

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported): **August 25, 2009**

CNS RESPONSE, INC.

(Exact name of Company as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

0-26285
(Commission File No.)

87-0419387
(I.R.S. Employer
Identification No.)

2755 Bristol Street, Suite 285
Costa Mesa, CA 92626
(Address of principal executive offices)

(714) 545-3288
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 8.01 Other Events.

CNS Response, Inc. (the "Company") is providing certain information for the benefit of its stockholders regarding the status of litigation involving the Company and Leonard J. Brandt, a stockholder, current director and former Chief Executive Officer of the Company.

United States District Court - - CNS Response, Inc. v. Leonard Brandt, EAC Investment Limited Partnership and EAC Investment, Inc. (Case No. SACV 09-00756-CJC)

As previously announced, on July 2, 2009, the Company filed its initial complaint against Leonard Brandt ("Brandt"), a stockholder, current director and former Chief Executive Officer of the Company, and EAC Investment Limited Partnership and EAC Investment, Inc. (collectively, "EAC"), another stockholder of the Company. In that complaint, the Company alleges that Brandt has violated sections 14(a) and 13(d) of the Securities Exchange Act of 1934, as amended, and related SEC rules and regulations (the "Exchange Act"), in connection with his ongoing campaign to seize control of the Company by unseating the incumbent directors (other than Brandt). The Company alleges that EAC violated Section 13(d) of the Exchange Act. As part of the suit, the Company is seeking an injunction enjoining the use of proxies and written consents that Brandt or the other defendants have obtained in violation of law, an injunction or declaratory judgment declaring all of the proxies obtained by Brandt to be invalid, an injunction against further unlawful proxy solicitation by the defendants, an injunction enjoining any further violations of Section 13(d) and 14(a) under the Exchange Act and ordering that remedial disclosures be filed, and damages in an amount to be determined.

Brandt responded to the Company's complaint by filing a motion to dismiss on July 27, 2009 pursuant to Rule 12(b)(6) of the federal rules of civil procedure, basing his motion on two primary arguments: (i) that he had filed preliminary proxy materials, preliminary consent solicitation materials and an amended Schedule 13D with the SEC, and those filings cured any alleged violations and (ii) that the Company faced no imminent threat of harm from Brandt's alleged misdeeds and, therefore, is not entitled to injunctive relief. EAC moved to dismiss the complaint against it on the basis that the Company had filed the action in the wrong venue. The Company filed its oppositions to the motions to dismiss on August 10, 2009. On August 18, 2009, the court denied the motions to dismiss, finding, among other things, that the Company's complaint adequately pled a basis for relief and that whether Brandt's filings could cure the alleged violations of sections 14(a) and 13(d) were questions of fact that cannot be resolved in a motion to dismiss.

On August 17, 2009, Brandt distributed to Company stockholders by email a preliminary proxy materials and a form of proxy card. On August 21, 2009, the Company filed a motion for temporary restraining order to enjoin Brandt from using any invalidly obtained proxies or consents, including any obtained in response to his preliminary proxy statement distribution. The Company alleged, among other things, that the delivery of preliminary proxy materials including a proxy card violates Rule 14a-4(f) under the Exchange Act and that the disclosure contained in or omitted from those materials violates Rule 14a-9 under the Exchange Act. On August 25, 2009, the court denied the Company's motion for the temporary restraining order, citing, among other things, an affidavit provided by Brandt that he will not solicit proxies until he has filed a definitive proxy statement with the Securities and Exchange Commission.

The Company intends to continue with its action against Brandt and the other defendants for injunctive and other relief as described above.

