

ESPERION THERAPEUTICS INC/MI
Form SC 14D9/A
January 21, 2004

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14D-9
(RULE 14D-101)

SOLICITATION/RECOMMENDATION STATEMENT UNDER SECTION 14(d) (4)
OF THE SECURITIES EXCHANGE ACT OF 1934
AMENDMENT NO. 2

ESPERION THERAPEUTICS, INC.
(Name of Subject Company)

ESPERION THERAPEUTICS, INC.
(Name of Person(s) Filing Statement)

COMMON STOCK, PAR VALUE \$0.001 PER SHARE
(Title of Class of Securities)

29664R 10 6
(CUSIP Number of Class of Securities)

ROGER S. NEWTON, PH.D.
PRESIDENT AND CHIEF EXECUTIVE OFFICER
ESPERION THERAPEUTICS, INC.
3621 SOUTH STATE STREET
695 KMS PLACE
ANN ARBOR, MI 48108
(734) 332-0506

(Name, Address and Telephone Number of Person Authorized to Receive Notices and
Communications on Behalf of the Person(s) Filing Statement)

With a copy to:
LINDA L. GRIGGS, ESQ.
MORGAN, LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004
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FACSIMILE: (202) 739-3001

___ Check the box if the filing relates solely to preliminary communications
made before the commencement of a tender offer.

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* Explanatory Note. Esperion Therapeutics, Inc. (the "Company") hereby amends its Solicitation/Recommendation Statement on Schedule 14D-9, filed with the SEC on January 7, 2004, as previously amended by Amendment No. 1 thereto filed on January 8, 2004. The Company is amending its Schedule 14D-9 to include two additional exhibits, and to make corrections to the Summary Compensation Table that was included in the Rule 14f-1 Information Statement attached as Annex A to the Schedule 14D-9.

ITEM 3. PAST CONTRACTS, TRANSACTIONS, NEGOTIATIONS AND AGREEMENTS.

(b) AGREEMENTS WITH PARENT.

The Merger Agreement. On January 16, 2004, the Company, Purchaser and Parent amended Section 7.03(d) of the Merger Agreement. A copy of the amendment is attached hereto as Exhibit (e) (12).

ITEM 4. THE SOLICITATION OR RECOMMENDATION.

On January 13, 2004, the United States Federal District Court for the District of Connecticut issued an order, a copy of which is attached hereto as Exhibit (e) (13), approving a settlement between the Company and Durus Life Sciences Master Fund and the Sacane Group whereby the Company is to be paid \$32.2 million dollars.

ITEM 9. EXHIBITS

EXHIBIT NO.	DESCRIPTION
(e) (12)	Amendment to Agreement and Plan of Merger, dated as of January 16, 2004, by and among the Company, Purchaser and Parent.
(e) (13)	Stipulation of Dismissal with Prejudice of the lawsuit brought by the Company against Durus Life Sciences Master Fund, Ltd., Durus Capital Management, LLC, Durus Capital Management (N.A.), LLC, and Scott Sacane.

ANNEX A

EXECUTIVE COMPENSATION

SUMMARY COMPENSATION.

The following table presents information concerning the compensation

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paid to or earned during the last three fiscal years by the Company's Chief Executive Officer and four most highly compensated executive officers. We refer to these persons as the Named Executive Officers.

SUMMARY COMPENSATION TABLE

NAME AND PRINCIPAL POSITION -----	YEAR ----	SALARY (\$) -----	BONUS (\$)(1) -----	OTHER ANNUAL COMPENSATION -----	SECURITIES UNDERLYING OPTIONS (#) -----
Roger S. Newton, Ph.D. President, Chief Executive Officer	2003 2002 2001	\$325,000 312,500 250,000	\$200,000 70,000 100,000	-- -- --	125,000 400,000 30,000
Timothy M. Mayleben Chief Operating Officer and Chief Financial Officer	2003 2002 2001	255,000 236,000 195,000	200,000 36,000 48,750	-- -- --	100,000 250,000 20,000
Brian R. Krause, Ph.D. Senior Vice President, Preclinical Research and Discovery	2003 2002 2001	179,000 168,000 110,833	71,600 15,000 21,000	-- -- --	50,000 60,000 80,000
Jean-Louis H. Dasseux, Ph.D., Vice President, Chemistry and Technologies	2003 2002 2001	183,700 174,900 165,000	91,850 18,000 33,000	-- 35,212 (2) --	50,000 70,000 10,000
William F. Brinkerhoff, Vice President, Business Development	2003 2002 2001	166,500 100,615 --	83,250 10,000 --	-- -- --	50,000 75,000 --

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- (1) Bonuses are reported in the year earned, even if actually paid in a subsequent year.
- (2) Includes \$22,500 in tuition reimbursement and \$12,712 in income and social security taxes paid by the Company in connection with the tuition.
- (3) These amounts represent the Company's matching contributions to the executive officers' 401(k) plan in the year earned, even if actually made in a subsequent year.

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SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

By: /s/ Roger S. Newton, Ph.D.

Name: Roger S. Newton, Ph.D.

Title: President and Chief Executive Officer

Dated: January 21, 2004

EXHIBIT INDEX

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