

CHEMBIO DIAGNOSTICS, INC.
Form DEF 14A
May 02, 2006

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

[Amendment No. ____]

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material under ss. 240.14a-12

CHEMBIO DIAGNOSTICS, INC.

(Name of Registrant as Specified in Its Charter)

Not Applicable

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

1. Title of each class of securities to which transaction applies:

2. Aggregate number of securities to which transaction applies:

3. Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

4. Proposed maximum aggregate value of transaction:

5. Total fee paid:

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Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

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CHEMBIO DIAGNOSTICS, INC.

3661 Horseblock Road
Medford, NY 11763
(631) 924-1135

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

To be held June 15, 2006

The Annual Meeting of Stockholders of Chembio Diagnostics, Inc. will be held on June 15, 2006 at 10:00 am (local time) at the Radisson Hotel, 1730 North Ocean Avenue, Holtsville, New York 11742, for the following purposes:

1. To elect a Board of Directors consisting of four Directors;
2. To consider and vote upon a proposal recommended by the Board of Directors to ratify the selection of Lazar, Levine & Felix LLP to serve as our certified independent accountants for the fiscal year ending December 31, 2005; and
3. To transact any other business that properly may come before the Annual Meeting.

Only the stockholders of record as shown on our transfer books at the close of business on April 25, 2006 are entitled to notice of, and to vote at, the Annual Meeting. Our Annual Report for the fiscal year ended December 31, 2005 on Form 10-KSB is being mailed to stockholders with this proxy statement. The Annual Report is not part of the proxy soliciting material.

All stockholders, regardless of whether they expect to attend the meeting in person, are requested to complete, date, sign and return promptly the enclosed form of proxy in the accompanying envelope (which requires no postage if mailed in the United States). The person executing the proxy may revoke it by filing with our Secretary an instrument of revocation or a duly executed proxy bearing a later date, or by electing to vote in person at the Annual Meeting.

All stockholders are extended a cordial invitation to attend the Annual Meeting.

By the Board of Directors

/s/ Lawrence A. Siebert

Medford, New York Lawrence A. Siebert
May 15, 2006 President, Chief Executive Officer &
Chairman of the Board

PROXY STATEMENT

CHEMBIO DIAGNOSTICS, INC.

3661 Horseblock Road
Medford, NY 11763
(631) 924-1135

ANNUAL MEETING OF STOCKHOLDERS

To be held June 15, 2006

SOLICITATION AND REVOCATION OF PROXIES

This proxy statement is provided in connection with the solicitation of proxies by and on behalf of the Board of Directors of Chembio Diagnostics, Inc., a Nevada corporation (referred to as the “Company” or “Chembio” or “we” or “us”) to be voted at the Annual Meeting of Stockholders to be held at 10:00 am (local time) on June 15, 2006 at the Radisson Hotel, 1730 North Ocean Avenue, Holtsville, New York 11742, or at any adjournment or postponement of the Annual Meeting. We anticipate that this proxy statement and the accompanying form of proxy will be first mailed or given to stockholders on or about May 15, 2006.

A stockholder giving a proxy may revoke it at any time before it is exercised by delivering written notice of revocation to our Secretary, by substituting a new proxy executed at a later date, or by requesting, in person at the Annual Meeting, that the proxy be returned.

The solicitation of proxies is to be made principally by mail; however, following the initial solicitation, further solicitations may be made by telephone or oral communication with stockholders. Our officers, directors, and employees may solicit proxies, but these persons will not receive compensation for that solicitation other than their regular compensation as employees. Arrangements also will be made with brokerage houses and other custodians, nominees and fiduciaries to forward solicitation materials to beneficial owners of the shares held of record by those persons. We may reimburse those persons for reasonable out-of-pocket expenses incurred by them in so doing. We will pay all expenses involved in preparing, assembling and mailing this proxy statement and the enclosed material.

