

LANDAIR CORP
Form SC 13D/A
December 17, 2002

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

SCHEDULE 13D/A

Under the Securities Exchange Act of 1934
(Amendment No. 2)

Landair Corporation

(Name of Issuer)

Common Stock

(Title of Class of Securities)

514757103

(CUSIP Number)

Scott M. Niswonger
430 Airport Road
Greeneville, Tennessee 37745
(423) 783-1300

(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

December 17, 2002

(Date of Event which Requires Filing
of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition which is the subject of this Schedule 13D/A, and is filing this schedule because of Rule 13d-1(e), (f) or (g), check the following box. []

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be filed for the purpose of Section 18 of the Securities Exchange Act of 1934 (Act) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

(1) NAMES OF REPORTING PERSONS
I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

Scott M. Niswonger

(2) CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP* (a) x
(b) o

(3) SEC USE ONLY

(4) SOURCE OF FUNDS

BK, PF

(5) CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) OR 2(e) o

(6) CITIZENSHIP OR PLACE OF ORGANIZATION

United States

NUMBER OF SHARES	(7) SOLE VOTING POWER 4,242,630 shares of Common Stock
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BENEFICIALLY OWNED BY EACH	(8) SHARED VOTING POWER 0 shares of Common Stock
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REPORTING PERSON WITH	(9) SOLE DISPOSITIVE POWER 4,242,630 shares of Common Stock
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(10) SHARED DISPOSITIVE POWER 0 shares of Common Stock

(11) AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON
shares of Common Stock, consisting of 4,241,730 shares of Common Stock held directly and 900 shares held indirectly.

(12) CHECK BOX IF AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES o

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(13) PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

58.0% of Common Stock

(14) TYPE OF REPORTING PERSON

IN, HC

(1) NAMES OF REPORTING PERSONS
I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

John A. Tweed

(2) CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP* (a) x
(b) o

(3) SEC USE ONLY

(4) SOURCE OF FUNDS

BK, PF

(5) CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) OR 2(e) o

(6) CITIZENSHIP OR PLACE OF ORGANIZATION

United States

NUMBER OF SHARES	(7) SOLE VOTING POWER 948,786 shares of Common Stock
BENEFICIALLY OWNED BY EACH	(8) SHARED VOTING POWER 0 shares of Common Stock
REPORTING PERSON WITH	(9) SOLE DISPOSITIVE POWER 948,786 shares of Common Stock
	(10) SHARED DISPOSITIVE POWER 0 shares of Common Stock

(11) AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON
shares of Common Stock, consisting of 948,786 shares of Common Stock held directly.

(12) CHECK BOX IF AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES o

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(13) PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

13.0% of Common Stock

(14) TYPE OF REPORTING PERSON

IN

ITEM 1. SECURITY AND ISSUER.

This Amendment No. 2 to Schedule 13D relates to the common stock, par value \$0.01 per share (the Common Stock), of Landair Corporation, a Tennessee corporation (the Issuer). The principal executive offices of the Issuer are located at 430 Airport Road, Greeneville, Tennessee 37745.

ITEM 2. IDENTITY AND BACKGROUND.

- (a) This 13D/A Statement is being filed by Scott M. Niswonger and John A. Tweed (collectively the Reporting Persons). The Reporting Persons are filing this Statement together because they may be considered a group within the meaning of Section 13(d)(3) of the Act with respect to the transaction described in Item 4 of this Statement. Except as otherwise expressly set forth in this Statement, each Reporting Person disclaims beneficial ownership of the shares of Common Stock beneficially owned by the other Reporting Person. The Agreement between the Reporting Persons relating to the joint filing of this Schedule is attached as Exhibit 1 to this Schedule 13D/A. This Schedule 13D/A constitutes Amendment No. 2 to the Schedule 13D filed by Scott M. Niswonger on June 26, 2000 and Amendment No. 2 to Schedule 13D filed by John A. Tweed on January 5, 2001.
- (b) The business address of each Reporting Person is 430 Airport Road, Greeneville, Tennessee 37745.
- (c) Mr. Niswonger is Chairman and Chief Executive Officer of Landair Corporation and Chairman and Chief Executive Officer of Forward Air Corporation, each located at 430 Airport Road, Greeneville, Tennessee 37745. Mr. Tweed is President and Chief Operating Officer of Landair Corporation. Landair Corporation is a high-service-level truckload carrier that transports a wide range of commodities in both intrastate and interstate commerce. Forward Air Corporation is a provider of scheduled surface transportation for deferred air freight to freight forwarders, integrators and airlines.
- (d) During the last five years, neither Reporting Person has been convicted in a criminal proceeding.
- (e) During the last five years, neither Reporting Person has been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction where, as a result of such proceeding, it was subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, Federal or State securities laws or finding any violation with respect to such laws.
- (f) Each Reporting Person is a citizen of the United States.

