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SEC Mail Processing  
Section

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

OCT 07 2008

Washington, DC  
311

Temporary  
FORM D

NOTICE OF SALE OF SECURITIES  
PURSUANT TO REGULATION D,  
SECTION 4(6), AND/OR  
UNIFORM LIMITED OFFERING EXEMPTION

OMB APPROVAL	
OMB Number:	3235-0076
Expires:	September 30, 2008
Estimated average burden hours per form.....	1

SEC USE ONLY		
Prefix		Serial
DATE RECEIVED		

Name of Offering ( check if this is an amendment and name has changed, and indicate change.)

Series D 8% Convertible Preferred Stock and Warrants to purchase Common Stock

Filing Under (Check box(es) that apply):  Rule 504  Rule 505  Rule 506  Section 4(6)  ULOE

Type of Filing:  New Filing  Amendment

**A. BASIC IDENTIFICATION DATA**

1. Enter the information requested about the issuer

Name of Issuer ( check if this is an amendment and name has changed, and indicate change.)

Elite Pharmaceuticals, Inc.

Address of Executive Offices 165 Ludlow Avenue, Northvale, New Jersey 07647	(Number and Street, City, State, Zip Code)	Telephone Number (Including Area Code) 201-750-2646
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Address of Principal Business Operations (if different from Executive Offices)	(Number and Street, City, State, Zip Code)	Telephone Number (Including Area Code)
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**PROCESSED**

Brief Description of Business

OCT 07 2008

Elite engages primarily in researching, developing and licensing proprietary controlled release drug delivery systems and products.

THOMSON REUTERS

Type of Business Organization

- corporation
- limited partnership, already formed
- business trust
- limited partnership, to be formed
- other (please specify):

Month Year

Actual or Estimated Date of Incorporation or Organization: [1][0] [9][7]  Actual  Estimated

Jurisdiction of Incorporation or Organization: (Enter two-letter U.S. Postal Service abbreviation for State: CN for Canada; FN for other foreign jurisdiction) [D][E]



08061890

## GENERAL INSTRUCTIONS

### **Federal:**

*Who Must File:* All issuers making an offering of securities in reliance on an exemption under Regulation D or Section 4(6), 17 CFR 230.501 et seq. or 15 U.S.C. 77d(6).

*When To File:* A notice must be filed no later than 15 days after the first sale of securities in the offering. A notice is deemed filed with the U.S. Securities and Exchange Commission (SEC) on the earlier of the date it is received by the SEC at the address given below or, if received at that address after the date on which it is due, on the date it was mailed by United States registered or certified mail to that address.

*Where To File:* U.S. Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, D.C. 20549.

*Copies Required:* Five (5) copies of this notice must be filed with the SEC, one of which must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear typed or printed signatures.

*Information Required:* A new filing must contain all information requested. Amendments need only report the name of the issuer and offering, any changes thereto, the information requested in Part C, and any material changes from the information previously supplied in Parts A and B. Part E and the Appendix need not be filed with the SEC.

*Filing Fee:* There is no federal filing fee.

### **State:**

This notice shall be used to indicate reliance on the Uniform Limited Offering Exemption (ULOE) for sales of securities in those states that have adopted ULOE and that have adopted this form. Issuers relying on ULOE must file a separate notice with the Securities Administrator in each state where sales are to be, or have been made. If a state requires the payment of a fee as a precondition to the claim for the exemption, a fee in the proper amount shall accompany this form. This notice shall be filed in the appropriate states in accordance with state law. The Appendix to the notice constitutes a part of this notice and must be completed.

### **ATTENTION:**

**Failure to file notice in the appropriate states will not result in a loss of the federal exemption. Conversely, failure to file the appropriate federal notice will not result in a loss of an available state exemption unless such exemption is predicated on the filing of a federal notice.**

**Potential persons who are to 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.**

**A. BASIC IDENTIFICATION DATA**

2. Enter the information requested for the following:

- Each promoter of the issuer, if the issuer has been organized within the past five years;
- Each beneficial owner having the power to vote or dispose, or direct the vote or disposition of, 10% or more of a class of equity securities of the issuer;
- Each executive officer and director of corporate issuers and of corporate general and managing partners of partnership issuers; and
- Each general and managing partner of partnership issuers.

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Berk, Bernard J.