Delaware Chancery Court – CNS Response, Inc. v. Leonard Brandt, MEYERLEN LLC, EAC Investment Limited Partnership and "John Does 1-20" (Any CNS Stockholder Purporting to be Among Holders of Shares Constituting 25% Of the Company's Stock As Referenced In the June 20, 2009 Notice Of Special Meeting) – C.A. No. 4688-CC

On June 26, 2009, the Company commenced an action in the Delaware Court of Chancery against Leonard Brand and certain other parties in connection with Brandt's efforts to seize control of the Company by unseating the incumbent directors (other than Brandt). In its complaint, the Company alleges that Brandt's actions in connection with his purported special meeting notices and attempts to call and hold a special meeting violate certain provisions of the Delaware General Corporation Law (the "DGCL"), and seeks declaratory and injunctive relief to invalidate a special meeting called by Brandt.

On June 26, 2009, the Company also moved for issuance of a temporary restraining order against Brandt's holding a special meeting. Brandt opposed the motion, and on June 29 the Chancery Court heard and denied the Company's motion for a temporary restraining order, on the grounds that the Company could seek relief from Brandt's actions after his special meeting occurred.

On August 12, 2009, Brandt and Defendant MeyerLen, LLC filed an answer to the Company's June 26, 2009 complaint. In addition, Brand filed a counterclaim and third-party complaint against the Company, the Company's other directors, affiliates of one of the directors, and an investor who is not an employee, officer or director of the Company. In his answer and the counterclaims and third party claims, Brandt alleges, among other things, that the other directors acted without authority in connection with his removal as the CEO and violated their fiduciary duties in connection with their consideration and approval of certain financings completed by the Company subsequent to Brandt's termination as CEO. Brandt alleges that certain defendants aided and abetted the directors in their breaches and wrongful acts. Brandt also asks the court to invalidate certain bylaw changes adopted by the Company's board of directors. The Company believes all of these allegations are without merit and intends to vigorously defend itself against them.

On August 24, 2009, Brandt filed a motion seeking an injunction against the Company's issuance of any shares of its stock to John Pappajohn or Sail Ventures pursuant to existing agreements between the Company and those investors, and against the implementation of the Company's previously-announced bylaw amendments. The Company intends to oppose this motion.

Delaware Chancery Court – Leonard J. Brandt v. CNS Response, Inc., C.A. no. 4773-CC

On July 31, 2009, Brandt filed an action under Section 220 of the DGCL asking the Chancery Court to require the Company to provide him with certain Company books and records, including stockholder information. On July 31 Brandt also requested emergency injunctive relief against the Company compelling the Company to provide the records immediately. The Company opposed the motion. On August 3, 2009 the Chancery Court heard argument and denied the requested emergency relief. On August 24, 2009, the Company answered the complaint and asserted affirmative defenses to it.

Additional Information and Where to Find It

The Company intends to file a proxy statement with the Securities and Exchange Commission ("SEC") in connection with its Annual Meeting. CNS SECURITYHOLDERS ARE URGED TO READ THE PROXY STATEMENT AND ANY OTHER RELEVANT DOCUMENTS FILED OR THAT WILL BE FILED WITH THE SEC WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION. Securityholders will be able to receive the proxy statement and other relevant documents free of charge at the SEC's website at www.sec.gov or from the Company at 2755 Bristol Street, Suite 285, Costa Mesa, CA 92626.

Participants in Solicitation

CNS and its directors (other than Leonard J. Brandt) and executive officer (George Carpenter, who also serves as a director) may be deemed to be participants in the solicitation of proxies or consents in respect of the matters to be considered at the Company's 2009 Annual Meeting of Stockholders the purported special meeting called by Leonard Brandt or any consent solicitation undertaken by Brandt. Securityholders may obtain information regarding the names, affiliations and interests of such individuals in CNS's Form 10-K and Form 10-K/A filings with the SEC on January 13, 2009 and January 28, 2009, respectively. To the extent holdings of CNS securities of the participants have changed since the amounts reflected in those filings, such changes have been or will be reflected on Statements of Change in Ownership on Form 4 or Form 5 filed by those persons with the SEC. Additional information regarding the interests of these persons in these matters will be included in the Company's definitive proxy statement.

SIGNATURES

Pursuant to the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

CNS Response, Inc.

August 25, 2009

By: /s/ George Carpenter
George Carpenter
Chief Executive Officer
