
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

Amendment No. 1 to

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): **December 17, 2018**

RESHAPE LIFESCIENCES INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation)

1-33818

(Commission File Number)

48-1293684

(I.R.S. Employer Identification
Number)

**1001 Calle Amanecer
San Clemente, CA**

(Address of principal executive offices)

92673

(Zip Code)

(949) 429-6680

(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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Explanatory Note

On December 18, 2018, ReShape Lifesciences Inc. (the “Company”) filed a Current Report on Form 8-K (the “Original Report”) with the Securities and Exchange Commission to report that effective as of December 17, 2018, the Company completed the transactions contemplated by the Asset Purchase Agreement with Apollo Endosurgery, Inc. (“Apollo”) pursuant to which the Company acquired from Apollo substantially all of the assets exclusively related to Apollo’s Lap-Band product line and Apollo acquired from the Company substantially all of the assets exclusively related to the Company’s ReShape Balloon product line. In addition, the Company agreed to pay Apollo \$17 million in cash, of which \$10 million was paid at the closing of the transaction, \$2 million is payable on the first anniversary of the closing date, \$2 million is payable on the second anniversary of the closing date, and \$3 million is payable on the third anniversary of the closing date.

This Amendment No. 1 to the Original Report is being filed to provide certain pro forma financial information giving effect to the Company’s sale of the assets of the ReShape Balloon product line as required by Item 9.01(b) of Form 8-K

Item 9.01 Financial Statements and Exhibits.

(b) *Pro Forma Financial Information.*

The unaudited pro forma financial information giving effect to the Company’s sale of the assets of the ReShape Balloon product line as required by Item 9.01(b) of Form 8-K are attached hereto as Exhibit 99.1. The pro forma financial information does not include information related to fiscal year 2016 because the Company did not acquire the assets related to the ReShape Balloon product line until October 2017.

(d) *Exhibits.*

| <u>Exhibit No.</u> | <u>Description</u> |
|--------------------|---|
| 99.1 | Unaudited pro forma financial information |

SIGNATURES

Pursuant to the requirements of 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.

RESHAPE LIFESCIENCES INC.

By: /s/ Scott P. Youngstrom
Scott P. Youngstrom
Chief Financial Officer

Dated: December 21, 2018

RESHAPE LIFESCIENCES INC
UNAUDITED PRO FORMA CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

On December 17, 2018, ReShape Lifesciences Inc. (the “Company”) completed the previously announced transactions contemplated by the Asset Purchase Agreement with Apollo Endosurgery, Inc. (“Apollo”) pursuant to which the Company acquired from Apollo substantially all of the assets exclusively related to Apollo’s Lap-Band product line and Apollo acquired from the Company substantially all of the assets exclusively related to the Company’s ReShape Balloon product line. In addition, the Company agreed to pay Apollo \$17 million in cash, of which \$10 million was paid at the closing of the transaction, \$2 million is payable on the first anniversary of the closing date, \$2 million is payable on the second anniversary of the closing date, and \$3 million is payable on the third anniversary of the closing date. These unaudited pro forma condensed financial statements give effect to the sale of the ReShape Balloon product line.

The unaudited pro forma condensed consolidated statements of operations of the Company for the fiscal year ended December 31, 2017 assumes the transaction had occurred on October 2, 2017. The unaudited pro forma condensed consolidated balance sheet of the Company as of September 30, 2018 assumes the transaction had occurred on September 30, 2018.

The unaudited pro forma condensed consolidated financial statements and the accompanying notes should be read in conjunction with the audited consolidated financial statements and accompanying notes and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included in the Company’s Form 10-K for the fiscal year ended December 31, 2017 and subsequent quarterly reports on Form 10-Q.

The unaudited pro forma condensed consolidated financial statements represent the Company’s best estimates and are provided for illustrative and informational purposes only and are not intended to represent or be indicative of what the Company’s results of operations or financial position would have been had the transaction occurred on the dates indicated. The unaudited pro forma condensed consolidated financial statements also should not be considered representative of the Company’s future results of operations or financial position.

RESHAPE LIFESCIENCES INC
PRO FORMA CONDENSED CONSOLIDATED STATEMENT OF OPERATIONS (unaudited)
For the Nine Months Ended September 30, 2018

| | <u>Historical ReShape Lifesciences</u> | <u>Balloon Sale(1)</u> | <u>Pro Forma Continuing Operations</u> |
|---|--|------------------------|--|
| Revenue | 1,953,603 | 1,797,258 | 156,345 |
| COGS | 1,727,659 | 1,641,731 | 85,928 |
| Research and Development | 6,379,098 | 1,431,405 | 4,947,693 |
| Selling, General and Administrative costs | 20,842,388 | 12,465,375 | 8,377,013 |
| Depreciation & Amortization | 2,289,977 | 2,057,954 | 232,024 |
| Interest Expense | (1,502) | (0) | (1,502) |
| Interest Income | 891 | (891) | 1,782 |
| Other Expense | 27,323,951 | 13,131,726 | 14,192,225 |
| Other Income | 1,494 | (1,500) | 2,994 |
| Total costs and expenses | 58,563,956 | 30,725,799 | 27,838,157 |
| Income before income taxes | (56,610,353) | (28,928,541) | (27,681,812) |
| Income tax benefit | 3,121,670 | 1,860 | 3,119,810 |
| Net Loss | (59,732,023) | (28,930,401) | (30,801,623) |