VOTING SECURITIES

The close of business on April 25, 2006 has been fixed as the record date for the determination of holders of record of the Company’s \$0.01 par value per share (the “Common Stock”), entitled to notice of and to vote at the Annual Meeting. On the record date, 9,569,863 shares of Common Stock were outstanding and eligible to be voted at the Annual Meeting. A majority of the issued and outstanding shares of common stock entitled to vote, represented either in person or by proxy, constitutes a quorum at any meeting of the stockholders. If sufficient votes for approval of the matters to be considered at the Annual Meeting have not been received prior to the meeting date, we intend to postpone or adjourn the Annual Meeting in order to solicit additional votes. The form of proxy we are soliciting requests authority for the proxies, in their discretion, to vote the stockholders’ shares with respect to a postponement or adjournment of the Annual Meeting. At any postponed or adjourned meeting, we will vote any proxies received in the same manner described in this proxy statement with respect to the original meeting.

VOTING PROCEDURES

Votes at the Annual Meeting are counted by an inspector of election appointed by the Chairman of the meeting. If a quorum is present, an affirmative vote of a majority of the votes entitled to be cast by those present in person or by proxy is required for the approval of items submitted to shareholders for their consideration, unless a different number of votes is required by Nevada law or our Articles Of Incorporation. Abstentions by those present at the Annual Meeting are tabulated separately from affirmative and negative votes and do not constitute affirmative votes. If a shareholder returns his or her proxy card and withholds authority to vote for any or all of the nominees, the votes represented by the proxy card will be deemed to be present at the meeting for purposes of determining the presence of a quorum but will not be counted as affirmative votes. Shares in the names of brokers that are not voted on a particular matter are treated as not present with respect to that matter.

FORWARD-LOOKING STATEMENTS

This proxy statement includes “forward-looking” statements within the meaning of Section 21E of the Securities Exchange Act of 1934. All statements other than statements of historical facts included in this proxy statement regarding our financial position, business strategy and plans and objectives of management for future operations and capital expenditures are forward-looking statements. Although we believe that the expectations reflected in the forward-looking statements and the assumptions upon which the forward-looking statements are based are reasonable, we can give no assurance that such expectations and assumptions will prove to have been correct.

BENEFICIAL OWNERSHIP OF THE COMPANY’S EQUITY SECURITIES

At the Annual Meeting, holders of 9,569,863 shares of Common Stock, the number of shares of Common Stock outstanding as of the record date, will have the right to vote. Each share, unless otherwise set forth herein, is entitled to one vote. On April 25, 2006, there were 9,569,863 shares of Common Stock issued and outstanding. The following table sets forth certain information regarding the beneficial ownership of our common stock by each person or entity known by us to be the beneficial owner of more than 5% of the outstanding shares of common stock, each of our directors and each of our “named executive officers” and all of our directors and executive officers as a group as of April 15, 2006.

Name and Address of Beneficial Owner	Number of Shares Beneficially Owned	Percent of Class
Lawrence Siebert ⁽¹⁾ 3661 Horseblock Road Medford, NY 11763	2,046,139	22.94%
Avi Pelossof ⁽²⁾ 3661 Horseblock Road Medford, NY 11763	599,314	6.76%
Javan Esfandiari ⁽³⁾ 3661 Horseblock Road Medford, NY 11763	185,830	2.15%
Richard Bruce ⁽⁴⁾ 3661 Horseblock Road Medford, NY 11763	100,500	1.17%
Richard J. Larkin ⁽⁵⁾ 3661 Horseblock Road Medford, NY 11763	99,513	1.16%
Alan Carus ⁽⁶⁾ 3661 Horseblock Road Medford, NY 11763	51,000	0.60%
Gary Meller ⁽⁷⁾	51,000	0.60%

