

Edgar Filing: SPHERIX INC - Form SC 13G/A

SPHERIX INC
Form SC 13G/A
February 16, 2010

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

SCHEDULE 13G

Under the Securities Exchange Act of 1934

(Amendment No. 1)

Spherix Incorporated
(Name of Issuer)

Common Stock, \$0.005 par value
(Title of Class of Securities)

84842R106
(CUSIP Number)

December 31, 2009
(Date of Event Which Requires Filing of this Statement)

Check the appropriate box to designate the rule pursuant to which this Schedule is filed:

- Rule 13d-1(b)
- Rule 13d-1(c)
- Rule 13d-1(d)

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter the disclosures provided in a prior cover page.

The information required in the remainder of this cover page shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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(1) NAMES OF REPORTING PERSONS

Hartz Capital Investments, LLC

(2) CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (see instructions)

(a)

(b)

(3) SEC USE ONLY

(4) CITIZENSHIP OR PLACE OF ORGANIZATION

New Jersey

NUMBER OF (5) SOLE VOTING POWER
0

SHARES -----

BENEFICIALLY (6) SHARED VOTING POWER
565,870 shares of Common Stock

Warrants to purchase 491,305 shares of Common Stock
(See Item 4)*

OWNED BY -----

EACH (7) SOLE DISPOSITIVE POWER
0

REPORTING -----

PERSON WITH: (8) SHARED DISPOSITIVE POWER
565,870 shares of Common Stock

Warrants to purchase 491,305 shares of Common Stock
(See Item 4)*

(9) AGGREGATE AMOUNT BENEFICIALLY OWNED
BY EACH REPORTING PERSON
565,870 shares of Common Stock

Warrants to purchase 491,305 shares of Common Stock (See Item 4)*

(10) CHECK BOX IF THE AGGREGATE AMOUNT
IN ROW (9) EXCLUDES CERTAIN SHARES (see instructions)

[]

(11) PERCENT OF CLASS REPRESENTED
BY AMOUNT IN ROW (9)
4.99% (See Item 4)*

(12) TYPE OF REPORTING PERSON (see instructions)
OO

* As more fully described in Item 4, certain of these reported securities are subject to a 4.99% blocker and the percentage set forth in row (11) gives effect to such blocker. However, as more fully described in Item 4, the securities reported in rows (6), (8) and (9) show the number of shares of Common Stock that would be issuable upon full exercise or conversion of such reported securities and do not give effect to such blocker. Therefore, the actual number of shares of Common Stock beneficially owned by such Reporting Person, after giving effect to such blocker, is less than the number of securities reported in rows (6), (8)

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and (9)..

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(1) NAMES OF REPORTING PERSONS

Empery Asset Management, LP

(2) CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (see instructions)

(a)

(b)

(3) SEC USE ONLY

(4) CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

NUMBER OF (5) SOLE VOTING POWER
0

SHARES -----

BENEFICIALLY (6) SHARED VOTING POWER
636,340 shares of Common Stock

Warrants to purchase 552,175 shares of Common Stock
(See Item 4)*

OWNED BY -----

EACH (7) SOLE DISPOSITIVE POWER
0

REPORTING -----

PERSON WITH: (8) SHARED DISPOSITIVE POWER
636,340 shares of Common Stock

Warrants to purchase 552,175 shares of Common Stock
(See Item 4)*

(9) AGGREGATE AMOUNT BENEFICIALLY OWNED
BY EACH REPORTING PERSON
636,340 shares of Common Stock

Warrants to purchase 552,175 shares of Common Stock
(See Item 4)*

(10) CHECK BOX IF THE AGGREGATE AMOUNT
IN ROW (9) EXCLUDES CERTAIN SHARES (see instructions)

[]

(11) PERCENT OF CLASS REPRESENTED
BY AMOUNT IN ROW (9) 4.99%
(See Item 4)*

(12) TYPE OF REPORTING PERSON (see instructions)
PN

* As more fully described in Item 4, certain of these reported securities are subject to a 4.99% blocker and the percentage set forth in row (11) gives effect

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to such blocker. However, as more fully described in Item 4, the securities reported in rows (6), (8) and (9) show the number of shares of Common Stock that would be issuable upon full exercise or conversion of such reported securities and do not give effect to such blocker. Therefore, the actual number of shares of Common Stock beneficially owned by such Reporting Person, after giving effect to such blocker, is less than the number of securities reported in rows (6), (8) and (9).

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(1) NAMES OF REPORTING PERSONS

Ryan M. Lane

(2) CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (see instructions)

(a)

(b)

(3) SEC USE ONLY

(4) CITIZENSHIP OR PLACE OF ORGANIZATION

United States

NUMBER OF (5) SOLE VOTING POWER
0

SHARES

BENEFICIALLY (6) SHARED VOTING POWER
636,340 shares of Common Stock

Warrants to purchase 552,175 shares of Common Stock
(See Item 4)*

OWNED BY

EACH (7) SOLE DISPOSITIVE POWER
0

REPORTING

PERSON WITH: (8) SHARED DISPOSITIVE POWER
636,340 shares of Common Stock

Warrants to purchase 552,175 shares of Common Stock
(See Item 4)*

(9) AGGREGATE AMOUNT BENEFICIALLY OWNED
BY EACH REPORTING PERSON
636,340 shares of Common Stock

Warrants to purchase 552,175 shares of Common Stock
(See Item 4)*

(10) CHECK BOX IF THE AGGREGATE AMOUNT
IN ROW (9) EXCLUDES CERTAIN SHARES (see instructions)

(11) PERCENT OF CLASS REPRESENTED
BY AMOUNT IN ROW (9) 4.99%

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(See Item 4)*

(12) TYPE OF REPORTING PERSON (see instructions)
IN

* As more fully described in Item 4, certain of these reported securities are subject to a 4.99% blocker and the percentage set forth in row (11) gives effect to such blocker. However, as more fully described in Item 4, the securities reported in rows (6), (8) and (9) show the number of shares of Common Stock that would be issuable upon full exercise or conversion of such reported securities and do not give effect to such blocker. Therefore, the actual number of shares of Common Stock beneficially owned by such Reporting Person, after giving effect to such blocker, is less than the number of securities reported in rows (6), (8) and (9).

