

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

FORM S-8
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

CNS RESPONSE, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

87-0419387

(I.R.S. Employer
Identification No.)

**85 Enterprise, Suite 410
Aliso Viejo, California 92656**

(Address of Principal Executive Offices)

**CNS Response, Inc.
Amended and Restated 2006 Stock Incentive Plan**

(Full title of the plan)

**George Carpenter
Chief Executive Officer
85 Enterprise, Suite 410
Aliso Viejo, California 92656
(714) 545-3288**

(Name, address, including zip code, and telephone
number, including area code, of agent for service)

With a copy to:

**Jeffrey A. Baumel, Esq.
Sonnenschein, Nath & Rosenthal, LLP
Two World Financial Center
New York, New York 10281
(212) 768-6700**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large Accelerated Filer Accelerated Filer Non-Accelerated Filer Smaller Reporting Company

CALCULATION OF REGISTRATION FEE

| Title of each class of securities to be registered | Amount to be registered (1) | Proposed maximum offering price per share | Proposed maximum aggregate offering price | Amount of registration fee |
|-------------------------------------------------------|--------------------------------|----------------------------------------------|----------------------------------------------------|----------------------------------|
| Common Stock, par value \$0.001 per share(2) | 7,075,000 | \$ 0.55 | \$ 3,891,250 | \$ 277.45 |
| Common Stock, par value \$0.001 per share | 2,925,000 | \$ 0.73(3) | \$ 2,135,250(3) | \$ 152.24(3) |
| Total | 10,000,000 | - | \$ 6,026,500 | \$ 429.69 |

(1) Pursuant to Rule 416(a) under the Securities Act of 1933, this registration statement also covers any additional securities that may be offered or issued in connection with any stock split, stock dividend or similar transaction.

(2) With respect to options to purchase 8,475,000 shares of the Registrant's common stock previously granted under the plan with an exercise price of \$0.55 per share, of which 7,075,000 shares were not previously registered and were therefore subject to approval of the plan amendment at the 2010 annual meeting of stockholders.

(3) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(h) promulgated under the Securities Act of 1933, as amended, and based on an assumed price of \$0.73 per share, which was the average of the bid and asked prices for the Common Stock on the OTC Bulletin Board as of April 22, 2010.

EXPLANATORY NOTE

The registration statement on Form S-8 is being filed solely to register additional securities of the same class as other securities for which a registration statement filed on Form S-8 and relating to the CNS Response, Inc. 2006 Stock Incentive Plan (the "Plan") is effective. The Board of Directors of CNS Response, Inc. (the "Company") approved the CNS Response, Inc. Amended and Restated 2006 Stock Incentive Plan (the "Amended and Restated Plan") to increase the maximum number of shares of common stock that may be issued in connection with awards granted under the Plan from 10,000,000 to 20,000,000 shares and to increase the number of shares subject to awards granted to any one participant during any fiscal year from 3,000,000 to 4,000,000 shares. The Company's stockholders approved the Amended and Restated Plan at the Company's annual meeting of stockholders on April 27, 2010. This Registration Statement covers the additional 10,000,000 shares of Common Stock that may be issued under the Amended and Restated Plan. In accordance with General Instruction E on Form S-8, the Company hereby incorporates by reference the Company's registration statement on Form S-8 (No. 333-150398) originally filed with the Securities and Exchange Commission on April 23, 2008.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information specified in Item 1 and Item 2 of Part I of this Registration Statement is omitted from this Registration Statement in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the "Securities Act"), and the introductory note to Part I of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

We are incorporating by reference important business and financial information about us that we file with the SEC. Any information that we incorporate by reference is considered part of this prospectus.

The following documents have been filed by the Company with the Securities and Exchange Commission (the "Commission") and are incorporated herein by reference (Commission File No. 000-26285):

- Annual Report on Form 10-K for the fiscal year ended September 30, 2009, filed on December 30, 2009, as amended by Forms 10-K/A filed on January 25, 2010 and March 30, 2010, respectively;
- Quarterly Report on Form 10-Q for the quarter ended December 31, 2009, filed on February 16, 2010;
- Current Reports on Form 8-K filed with the SEC on December 31, 2009, January 7, 2010, February 24, 2010, March 9, 2010, March 18, 2010 and April 5, 2010;
- The Company's Proxy Statement dated April 1, 2010, filed in connection with the Company's April 27, 2010 Annual Meeting of Stockholders; and
- Description of the Company's common stock, par value \$0.001 per share, contained in its Registration Statement on Form 10-SB filed on June 7, 1999, including any amendments or reports filed for the purpose of updating such description.

All information filed after the date hereof by the Registrant with the Commission (other than Current Reports on Form 8-K furnished pursuant to Item 2.02 or Item 7.01 of Form 8-K, unless otherwise indicated therein) pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be part hereof from the date of filing of such information and automatically adds to, updates or supersedes the information listed above; provided, however, that the documents enumerated above or subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act in each year during which the offering made hereby is in effect prior to the filing with the Commission of the Registrant's Annual Report on Form 10-K covering such year shall not be incorporated by reference herein or be a part hereof from and after the filing of such Annual Report on Form 10-K.

Any statement contained in a document incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is incorporated by reference herein modified or superseded such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

None.

Item 6. Indemnification of Directors and Officers.