(1) Represents the Company's best estimates of revenues, expenses, assets, liabilities and stockholders' equity attributable to the ReShape Balloon product line.

RESHAPE LIFESCIENCES INC
PRO FORMA CONDENSED CONSOLIDATED STATEMENT OF OPERATIONS (unaudited)
For the Fiscal Year Ended December 31, 2017

| | <u>Historical ReShape Lifesciences</u> | <u>Balloon Sale(1)</u> | <u>Pro Forma Continuing Operations</u> |
|---|--|------------------------|--|
| Revenue | 1,287,154 | 717,994 | 569,160 |
| COGS | 936,386 | 603,110 | 333,276 |
| Research and Development | 5,775,098 | 330,883 | 5,444,215 |
| Selling, General and Administrative costs | 29,496,232 | 3,152,741 | 26,343,491 |
| Depreciation & Amortization | 925,464 | 689,420 | 236,044 |
| Interest Expense | 3,874 | 2,310 | 1,564 |
| Interest Income | (1,066) | (890) | (176) |
| Other Expense | 283,749 | | 283,749 |
| Other Income | | | — |
| Total costs and expenses | 37,419,737 | 4,777,573 | 32,642,164 |
| Income before income taxes | (36,132,583) | (4,059,579) | (32,073,004) |
| Income tax benefit | (2,314,611) | — | (2,314,611) |
| Net Loss | (33,817,972) | (4,059,579) | (29,758,393) |

(1) Represents the Company's best estimates of revenues, expenses, assets, liabilities and stockholders' equity attributable to the ReShape Balloon product line.

RESHAPE LIFESCIENCES INC
PRO FORMA CONDENSED CONSOLIDATED BALANCE SHEET (unaudited)
As of September 30, 2018

| | Historical ReShape Lifesciences | Balloon Sale(1) | Pro Forma Continuing Operations |
|--|---------------------------------------|-------------------|---------------------------------------|
| ASSETS | | | |
| Current Assets: | | | |
| Cash and cash equivalents | 472,873 | 96,016 | 376,857 |
| Receivables, net | 532,095 | 523,826 | 8,269 |
| Inventory | 1,057,753 | 732,912 | 324,841 |
| Other current assets | 601,115 | 241,874 | 359,241 |
| Total Current Assets | 2,663,836 | 1,594,628 | 1,069,208 |
| Intangible assets, net | 44,127,057 | 22,418,976 | 21,708,081 |
| Goodwill | | | — |
| Property and equipment, net | 181,192 | 142,929 | 38,263 |
| Other assets | 81,756 | 71,000 | 10,756 |
| Total Assets | 47,053,841 | 24,227,533 | 22,826,308 |
| LIABILITIES and EQUITY | | | |
| Current Liabilities: | | | |
| Accounts payable | 4,427,823 | 1,222,018 | 3,205,805 |
| Accrued payroll and related costs | 770,942 | 127,562 | 643,380 |
| Accrued expenses and other current liabilities | 3,637,714 | 787,714 | 2,850,000 |
| Income taxes payable | | (16,478) | 16,478 |
| Total current liabilities | 8,836,479 | 2,120,816 | 6,715,663 |
| Warrant Liability | 74 | | 74 |
| Other long term liabilities | 2,168,761 | 0 | 2,168,761 |
| Total Liabilities | 11,005,314 | 2,120,816 | 8,884,498 |
| RSLs stockholders' equity | | | |
| Preferred stock | 966 | | 966 |
| Common stock | 839,335 | | 839,335 |
| Additional paid-in capital | 427,430,206 | | 427,430,206 |
| Current year loss | (53,488,683) | (12,816,155) | (40,672,528) |
| Retained earnings/Net parent investment | (338,733,297) | 34,922,872 | (373,656,169) |
| Total RSLs stockholders' equity | 36,048,527 | 22,106,717 | 13,941,810 |
| Total Liabilities and Equity | 47,053,841 | 24,227,533 | 22,826,308 |

(1) Represents the Company's best estimates of revenues, expenses, assets, liabilities and stockholders' equity attributable to the ReShape Balloon product line.