Full Name (Last name first, if individual)

c/o Elite Pharmaceuticals, Inc. 165 Ludlow Avenue, Northvale, New Jersey 07647  
Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Gittelman, Mark I

Full Name (Last name first, if individual)

c/o Elite Pharmaceuticals, Inc. 165 Ludlow Avenue, Northvale, New Jersey 07647  
Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Dick, Christopher

Full Name (Last name first, if individual)

c/o Elite Pharmaceuticals, Inc. 165 Ludlow Avenue, Northvale, New Jersey 07647  
Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Levenson, Robert

Full Name (Last name first, if individual)

c/o Elite Pharmaceuticals, Inc. 165 Ludlow Avenue, Northvale, New Jersey 07647  
Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Van Woert, Melvin H.

Full Name (Last name first, if individual)

c/o Elite Pharmaceuticals, Inc. 165 Ludlow Avenue, Northvale, New Jersey 07647  
Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Dash, Barry

Full Name (Last name first, if individual)

c/o Elite Pharmaceuticals, Inc. 165 Ludlow Avenue, Northvale, New Jersey 07647  
Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Midsummer Investment, Ltd.

Full Name (Last name first, if individual)

295 Madison Avenue, 38<sup>th</sup> Floor, New York, New York 10017

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Trellus Partners, LP

Full Name (Last name first, if individual)

350 Madison Avenue, 9<sup>th</sup> Floor, New York, New York 10017

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Capital Ventures International

Full Name (Last name first, if individual)

c/o Heights Capital Management, California Street, Suite 3250, San Francisco, CA 94111

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Davidson Kempner Healthcare Fund LP

Full Name (Last name first, if individual)

c/o Goldman Sachs & Co., One New York Plaza, New York NY, 10004

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Davidson Kempner Healthcare International Ltd.

Full Name (Last name first, if individual)

c/o Goldman Sachs & Co., One New York Plaza, New York NY, 10004

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

First Mirage Inc.

Full Name (Last name first, if individual)

333 Sandy Springs Circle, Suite 230, Atlanta, GA 30328

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Stratford Partners LP

Full Name (Last name first, if individual)

237 Park Avenue, Suite 900, New York, NY 10017

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Gamma Opportunity Capital Partners LP

Full Name (Last name first, if individual)

1967 Longwood Lake Mary Road, Longwood, FL 32750

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

MHJ Holdings Co.

Full Name (Last name first, if individual)
1357 Prospect Road, Pittsburgh, PA 15227

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

ACM SPV, LLC

Full Name (Last name first, if individual)
c/o ARIS Capital Management, LLC, 152 West 57th Street, 19th Floor, New York, NY 10017

Business or Residence Address (Number and Street, City, State, Zip Code)

B. INFORMATION ABOUT OFFERING

- 1. Has the issuer sold, or does the issuer intend to sell, to non-accredited investors in this offering?
2. What is the minimum investment that will be accepted from any individual?
3. Does the offering permit joint ownership of a single unit?
4. Enter the information requested for each person who has been or will be paid or given, directly or indirectly, any commission or similar remuneration for solicitation of purchasers in connection with sales of securities in the offering.

ROTH Capital Partners, LLC

Full Name (Last name first, if individual)

1251 Avenue of the Americas, 18th Floor, New York, New York 10020

Business or Residence Address (Number and Street, City, State, Zip Code)

Name of Associated Broker or Dealer

States in Which Person Listed Has Solicited or Intends to Solicit Purchasers

(Check "All States" or check individual States) ~ All States

[AL] [AK] [AZ] [AR] [CA] [CO] [CT] [DE] [DC] [FL] [GA] [HI] [ID]
[IL] [IN] [IA] [KS] [KY] [LA] [MA] [MD] [ME] [MI] [MN] [MS] [MO]
[MT] [NE] [NV] [NH] [NJ] [NM] [NC] [ND] [OH] [OK] [OR] [PA]
[RI] [SC] [SD] [TN] [TX] [UT] [VT] [VA] [WA] [WV] [WI] [WY] [PR]

Full Name (Last name first, if individual)

Boenning & Scattergood, Inc.

Business or Residence Address (Number and Street, City, State, Zip Code)
4 Tower Bridge, 200 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428

Name of Associated Broker or Dealer

States in Which Person Listed Has Solicited or Intends to Solicit Purchasers

(Check "All States" or check individual States) ~ All States

[AL] [AK] [AZ] [AR] [CA] [CO] [CT] [DE] [DC] [FL] [GA] [HI] [ID]  
[IL] [IN] [IA] [KS] [KY] [LA] [MA] [MD] [ME] [MI] [MN] [MS] [MO]  
[MT] [NE] [NV] [NH] [NJ] [NM] [NC] [ND] [OH] [OK] [OR] [PA]  
[RI] [SC] [SD] [TN] [TX] [UT] [VT] [VA] [WA] [WV] [WY] [PR]

**C. OFFERING PRICE, NUMBER OF INVESTORS, EXPENSES AND USE OF PROCEEDS**

1. Enter the aggregate offering price of securities included in this offering and the total amount already sold. Enter "0" if answer is "none" or "zero". If the transaction is an exchange offering, check this box  and indicate in the columns below the amounts of the securities offered for exchange and already exchanged.