The Company's Certificate of Incorporation eliminates the personal liability to the Company or its stockholders for monetary damages for any breach of fiduciary duty by a director to the fullest extent permitted by Delaware law, except that personal liability shall not be eliminated or limit the liability of a director (i) for breach of the director's duty of loyalty to the Company or its stockholders (ii) for any act or omission by the director which is not in good faith or which involves intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law of the State of Delaware, or (iv) for any transaction from which the director derived an improper personal benefit. In addition, the Company's Certificate of Incorporation includes provisions that generally indemnify any officer, director, employee or agent from and against any and all expenses, liabilities and loss reasonably incurred or suffered by him in connection with any proceeding in which he may become involved as a party or otherwise, by reason of the fact that he is or was a director, officer, employee or agent of the Company, to the extent permitted by Delaware law as it may be amended from time to time.

All of our directors and officers are covered by insurance policies maintained by the Company against certain liabilities for actions taken in their capacities as such, including liabilities under the Securities Act.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

| <u>Exhibit No.</u> | <u>Description</u> |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.1 | Amended and Restated 2006 Stock Incentive Plan (incorporated by reference to Appendix A to the Definitive Proxy Statement on Schedule 14A filed by the Registrant on April 1, 2010) |
| 5.1 | Opinion of Sonnenschein, Nath & Rosenthal LLP |
| 23.1 | Consent of Sonnenschein, Nath & Rosenthal LLP (included in Exhibit 5.1) |
| 23.2 | Consent of Cacciamatta Accountancy Corporation, independent registered public accounting firm |
| 24.1 | Powers of Attorney (included on the signature page of this Registration Statement) |

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) to file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement to include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

(2) that, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof;

(3) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Aliso Viejo, State of California on April 27, 2010.

CNS RESPONSE, INC.
(Registrant)

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

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, each of the undersigned constitutes and appoints George Carpenter and Paul Buck and each of them, as attorneys-in-fact and agents, with full power of substitution and resubstitution, for and in the name, place and stead of the undersigned, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement or any registration statement for this offering that is to be effective upon the filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and all post-effective amendments thereto, and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as the undersigned might or could do in person, hereby ratifying and confirming all that each of said attorney-in-fact or substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

| | |
|------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| By: <u>/s/ George Carpenter</u> George Carpenter Chief Executive Officer Director <i>(Principal Executive Officer)</i> | <u>April 27, 2010</u> Date |
| By: <u>/s/ Paul Buck</u> Paul Buck Chief Financial Officer <i>(Principal Financial and Accounting Officer)</i> | <u>April 27, 2010</u> Date |
| By: <u>/s/ David B. Jones</u> David B. Jones Director | <u>April 27, 2010</u> Date |

By: _____
Jerome Vaccaro, M.D.
Director

Date

By: /s/ Henry T. Harbin, M.D.
Henry T. Harbin, M.D.
Director

April 27, 2010
Date

By: /s/ John Pappajohn
John Pappajohn
Director

April 27, 2010
Date

EXHIBIT INDEX

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| 24.1 | Powers of Attorney (included on the signature page of this Registration Statement) |

1221 Avenue of the Americas
New York, NY 10020-1089
212.768.6700
212.768.6800 fax
www.sonnenschein.com

April 29, 2010

CNS Response, Inc.
85 Enterprise, Suite 410
Aliso Viejo, California 92656

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

In our capacity as counsel to CNS Response, Inc., a Delaware corporation (the "**Company**"), we have been asked to render this opinion in connection with a registration statement on Form S-8 (the "**Registration Statement**"), being filed contemporaneously herewith by the Company with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "**Act**"), covering 10,000,000 shares (the "**Shares**") of common stock, par value \$0.001 per share, of the Company issuable pursuant to the terms of the Company's Amended and Restated 2006 Stock Incentive Plan (the "**Plan**").

We are delivering this opinion to the Company at its request in accordance with the requirements on Item 601(b)(5) of Regulation S-K under the Act.

In connection with rendering this opinion, we have examined and are familiar with (i) the Company's Certificate of Incorporation, as amended, (ii) the Company's By-Laws, (iii) the Plan, (iv) the Registration Statement, (v) corporate proceedings of the Company relating to the Plan, and (vi) such other instruments and documents as we have deemed relevant under the circumstances.

In making the aforesaid examinations, we have assumed the genuineness of all signatures and the conformity to original documents of all copies furnished to us as original or photostatic copies. We have also assumed that the corporate records furnished to us by the Company include all corporate proceedings taken by the Company to date.

Based upon the foregoing and subject to the assumptions and qualifications set forth herein, we are of the opinion that the Shares have been duly and validly authorized and, when issued and paid for in accordance with the terms of the Plan, will be duly and validly issued, fully paid and non-assessable.

The foregoing opinion is limited to the laws of the United States of America and Delaware corporate law (which includes the Delaware General Corporation Law and applicable provisions of the Delaware constitution, as well as reported judicial opinions interpreting same) and does not purport to express any opinion on the laws of any other jurisdiction.

We hereby consent to the use of our opinion as an exhibit to the Registration Statement. In giving such consent, we do not hereby admit that we come within the category of persons whose consent is required under Section 7 of the Act, or the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ SONNENSCHN NATH & ROSENTHAL LLP

SONNENSCHN NATH & ROSENTHAL LLP

CONSENT OF INDEPENDENT REGISTERED
PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 of CNS Response, Inc. of our report dated December 29, 2009 included in the Annual Report on Form 10-K of CNS Response, Inc. dated December 30, 2009 relating to the consolidated financial statements of CNS Response, Inc. and its subsidiaries for the two-year period ended September 30, 2009.

/s/Cacciamatta Accountancy Corporation
CACCIAMATTA ACCOUNTANCY CORPORATION

Santa Ana, California
April 28, 2010
