

FORWARD INDUSTRIES INC
Form 8-K
February 18, 2015

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): **February 16, 2015**

Forward Industries, Inc.

(Exact name of registrant as specified in its charter)

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| New York (State or other jurisdiction of incorporation) | 000-6669 (Commission File Number) | 13-1950672 (IRS Employer Identification No.) |
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477 Rosemary Ave. Ste. 219

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|--|----------------------------|
| West Palm Beach, FL (Address of principal executive offices) | 33401 (Zip Code) |
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Registrant's telephone number, including area code: **(561) 465-0030**

(Former name or former address, if changed since last report.)

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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 (*see* General Instruction A.2. below):

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))

Item 1.01. Entry into a Material Definitive Agreement.

Settlement Agreement and Mutual Release

On February 16, 2015, Forward Industries, Inc. (Forward or the Company) entered into a settlement agreement and mutual release (the Agreement) with the Company s former Chief Financial Officer (CFO), James McKenna, in connection with a lawsuit filed by Mr. McKenna on August 26, 2014 in the U.S. District Court for the Southern District of New York against the Company and then-directors Frank LaGrange Johnson, Robert Garrett, John F. Chiste, Timothy Gordon and Owen P.J. King (the SDNY Lawsuit), alleging purported claims of retaliation for whistleblowing under the Dodd-Frank Act, breach of contract and breach of the covenant of good faith and fair dealing all as against the Company, and a single claim for tortious interference with contract as against the individual defendants. The complaint sought an unspecified amount of monetary consequential damages and punitive damages.

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Pursuant to the Agreement, Mr. McKenna and the Company have agreed to settle and release all disputes or claims against the other party related to the SDNY Lawsuit and any such disputes or claims arising out of Mr. McKenna's employment with the Company, without an admission of liability or wrongdoing. The Company additionally offered to reinstate Mr. McKenna as CFO; however, Mr. McKenna rejected the offer of employment to pursue other opportunities. Under the Agreement, Mr. McKenna will receive a cash payment of \$315,000, representing 18 months' salary at the rate specified in Mr. McKenna's Amended Employment Agreement, signed between the Company and Mr. McKenna and dated October 26, 2012. Mr. McKenna will also receive approximately \$375,000 in legal fees, back pay, prior out-of-pocket benefits, taxes and penalties on Mr. McKenna's 401(k) loan, and accrued paid time off, in addition to 35,000 restricted stock units vesting immediately. The Agreement includes customary non-disparagement and release provisions.

On February 17, 2015, in connection with the foregoing, the Company issued a press release thanking Mr. McKenna for service to Forward.

A copy of the press release is attached as Exhibit 99.1 to this Current Report on Form 8-K and incorporated herein by reference.

Amendment to Supply Agreement

On February 18, 2015, the Company entered into Amendment No. 2 (the "Amendment") to the Amended and Restated Buying Agency and Supply Agreement (the "Supply Agreement") with Forward Industries (Asia-Pacific) Corporation (formerly known as Seaton Global Corporation), a BVI corporation ("Agent"), dated as of February 17, 2015. The Amendment extends the term of the Supply Agreement, as amended, until September 11, 2015, during which time the parties to the Supply Agreement intend to negotiate towards a long-term renewal of the underlying arrangement. The Supply Agreement, as amended, provides that, upon the terms and subject to the conditions set forth therein, Agent shall act as the Company's exclusive buying agent and supplier of Products (as defined in the agreement) in the Asia-Pacific region. The Company shall purchase products at Agent's cost and shall pay a service fee to Agent. Terence Bernard Wise, the Chairman of the Company, is a principal of Agent.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit 99.1 Press Release, dated February 17, 2015.

Forward Looking Statements

This Current Report on Form 8-K contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, that reflect the Company's current expectations and projections about its future results, performance, prospects and opportunities. The Company has tried to identify these forward-looking statements by using words such as may, should, expect, hope, anticipate, believe, intend, plan, estimate and similar expressions. These forward statements are based on information currently available to the Company and are subject to a number of risks, uncertainties and other factors that could cause its actual results, performance, prospects or opportunities to differ materially from those expressed in, or implied by, these forward-looking statements. No assurance can be given that the actual results will be consistent with the forward-looking statements. Investors should read carefully the factors described in the Risk Factors section of the Company's filings with the SEC, including the Company's Form 10-K for the year ended September 30, 2014 for information regarding risk factors that could affect the Company's results. Except as otherwise required by Federal securities laws, the Company undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events, changed circumstances or any other reason.

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SIGNATURES

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

FORWARD INDUSTRIES, INC.

Dated: February 18, 2015

By: /s/ Michael Luetkemeyer
Name: Michael Luetkemeyer
Title: Interim President