Type of Security	Aggregate Offering Price	Amount Already Sold
Debt .....	\$0	\$0
Equity .....	\$32,014,000(1)	\$13,814,000(2)
<input type="checkbox"/> Common <input checked="" type="checkbox"/> Preferred		
Convertible Securities (including warrants) .....	\$0	\$0
Partnership Interests .....	\$0	\$0
Other:.....	\$0	\$0
Total .....	\$32,014,000(1)	\$13,814,000(2)

Answer also in Appendix, Column 3, if filing under ULOE.

(1) includes (a) \$5,000,000 shares of Series D Preferred Stock and warrants offered to accredited investors and (b) the right offered to the holder's of the Company's outstanding Series B Preferred Stock and Series C Preferred Stock, representing an aggregate stated value of \$27,014,000, that invest at least the lesser of \$400,000 and 20% of the stated value of such investor's shares of Series B Preferred Stock and/or Series C Preferred Stock to exchange such holders' (x) shares of Series B Preferred Stock and/or Series C Preferred Stock for shares of Series D Preferred Stock at a rate of one share of Series D Preferred Stock for each share of Series B Preferred Stock and/or Series C Preferred Stock exchanged by such holders, and (y) warrants issued to such holders in connection with the purchase of such shares of Series B Preferred Stock and/or Series C Preferred Stock for replacement warrants which are exercisable for the same aggregate number of shares as the original warrants.

(2) includes (a) \$1,777,000 paid by accredited investors for Series D Preferred Shares and warrants and (b) \$12,037,000 in aggregate stated value of shares of Series B Preferred Stock and Series C Preferred Stock and related warrants exchanged by holders thereof for Series D Preferred Stock and replacement warrants pursuant to the exchange right described in (1)(b) above.

2. Enter the number of accredited and non-accredited investors who have purchased securities in this offering and the aggregate dollar amounts of their purchases. For offerings under Rule 504, indicate the number of persons who have purchased securities and the aggregate dollar amount of their purchases on the total lines. Enter "0" if answer is "none" or "zero."

	Number Investors	Aggregate Dollar Amount Of Purchase
Accredited Investors .....	16	\$ 1,777,000
Non-accredited Investors.....	0	\$ 0
Total (for filings under Rule 504 only) .....	_____	\$ _____

Answer also in Appendix, Column 4, if filing under ULOE.

3. If this filing is for an offering under Rule 504 or 505, enter the information requested for all securities sold by the issuer, to date, in offerings of the types indicated, in the twelve (12) months prior to the first sale of securities in this offering. Classify securities by type listed in Part C - Question 1.

Type of offering	Type of Security	Dollar Amount Sold
Rule 505 .....	_____	\$ _____
Regulation A.....	_____	\$ _____
Rule 504 .....	_____	\$ _____
Total .....	_____	\$ _____

4. a. Furnish a statement of all expenses in connection with the issuance and distribution of the securities in this offering. Exclude amounts relating solely to organization expenses of the issuer. The information may be given as subject to future contingencies. If the amount of an expenditure is not known, furnish an estimate and check the box to the left of the estimate.

Transfer Agent's Fees .....	<input type="checkbox"/>	\$0
Printing and Engraving Costs .....	<input type="checkbox"/>	\$0
Legal Fees (Issuer's legal fees, Placement Agents' legal fees).....	<input checked="" type="checkbox"/>	\$ 119,714.01
Accounting Fees .....	<input type="checkbox"/>	\$0
Engineering Fees .....	<input type="checkbox"/>	\$0
Sales Commissions (specify finders' fees separately).....	<input checked="" type="checkbox"/>	\$ 115,505.00

**C. OFFERING PRICE, NUMBER OF INVESTORS, EXPENSES AND USE OF PROCEEDS**

Other Expenses (including Placement Agent non-legal expenses and Escrow Agent fee) ...	<input checked="" type="checkbox"/>	\$8,533.92
Total .....	<input checked="" type="checkbox"/>	\$ 243,752.93

