<u>(11)</u>	03/31/2022	Common Stock
Bridge Note <u>(1)</u> <u>(2)</u>	\$ 0.5	12/31/2015	J <u>(1)(2)</u>		\$ 4,706		<u>(11)</u>	03/31/2022	Common Stock
Bridge Note <u>(1)</u> <u>(2)</u>	\$ 0.5	12/31/2015	J <u>(1)(2)</u>		\$ 27,036		<u>(11)</u>	03/31/2022	Common Stock
Bridge Note <u>(1)</u> <u>(2)</u>	\$ 0.5	12/31/2015	J <u>(1)(2)</u>		\$ 68,112		<u>(11)</u>	03/31/2022	Common Stock
Reimbursement Notes <u>(1)</u> <u>(2)</u>	\$ 0.5	12/31/2015	J <u>(1)(2)</u>		\$ 7,534		<u>(11)</u>	<u>(12)</u>	Common Stock
Reimbursement Notes <u>(1)</u> <u>(2)</u>	\$ 0.5	12/31/2015	J <u>(1)(2)</u>		\$ 1,050		<u>(11)</u>	<u>(12)</u>	Common Stock
Reimbursement Notes <u>(1)</u> <u>(2)</u>	\$ 0.5	12/31/2015	J <u>(1)(2)</u>		\$ 8,208		<u>(11)</u>	<u>(12)</u>	Common Stock
Reimbursement Notes <u>(1)</u> <u>(2)</u>	\$ 0.5	12/31/2015	J <u>(1)(2)</u>		\$ 20,689		<u>(11)</u>	<u>(12)</u>	Common Stock

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
RACHESKY MARK H MD 1345 AVENUE OF THE AMERICAS 42ND FLOOR NEW YORK, NY 10105	X	X		
MHR Capital Partners Master Account LP 1345 AVENUE OF THE AMERICAS 42ND FLOOR NEW YORK, NY 10105		X		
MHR ADVISORS LLC 1345 AVENUE OF THE AMERICAS 42ND FLOOR NEW YORK, NY 10105		X		
MHR Institutional Partners II LP 1345 AVENUE OF THE AMERICAS 42ND FLOOR NEW YORK, NY 10105		X		
MHR Institutional Partners IIA LP 1345 AVENUE OF THE AMERICAS 42ND FLOOR NEW YORK, NY 10105		X		
MHR Institutional Advisors II LLC 1345 AVENUE OF THE AMERICAS 42ND FLOOR NEW YORK, NY 10105		X		
MHRC LLC 1345 AVENUE OF THE AMERICAS 42ND FLOOR NEW YORK, NY 10105		X		
MHRC II LLC 1345 AVENUE OF THE AMERICAS 42ND FLOOR NEW YORK, NY 10105		X		
MHR FUND MANAGEMENT LLC 1345 AVENUE OF THE AMERICAS 42ND FLOOR NEW YORK, NY 10105		X		
MHR Holdings LLC 1345 AVENUE OF THE AMERICAS 42ND FLOOR NEW YORK, NY 10105		X		

Signatures

/s/ Janet Yeung, Attorney
in Fact

01/05/2016

__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).

The Reporting Persons hold Amended and Restated 13% Senior Secured Convertible Notes of the Issuer (the "Convertible Notes"), Amended and Restated 13% Senior Secured Promissory Notes of the Issuer (the "Bridge Notes") and Amended and Restated 10% Senior Secured Reimbursement Notes of the Issuer (the "Reimbursement Notes"). The Convertible Notes, Bridge Notes and

(1) Reimbursement Notes are convertible into shares of the Issuer's common stock, par value \$.01 per share (the "Common Stock"). Interest on the Convertible Notes, the Bridge Notes and Reimbursement Notes is payable in kind semi-annually in arrears through the issuance to the Reporting Persons of additional Convertible Notes, Bridge Notes and Reimbursement Notes respectively. (Continued to Footnote 2)

(Continued from Footnote 1) This Form 4 is being filed to report the receipt of additional Convertible Notes, Bridge Notes and

(2) Reimbursement Notes as paid-in-kind interest on the Convertible Notes, Bridge Notes and Reimbursement Notes, respectively, already held by the Reporting Persons.

These securities are held for the account of MHR Capital Partners Master Account LP, an Anguilla, British West Indies limited partnership ("Master Account"). MHR Advisors LLC, a Delaware limited liability company ("Advisors"), is the general partner of Master Account. MHRC LLC, a Delaware limited liability company ("MHRC"), is the managing member of Advisors. Mark H.