3661 Horseblock Road Medford, NY 11763		
Gerald Eppner (8)		
3661 Horseblock Road Medford, NY 11763	51,000	0.60%
All officers and directors as a group ⁽⁹⁾	3,184,296	32.49%
Mark Baum (10)		
580 Second Street, Suite 102 Encinitas, CA 92024	1,400,000	14.99%
Thunderbird Global Corporation (11)		
c/o The Baum Law Firm 580 Second Street, Suite 102 Encinitas, CA 92024	487,504	5.74%
Daniel Gressel (12)		
460 E. 79 th Street, Apt. 17B New York, NY 10021	462,501	5.42%
Tomas Haendler ⁽¹³⁾ 31 Cogswell Lane Stamford, CT 06902	454,720	5.33%

Beneficial ownership is determined in accordance with the Rule 13d-3(a) of the Securities Exchange Act of 1934, as amended, and generally includes voting or investment power with respect to securities. Except as subject to community property laws, where applicable, the person named above has sole voting and investment power with respect to all shares of our common stock shown as beneficially owned by him.

The term “named executive officer” refers to our chief executive officer and each of our other executive officers who received at least \$100,000 of compensation in 2005.

This table does not include convertible securities which, due to contractual restrictions, are not exercisable within 60 days of the date of this proxy statement. Specifically, at no time may a holder of shares of series A or series B preferred stock convert shares of the series A or series B preferred stock if the number of shares of common stock to be issued pursuant to such conversion would exceed, when aggregated with all other shares of common stock owned by such holder at such time, the number of shares of common stock which would result in such holder beneficially owning (as determined in accordance with Section 13(d) of the Securities Exchange Act) in excess of either 4.999% or 9.999% of the then issued and outstanding shares of common stock outstanding at such time, unless the holder has provided us with sixty-one (61) days notice that the holder has elected to waive this restriction.

- (Includes 220,000 shares issuable upon exercise of options exercisable within 60 days and 207,566 warrants. Also
1) does not include 1,937,220 shares issuable upon conversion of series A preferred stock, 2,324,666 shares issuable upon exercise of warrants, 88,971 shares issuable upon conversion of series B preferred stock and 77,868 shares issuable upon exercise of warrants because conversion of any of those shares of series A or series B preferred stock or exercise of those warrants would result in the holder beneficially owning in excess of 4.99% of the then issued and outstanding shares of common stock outstanding at that time.
- (Includes 350,000 shares issuable upon exercise of options exercisable within 60 days and 22,555 shares issuable
2) upon exercise of warrants. Does not include 50,000 shares issuable upon exercise of options that are not exercisable within the next 60 days. Also does not include 10,078 shares issuable upon conversion of series A preferred stock and 12,095 shares issuable upon exercise of warrants because conversion of any of those shares of series A preferred stock or exercise of any of those warrants would result in the holder beneficially owning in excess of 4.99% of the then issued and outstanding shares of common stock outstanding at that time.
- (Includes 163,750 shares issuable upon exercise of options exercisable within 60 days and 2,007 shares issuable
3) upon exercise of warrants. Does not include 68,750 shares issuable upon exercise of options that are not exercisable within the next 60 days.
- (Includes 95,000 shares issuable upon exercise of options exercisable within 60 days and 500 shares issuable upon
4) exercise of warrants. Does not include 25,000 shares issuable upon exercise of options that are not exercisable within the next 60 days.
- (Includes 137,500 shares issuable upon exercise of options exercisable within 60 days and 250 shares issuable upon
5) exercise of warrants. Does not include 43,750 shares issuable upon exercise of options that are not exercisable within the next 60 days. Also does not include 30,236 shares issuable upon conversion of series A preferred stock and 25,196 shares issuable upon exercise of warrants because conversion of any of those shares of series A preferred stock or exercise of any of those warrants would result in the holder beneficially owning in excess of 4.99% of the then issued and outstanding shares of common stock outstanding at that time.
- (Includes 51,000 shares issuable upon exercise of options exercisable within 60 days. Does not include 36,000
6) shares issuable upon exercise of options that are not exercisable within the next 60 days.
- (Includes 51,000 shares issuable upon exercise of options exercisable within 60 days. Does not include 36,000
7) shares issuable upon exercise of options that are not exercisable within the next 60 days.
- (Includes 51,000 shares issuable upon exercise of options exercisable within 60 days. Does not include 36,000
8) shares issuable upon exercise of options that are not exercisable within the next 60 days.
- (9) Includes footnotes (1)-(8).
- (10) Includes 850,000 shares issuable upon exercise of warrants. Does not include 108,333 shares issuable upon conversion of series A preferred stock and 130,000 shares issuable upon exercise of warrants because conversion of any of those shares of series A preferred stock or exercise of those warrants would result in the holder beneficially owning in excess of 4.99% of the then issued and outstanding shares of common stock outstanding at that time.
- (11) Does not include 251,963 shares issuable upon conversion of series A preferred stock and 302,356 shares issuable upon exercise of warrants because conversion of any of those shares of series A preferred stock or exercise of any of those warrants would result in the holder beneficially owning in excess of 4.99% of the then issued and outstanding shares of common stock outstanding at that time. Gustavo Montilla may be deemed to have voting or investment control over the shares held by Thunderbird Global Corporation.
- (12) Includes 42,065 shares issuable upon exercise of warrants exercisable within 60 days.
- (13) Includes 38,197 shares issuable upon exercise of options exercisable within 60 days. Does not include 35,556 shares issuable upon conversion of series A preferred stock and 53,334 shares issuable upon the exercise of warrants because conversion of any of those shares of series A preferred stock or exercise of any of those warrants would result in the holder beneficially owning in excess of 4.99% of the then issued and outstanding shares of common stock outstanding at that time.