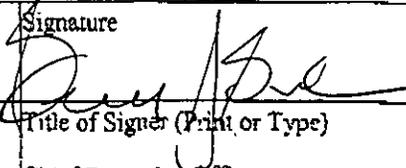
Enter the differences between the aggregate offering price given in response to Part C – Question 1 and total expenses furnished in response to Part C - Question 4.a. This difference is the "adjusted gross proceeds to the issuer." \$1,533,247.07

5. Indicate below the amount of the adjusted gross proceeds to the issuer used or proposed to be used for each of the purposes shown. If the amount for any purpose is not known, furnish an estimate and check the box to the left of the estimate. The total of the payments listed must equal the adjusted gross proceeds to the issuer set forth in response to Part C - Questions 4.b above.

	Payments to Officers, Directors, & Affiliates	Payments To Others
Salaries and fees .....	\$ 0	\$ 0
Purchase of real estate .....	\$ 0	\$ 0
Purchase, rental or leasing and installation of machinery and equipment .....	\$ 0	\$ 0
Construction or leasing of plant buildings and facilities.....	\$ 0	\$ 0
Acquisition of other businesses (including the value of securities involved in this offering that may be used in exchange for the assets or securities of another issuer pursuant to a merger).....	\$ 0	\$ 0
Repayment of indebtedness .....	\$ 0	\$ 0
Working capital .....	\$ 0	<input checked="" type="checkbox"/> \$1,533,247.07
Other (specify):.....	\$ 0	\$ 0
Column Totals .....	\$ 0	\$ 0
Total Payments Listed (column totals added).....	\$ 0	<input checked="" type="checkbox"/> \$1,533,247.07

D. FEDERAL SIGNATURE

The issuer has duly caused this notice to be signed by the undersigned duly authorized person. If this notice is filed under Rule 505, the following signature constitutes an undertaking by the issuer to furnish to the U.S. Securities and Exchange Commission, upon written request of its staff, the information furnished by the issuer to any non-accredited investor pursuant to paragraph (b)(2) of Rule 502.

Issuer (Print or Type)	Signature	Date
Elite Pharmaceuticals, Inc.		September 29 , 2008
Name of Signer (Print or Type)	Title of Signer (Print or Type)	
Bernard J. Berk	Chief Executive Officer	

ATTENTION

Intentional misstatements or omissions of fact constitute federal criminal violations. (See 18 U.S.C. 1001.)

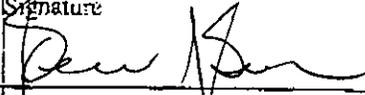
**E. STATE SIGNATURE**

1. Is any party described in 17 CFR 230.262 presently subject to any of the disqualification provisions of such rule?  
 Yes  No

See Appendix, Column 5, for state response.

2. The undersigned issuer hereby undertakes to furnish to any state administrator of any state in which this notice is filed, a notice on Form D (17 CFR 239.500) at such times as required by state law.
3. The undersigned issuer hereby undertakes to furnish to the state administrators, upon written request, information furnished by the issuer to offerees.
4. The undersigned issuer represents that the issuer is familiar with the conditions that must be satisfied to be entitled to the Uniform Limited Offering Exemption (ULOE) of the state in which this notice is filed and understands that the issuer claiming the availability of this Exemption has the burden of establishing that these conditions have been satisfied.

The issuer has read this notification and knows the contents to be true and has duly caused this notice to be signed on its behalf by the undersigned duly authorized person.

Issuer (Print or Type)	Signature	Date
Elite Pharmaceuticals, Inc.		September 29, 2008
Name of Signer (Print or Type)	Title of Signer (Print or Type)	
Bernard J. Berk	Chief Executive Officer	

**Instruction:**

Print the name and title of the signing representative under his signature for the state portion of this form. One copy of every notice on Form D must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear typed or printed signatures.





**APPENDIX**

1	2		3	4				5	
	Intend to sell to non-accredited investors in State (Part B-Item 1)			Type of security and aggregate offering price offered in state (Part C-Item 1)	Type of investor and amount purchased in State (Part C-Item 2)				Disqualification under State ULOE (if yes, attach explanation of waiver granted) (Part E-Item 1)
STATE	Yes	No	Series D Convertible Preferred Shares and Warrants	Number of Accredited Investors	Amount	Number of Non-Accredited Investors	Amount	Yes	No
VA		X	\$80,000.00	1	\$80,000.00	0	0		X
WA									
WV									
WI									
WY									
PR									

END