ITEM 3. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION.

Under the proposed transaction, the Reporting Persons would initiate a tender offer to acquire all of the Issuer's outstanding Common Stock which they do not already own. The Reporting Persons estimate that the total amount of funds required to purchase all of the Issuer's outstanding Common Stock which they do not already own, settle outstanding options and pay transaction costs will be \$33 million. This figure does not include the purchase price for 5,191,416 shares owned by the Reporting Persons. The Reporting Persons anticipate that funds to consummate the proposed transactions will be obtained from the proceeds of a loan from First Tennessee Bank National Association (Lender). The loan will be made pursuant to definitive agreements to be entered into pursuant to a Commitment Letter dated December 17, 2002 (the Commitment Letter), entered into by Landair Acquisition Corporation (LAC), a corporation wholly-owned by the Reporting Persons, and Lender. The terms of the Commitment Letter provide for Lender to make available to LAC two credit facilities (i) a \$25,000,000 loan for a term of forty days (the Acquisition Loan) and (ii) a \$25,000,000 term loan (the Term Loan) which will be closed at the end of the term of the Acquisition Loan and upon consummation of a short-form merger between the Issuer and LAC and the proceeds of which will be applied to the payment of the principal of the Acquisition Loan. Funding of the loans is subject to a number of conditions, including the negotiation and execution of definitive loan documents satisfactory to the parties, the satisfaction of the conditions to the proposed tender offer and other customary closing conditions. Additionally, as a condition to the funding of the loans, the Reporting Persons entered into a Capital Contribution Agreement, dated December 17, 2002, whereby the Reporting Persons agreed that if the funds received from the loans are insufficient to purchase all of the shares of Landair Common Stock tendered pursuant to the tender offer and to pay all related fees and expenses, the Reporting Persons would contribute capital to LAC in such amounts that, when combined with the proceeds of the loans, will fund the Company's purchase of all shares of Landair Common Stock tendered in the tender offer and pay all related fees and expenses.

ITEM 4. PURPOSE OF TRANSACTION.

By letter dated October 10, 2002, the Reporting Persons submitted a buyout proposal to the Issuer's Board of Directors to acquire all of the Issuer's outstanding shares not already owned by them (representing approximately 29% of the Issuer's outstanding shares) for a price of \$13.00 per share payable in cash. On December 17, 2002, the Reporting Persons delivered a letter to the Issuer notifying it that the Reporting Persons proposed to initiate a tender offer to acquire all of the Issuer's outstanding shares of Common Stock, including shares issuable upon the exercise of currently outstanding options, for the \$13.00 per share price presented in the Reporting Persons' October 10, 2002 buyout proposal. The Reporting Persons have indicated that the tender offer will be conditioned on the availability to and receipt of all financing necessary to fund the tender offer and related transactions.

The Reporting Persons will seek to receive acceptances from holders of at least enough shares of the Issuer's outstanding common stock so that, when combined with the Reporting Persons' current ownership, the Reporting Persons' ownership of the Issuer's common stock reaches at least 90% on a fully diluted basis. If this 90-percent ownership threshold is achieved, the Reporting Persons, through LAC, plan to acquire all remaining outstanding shares of the Issuer's common stock through a subsequent short-form merger. Shareholders of the Issuer who do not participate in the tender offer and do not exercise statutory dissenters' rights would also receive \$13.00 in cash for their shares of the Issuer's common stock in the short-form merger.

