

Testimony of

# Mr. Kim D. Blickenstaff

Chairman and Chief Executive Officer  
Biosite, Inc.  
June 28, 2006

Kim Blickenstaff Testimony to Senate Judiciary Committee Hearing: "Hedge Funds and Analysts: How Independent is their Relationship?"  
June 28, 2006

Chairman Specter and distinguished members of the Committee, thank you for inviting me to testify today. My name is Kim Blickenstaff and I am a founder, Chairman and CEO of Biosite Incorporated. Briefly, Biosite is a San Diego-based medical diagnostics company focused on improving diagnosis of critical diseases. The Company completed its initial public offering in 1997.

My testimony today relates to a period in 2002 during which Biosite experienced a rise in its stock price accompanied by highly negative research coverage that contained inaccuracies and speculation. During this same period the Company's short position increased six-fold. In many cases the distribution of reports seemed timed to off-set positive business developments. Due in large part to our experience during this period, we believe that the unregulated activities of independent research firms and their possible links to hedge funds merits further investigation.

To provide context I will share specific situations that have influenced my perspective. In the Spring of 2002, Biosite's business had upward momentum following reports of several positive financial and scientific developments. The stock had increased from \$13 per share in January to approximately \$19 in early February to \$36 in May of that same year. Much of the enthusiasm was fueled by investor belief that the market for our Triage® BNP Test, a new test to detect heart failure, could be substantial. I believe the rapid rise of our share price and the opportunity for negative speculation about the entry of competition into this rapidly growing market set the stage for what we experienced next.

In the ten months from February to December 2002, the number of shares controlled by short sellers increased from 690,000 to 7.1 million shares, which represented nearly 50% of our outstanding stock.

During this same period, Sterling Financial Investment Group, a Florida-based research firm, issued at least seven negative research reports on Biosite, each carrying a SELL/SELL SHORT recommendation, and an \$11 target price. Contrary to standard industry practices, no author was listed on these reports. We believe that these reports contained numerous inaccurate or false and misleading statements, which ultimately lent volatility to the stock's performance, thereby harming many of our long-term, fundamentally-based investors.

? In a number of reports issued in the Summer and Fall of 2002 Sterling predicted the failure of our BNP Test due to the expected entry of a competitive test. In several of these reports, Sterling included outright inaccuracies regarding competitive advantages that supposedly favored the competitive test. The reports also included inaccuracies and misstatements regarding Biosite's test performance, which also were construed to present an advantage for our competitor.

? On September 11, 2002, the same day Biosite issued positive news, a column written by Sally Yanchus appeared on the web site RealMoneyPro.com. The column, which was critical of Biosite, was posted to Yahoo's Biosite message board.

Ms. Yanchus previously participated on Biosite quarterly conference calls under the affiliation Nightingale and Farber. We were subsequently able to link Ms. Yanchus to Sterling Research through a NASD Disciplinary Panel Decision,

dated April 15, 2005, which refers to her admission of knowingly including inaccuracies in reports on another healthcare company while working on behalf of Sterling Financial.

? On November 18, 2002, members of our management team, including myself, met with an analyst from Sterling at an American Heart Association meeting. During our discussion the Sterling analyst told us her research at the conference had elicited positive feedback on our BNP Test. She also acknowledged that certain reports did contain inaccuracies, but indicated that what her Research Director wanted written was not necessarily in line with her views. She further maintained that the Company would continue to do well and expressed her own surprise as to why her managers felt the stock was a good short target. When asked why she was writing negative material about the Company she said that her role was research and that the reports were in fact written by someone else, who was at liberty to revise her research. She also said she was considering leaving Sterling because of the way they were operating.

During this entire period our BNP Test was in fact gaining market momentum, with sales growing from \$3.4 million in 2001 to \$38 million in 2002. Despite the progress being made by Biosite, our investors continued to see their investments compromised by volatility in the stock, fueled by the dissemination of these reports.

In the Fall of 2002, we attempted to investigate the activities of short sellers and their links to Sterling. Unfortunately, the lack of visibility into these trades made it impossible for our investigators to definitively produce a link between Sterling's activities and the resulting increase in our short position. Nevertheless, we believe the parallels between the magnitude of Sterling's research activity and Biosite's short position are more than mere coincidence.

Thank you very much Mr. Chairman, for the opportunity to give this testimony, and I am open to any questions.