(3) Rachesky, M.D. ("Dr. Rachesky") is the managing member of MHRC. MHR Fund Management LLC ("Fund Management") has an investment management agreement with Master Account pursuant to which it has the power to vote or direct the vote and to dispose or to direct the disposition of the securities held for the account of Master Account. MHR Holdings LLC, a Delaware limited liability company ("MHR Holdings"), is the managing member of Fund Management. (Continued in footnote 4)

(Continued from footnote 3) Accordingly, Advisors, MHRC, Fund Management, MHR Holdings and Dr. Rachesky may be deemed to

(4) beneficially own the securities held for the account of Master Account. Each of Advisors, MHRC, Fund Management, MHR Holdings and Dr. Rachesky disclaims beneficial ownership of such securities except to the extent of their pecuniary interest therein.

These securities are held for the account of MHR Capital Partners (100) LP, a Delaware limited partnership ("Capital Partners (100)"). Advisors is the general partner of Capital Partners (100). MHRC is the managing member of Advisors. Dr. Rachesky is the managing member of MHRC. Fund Management has an investment management agreement with Capital Partners (100) pursuant to which it has

(5) the power to vote or direct the vote and to dispose or to direct the disposition of the securities held for the account of Capital Partners (100). MHR Holdings is the managing member of Fund Management. Accordingly, Advisors, MHRC, Fund Management, MHR Holdings and Dr. Rachesky may be deemed to beneficially own the securities held for the account of Capital Partners (100). (Continued in footnote 6)

(Continued from footnote 5) Each of Advisors, MHRC, Fund Management, MHR Holdings and Dr. Rachesky disclaims beneficial

(6) ownership of such securities except to the extent of their pecuniary interest therein.

These securities are held for the account of MHR Institutional Partners II LP, a Delaware limited partnership ("Institutional Partners II"). MHR Institutional Advisors II LLC, a Delaware limited liability company ("Institutional Advisors II"), is the general partner of Institutional Partners II. MHRC II LLC, a Delaware limited liability company ("MHRC II"), is the managing member of Institutional Advisors II. Dr. Rachesky is the managing member of MHRC II. Fund Management has an investment management agreement with

(7) Institutional Partners II pursuant to which it has the power to vote or direct the vote and to dispose or to direct the disposition of the securities held for the account of Institutional Partners II. MHR Holdings is the managing member of Fund Management. Accordingly, Institutional Advisors II, MHRC II, Fund Management, MHR Holdings and Dr. Rachesky may be deemed to beneficially own the securities held for the account of Institutional Partners II. (Continued in Footnote 8)

(continued from footnote 7) Each of Institutional Advisors II, MHRC II, Fund Management, MHR Holdings and Dr. Rachesky disclaims

(8) beneficial ownership of such securities except to the extent of their pecuniary interest therein.

These securities are held for the account of MHR Institutional Partners IIA LP, a Delaware limited partnership ("Institutional Partners IIA"). Institutional Advisors II is the general partner of Institutional Partners IIA. MHRC II is the managing member of Institutional Advisors II. Dr. Rachesky is the managing member of MHRC II. Fund Management has an investment management agreement with

(9) Institutional Partners IIA pursuant to which it has the power to vote or direct the vote and to dispose or to direct the disposition of the securities held for the account of Institutional Partners IIA. MHR Holdings is the managing member of Fund Management. Accordingly, Institutional Advisors II, MHRC II, Fund Management, MHR Holdings and Dr. Rachesky may be deemed to beneficially own the securities held for the account of Institutional Partners IIA. (Continued in footnote 10)

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- (10) (continued from footnote 9) Each of Institutional Advisors II, MHRC II, Fund Management, MHR Holdings and Dr. Rachesky disclaims beneficial ownership of such securities except to the extent of their pecuniary interest therein.
- (11) The Convertible Notes, Reimbursement Notes and Bridge Notes are convertible into Common Stock at any time upon the option of the holder.
- The Reimbursement Notes mature on the earlier of (a) March 31, 2022 and (b) immediately prior to the time that any amounts
- (12) outstanding are paid under that certain senior secured loan facility, dated August 20, 2014, by and among the Issuer, Master Account, Capital Partners (100), Institutional Partners II and Institutional Partners IIA.

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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