AVAILABLE INFORMATION

Copies of our Annual Report on Form 10-KSB are being sent to each stockholder with this proxy statement. Upon written request, we will provide, without charge, a copy of our quarterly reports on Form 10-QSB for the quarters ended March 31, 2005, June 30, 2005 and September 30, 2005 to any stockholders of record, or to any stockholder who owns common stock listed in the name of a bank or broker as nominee, at the close of business on April 25, 2006. Any request for a copy of these reports should be mailed to the Secretary, Chembio Diagnostics, Inc., 3661 Horseblock Road, Medford, NY 11763. Stockholders may also receive copies of these reports by accessing the SEC's website at www.sec.gov.

ITEM 1. ELECTION OF DIRECTORS

At the Annual Meeting, the stockholders will elect four directors to serve as our Board of Directors. Each director will be elected to hold office until the next annual meeting of stockholders and thereafter until his successor is elected and qualified. The affirmative vote of a plurality of the shares voted at the Annual Meeting in person or by proxy is required to elect each director. Cumulative voting is not permitted in the election of directors. In the absence of instructions to the contrary, the person named in the accompanying proxy shall vote the shares represented by that proxy for the persons named below as management's nominees for directors. Each of the four nominees currently is a director of the Company.

It is not anticipated that any of the nominees will become unable or unwilling to accept nomination or election, but, if that should occur, the persons named in the proxy intend to vote for the election of such other person as the Board of Directors may recommend.

The following table sets forth, with respect to each nominee for director, the nominee's age, his positions and offices with the Company, the expiration of his term as a director and the year in which he first became a director. Individual background information concerning each of the nominees follows the table. For additional information concerning the nominees, including stock ownership and compensation, see "Executive Compensation," "Beneficial Ownership of the Company's Equity Securities," and "—Certain Transactions With Management And Principal Stockholders."

Name	Age	Position(s) and Office(s) with the Company	Expiration of Term of Director	Initial Date as Director
Lawrence A. Siebert	49	Chief Executive Officer, President and Chairman of the Board	2006 Annual Meeting	May 2004
Dr. Gary Meller	55	Director	2006 Annual Meeting	March 2005
	66	Director		