If the transaction is completed, it is expected that the Common Stock will be removed from registration, the Issuer will cease to be a reporting company under the 1934 Act, and the Common Stock will cease to be quoted through NASDAQ or any other interdealer quotation system.

The Reporting Persons expect to evaluate on an ongoing basis the Company's financial condition, business, operations and prospects, market price of the Common Stock, conditions in securities markets generally, general economic and industry conditions and other factors. Accordingly, the Reporting Persons reserve the right to change their plans and intentions at any time, as they deem appropriate. In particular, the Reporting Persons may at any time and from time to time acquire additional shares of Common Stock or securities convertible or exchangeable for Common Stock or dispose of shares of Common Stock. Any such transactions may be effected at any time and from time to time, subject to any applicable limitations of the Securities Act of 1933, as amended, and the 1934 Act.

Except as set forth in this Item 4 and in furtherance of the proposed transaction, the Reporting Persons presently have no plans or proposals which would relate to or result in any of the actions set forth in Parts (a) through (j) of Item 4 of Schedule 13D. The information set forth in this Item 4 is qualified in its entirety by the terms of the Reporting Persons' December 17, 2002 proposal letter, a copy of which is attached as Exhibit 2 to this Schedule 13D/A.

ITEM 5. INTERESTS IN SECURITIES OF THE ISSUER.

Name of Reporting Person	Amount Beneficially Owned ⁽¹⁾	Percent of Class
Scott M. Niswonger	4,242,630 ⁽²⁾	58.0%
John A. Tweed	948,786 ⁽³⁾	13.0%

- (1) Each Reporting Person has the sole power to vote, dispose, and direct the disposition of the shares listed for his name. No such power is shared by either Reporting Person.
- (2) Includes 450 shares held by Mr. Niswonger for his grandson and 450 shares held by Mr. Niswonger's spouse for her daughter.
- (3) Does not include options for 75,000 shares which will vest in equal annual 25% increments over a 4 year period beginning February 7, 2003.
- (c) No transactions in the Issuer's Common Stock were effected by the Reporting Persons during the past 60 days or since the most recent filing of Schedule 13D, whichever is less.
- (d) See information set forth in Item 6.
- (e) Not applicable.

ITEM 6. CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS, OR RELATIONSHIPS WITH RESPECT TO SECURITIES OF THE ISSUER.

On December 28, 2000, Mr. Tweed purchased 750,000 shares of Common Stock of the Issuer in a negotiated transaction at a price of \$3.00 per share, for a total consideration of \$2,250,000. The source of funds was a five year full recourse promissory note (the Note) given to Scott M. Niswonger, as holder, by John A. Tweed, as maker. The Note bears interest at the minimum applicable federal rate and becomes due and payable on the fifth anniversary of the date of the Note. The Note is secured by a Pledge and Security Agreement between John A. Tweed, as pledgor, and Scott M. Niswonger, as Lender. Under the Pledge and Security Agreement, the 750,000 shares of Common Stock are pledged as collateral to secure repayment of the Note. Mr. Tweed retains the right to vote the pledged shares so long as no default has occurred under the Pledge and Security Agreement. No such default has occurred.

The Reporting Persons may act together to contribute their respective shares of Common Stock to an entity used to effectuate the proposed transaction.

ITEM 7. MATERIAL TO BE FILED AS EXHIBITS.

- Exhibit 1 Commitment Letter, dated December 17, 2002, by and between First Tennessee Bank National Association and Landair Acquisition Corporation
- Exhibit 2 Capital Contribution Agreement, dated December 17, 2002, by and among Scott M. Niswonger, John A. Tweed and Landair Acquisition Corporation
- Exhibit 3 Proposal letter dated December 17, 2002
- Exhibit 4 Joint Filing Agreement, dated October 17, 2002 by and between Scott M. Niswonger and John A. Tweed

SIGNATURES (Schedule 13D/A)

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

By: */s/ Scott M. Niswonger*

Scott M. Niswonger

By: */s/ John A. Tweed*

John A. Tweed

Date: December 17, 2002