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(1) NAMES OF REPORTING PERSONS

Martin D. Hoe

(2) CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (see instructions)
(a)
(b)

(3) SEC USE ONLY

(4) CITIZENSHIP OR PLACE OF ORGANIZATION

United States

NUMBER OF (5) SOLE VOTING POWER
0
SHARES

BENEFICIALLY (6) SHARED VOTING POWER
636,340 shares of Common Stock

OWNED BY Warrants to purchase 552,175 shares of Common Stock
(See Item 4)*

EACH (7) SOLE DISPOSITIVE POWER
0
REPORTING

PERSON WITH: (8) SHARED DISPOSITIVE POWER
636,340 shares of Common Stock

Warrants to purchase 552,175 shares of Common Stock
(See Item 4)*

(9) AGGREGATE AMOUNT BENEFICIALLY OWNED
BY EACH REPORTING PERSON
636,340 shares of Common Stock

Warrants to purchase 552,175 shares of Common Stock
(See Item 4)*

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(10) CHECK BOX IF THE AGGREGATE AMOUNT
IN ROW (9) EXCLUDES CERTAIN SHARES (see instructions)

[]

(11) PERCENT OF CLASS REPRESENTED
BY AMOUNT IN ROW (9)
4.99% (See Item 4)*

(12) TYPE OF REPORTING PERSON (see instructions) IN

* As more fully described in Item 4, certain of these reported securities are subject to a 4.99% blocker and the percentage set forth in row (11) gives effect to such blocker. However, as more fully described in Item 4, the securities reported in rows (6), (8) and (9) show the number of shares of Common Stock that would be issuable upon full exercise or conversion of such reported securities and do not give effect to such blocker. Therefore, the actual number of shares of Common Stock beneficially owned by such Reporting Person, after giving effect to such blocker, is less than the number of securities reported in rows (6), (8) and (9).

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This Amendment No. 1 (this "Amendment") amends the statement on Schedule 13G filed on November 20, 2009 (the "Original Schedule 13G" and the Original Schedule 13G as amended, the "Schedule 13G") with respect to shares of common stock, \$0.005 par value per share (the "Common Stock") of Spherix Incorporated, a Delaware corporation (the "Company"). Capitalized terms used herein and not otherwise defined in this Amendment have the meanings set forth in the Schedule 13G. This Amendment amends and restates Item 4 in its entirety as set forth below.

Item 4. Ownership

Provide the following information regarding the aggregate number and percentage of the class of securities of the issuer identified in Item 1.

The information as of the filing date required by Items 4(a) - (c) is set forth in Rows 5 - 11 of the cover page for each Reporting Person hereto and is incorporated herein by reference for each such Reporting Person. The Company's Prospectus filed pursuant to Rule 424(b)(5) on November 16, 2009, indicates that the total number of outstanding shares of Common Stock upon completion of the offering made pursuant to such Prospectus is 17,150,648. The percentages set forth on Row 11 of the cover page for each Reporting Person is based on the Company's outstanding shares of Common Stock and assumes the exercise of the reported warrants subject to the Blocker (as defined below). Pursuant to the terms of the reported warrants, the Reporting Persons cannot exercise any of these warrants until such time as the Reporting Persons would not beneficially own, after any such exercise, more than 4.99% of the outstanding shares of Common Stock (the "Blocker").

The Investment Manager, which serves as the investment manager to the Managed Account and the Empery Funds, may be deemed to be the beneficial owner of all shares of Common Stock owned by the Managed Account and the Empery Funds. Each of the Reporting Individuals, as Managing Members of the General Partner of the Investment Manager with the power to exercise investment discretion, may be deemed to be the beneficial owner of all shares of Common Stock owned by the Managed Account and the Empery Funds. Each of the Investment Manager and the

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Reporting Individuals hereby disclaims any beneficial ownership of any such shares of Common Stock, except for their pecuniary interest therein.

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SIGNATURES

After reasonable inquiry and to the best of its knowledge and belief, each of the undersigned certifies that the information with respect to it set forth in this statement is true, complete, and correct.

Dated: February 12, 2010

EMPERY ASSET MANAGEMENT, LP

HARTZ CAPITAL INVESTMENTS, LLC

By: EMPERY AM GP, LLC, its General Partner

By: EMPERY ASSET MANAGEMENT, LP, its Authorized Agent

By: /s/ Ryan M. Lane

By: EMPERY AM GP, LLC, its General Partner

Name: Ryan M. Lane
Title: Managing Member

By: /s/ Ryan M. Lane

Name: Ryan M. Lane
Title: Managing Member

/s/ Martin D. Hoe

/s/ Ryan M. Lane

MARTIN D. HOE

RYAN M. LANE