Gerald A. Eppner		2006 Annual Meeting	March 2005
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Alan Carus	67 Director	2006 Annual Meeting	April 2005
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Lawrence A. Siebert (49), President, Chief Executive Officer and Director. Mr. Siebert was appointed President of Chembio Diagnostics, Inc. and a member of our board of directors upon consummation of the merger with Chembio Diagnostic Systems Inc. Mr. Siebert has been Chairman of Chembio Diagnostic Systems Inc. for approximately 12 years and its President since May 2002. Mr. Siebert's background is in private equity and venture capital investing. From 1982 to 1991, Mr. Siebert was associated with Stanwich Partners, Inc, which during that period invested in middle market manufacturing and distribution companies. From 1992 to 1999, Mr. Siebert was an investment consultant and business broker with Siebert Capital Corp. and Siebert Associates LLC, and was a principal investor in a privately held test and measurement company which was sold in 2002. Mr. Siebert received a JD from Case Western Reserve University School of Law in 1981 and a BA with Distinction in Economics from the University of Connecticut in 1978.

Dr. Gary Meller (55), Director. Dr. Meller was elected to our Board of Directors on March 15, 2005. Dr. Meller has been the president of CommSense Inc., a healthcare business development company, since 2001. CommSense Inc. works with clients in Europe, Asia, North America, and the Middle East on medical information technology, medical records, pharmaceutical product development and financing, health services operations and strategy, and new product and new market development. From 1999 until 2001 Dr. Meller was the executive vice president, North America, of NextEd Ltd., a leading internet educational services company in the Asia Pacific region. Dr. Meller also is a limited partner and a member of the Advisory Board of Crestview Capital Master LLC, which was the lead investor in our series B preferred stock private placement. Dr. Meller is a graduate of the University of New Mexico School of Medicine and has an MBA from the Harvard Business School.

Gerald A. Eppner (66), Director. Mr. Eppner was elected to our Board of Directors on March 15, 2005. Mr. Eppner is Counsel in the Corporate and Finance Department of Kaye Scholer where his practice includes matters under the federal securities laws. He has engaged in private law practice in New York City for over 40 years and retired as a partner in Cadwalader, Wickersham & Taft at the end of 2004 and as Senior Counsel to that firm in 2005. Mr. Eppner is Vice Chairman and General Counsel of Emeritus Capital Partners, LLC, a New York City-based capital strategies firm that specializes in large asset-based securitizations and secondary market intermediation of senior life settlement insurance portfolios. He is also a Managing Director of Access Equity Partners, LLC, a New York-and Chicago-based venture capital firm. Prior to coming to New York, Mr. Eppner was an employee of agencies and departments of the United States government.

Alan Carus, CPA (67), Director, Audit Committee chair. Mr. Carus was elected to Chembio's Board of Directors on April 15, 2005. He is a co-founder of LARC Strategic Concepts LLC, a consulting firm dedicated to guiding emerging companies to next stage development. Prior to co-founding LARC Strategic Concepts LLC, Mr. Carus was Senior Vice President of Maritime Overseas Corporation ("MOC") and a senior executive of Overseas Ship holding Group, Inc. ("OSG") from 1981 to 1998 when he retired. MOC was managing agent for OSG, one of the world's largest ship-owners. He was a member of OSG's senior management committee and had senior responsibility in areas relating to administration, accounting, tax, finance, budgets, long-range projections, and human resources. Mr. Carus was involved in numerous acquisitions, debt and equity offerings, complex transaction structuring, and was active in the management of OSG's major investments in the cruise industry and other development stage companies. From 1964 to 1981, he was with Ernst & Young (including predecessors), the last seven years as a partner. Mr. Carus has a B.B.A. from the Baruch School of Business of the City College of New York.

Recommendation of the Board of Directors

The Board of Directors unanimously recommends that the stockholders vote FOR the election of the four nominees listed above.

INFORMATION REGARDING THE BOARD OF DIRECTORS

AND EXECUTIVE OFFICERS

Other Executive Officers

The following table sets forth with respect to each other executive officer, the officer's age, the officer's positions and offices with the Company, the expiration of his term as an officer and the period during which he has served, either the Company or Chembio Diagnostic Systems Inc.

**Name Age Position With
Company**