

SONIC AUTOMOTIVE INC
Form 8-K
November 12, 2003

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): November 12, 2003

SONIC AUTOMOTIVE, INC.

(Exact Name of Registrant as Specified in Charter)

Delaware

(State or Other Jurisdiction of Incorporation)

1-13395
(Commission File Number)

56-201079
(I.R.S. Employer Identification No.)

5401 E. Independence Boulevard,

Charlotte, North Carolina

28212

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(Address of Principal Executive Offices)

(Zip Code)

Registrant's telephone number, including area code: (704) 566-2400

OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Please see details of our litigation with Andrew J. Manning, a former employee of the Company, described in Note 8 to our consolidated condensed financial statements above.

From time to time, the Company is a defendant or plaintiff in various legal actions which arise in the normal course of business. As such the Company is required to assess the likelihood of any adverse outcomes to these matters as well as potential ranges of probable losses. A determination of the amount of the provision required for these commitments and contingencies, if any, which would be charged to earnings, is made after careful analysis of each matter. The provision may change in the future due to new developments or changes in circumstances. Changes in the provision could increase or decrease the Company's earnings in the period the changes are made.

ITEM 1A. RISK FACTORS

As a "smaller reporting company" as defined by Item 10 of Regulation S-K, the Company is not required to provide information required by this Item.

ITEM 2. UNREGISTERED SALES OF SECURITIES AND USE OF PROCEEDS

The Company did not sell any unregistered securities during the third quarter ended September 30, 2011.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

In connection with the FN Strategic Transaction described above, the Company was required to file an Amendment to its Restated Certificate of Incorporation with the Secretary of State of the State of Delaware to increase the number of authorized shares of the Company's Common Stock. The increase in the number of authorized shares of Common Stock (the "Amendment") is needed in order for the Company to have adequate reserves of Common Stock available for issuance upon exercise of any of the Warrants issued to Cicco, conversion of any of the Notes issued to Cicco, and conversion and/or exercise of previously issued notes, debentures, options and warrants.

The Company's previous Restated Certificate of Incorporation, as amended, authorized the issuance of a total of 3,100,000,000 shares, consisting of 3,000,000,000 shares of Common Stock, par value \$0.01 per share, and 100,000,000 shares of Preferred Stock, par value \$0.01 per share. The Amendment increased the total number of authorized shares to 4,500,000,000 and in particular increased the number of authorized shares of Common Stock to 4,400,000,000. The Board of Directors adopted a resolution approving the Amendment, subject to stockholder approval. Written consents from a majority of the Company's stockholders were received as of July 7, 2011 approving the Amendment. The Company filed a Definitive 14C Information Statement describing the Amendment and the terms thereof with the SEC and mailed such filed Information Statement to each of its shareholders after July 26, 2011. The Amendment became effective twenty (20) days from the date of the mailing.

Each of the newly authorized shares of Common Stock will have the same rights and privileges as currently authorized Common Stock. The new shares, like the currently authorized shares, will not have preemptive rights. The Amendment will not change the par value of the Common Stock.

The terms of the additional shares of Common Stock will be identical to those of the currently outstanding shares of Common Stock. However, because holders of Common Stock have no preemptive rights to purchase or subscribe for any unissued stock of the Company, the issuance of additional shares of Common Stock will reduce the current stockholders' percentage ownership interest in total outstanding shares of authorized Common Stock. The Amendment and the creation of additional shares of authorized Common Stock will not alter the current number of issued shares.

ITEM 5. OTHER INFORMATION

Executive Resignation, Appointment and Compensation

As reported by the Company in a Current Report on Form 8-K dated September 30, 2011, Theo Kremers resigned from his position as the Company's Chief Executive Officer ("CEO") effective September 30, 2011 and Martin Koster was appointed the new CEO of the Company effective October 1, 2011. Mr. Koster had joined the management team of the Company as its President and Chief Operating Officer in April, 2011.

For his services, the Company has agreed to pay Mr. Koster an increase annual base salary of 210,000 (\$328,131) per year for a period of two (2) years. Additionally, the Company agreed to issue to Mr. Koster options to purchase an aggregate of Fifty Million (50,000,000) shares of the Company's common stock, \$.01 par value, which options are exercisable for a period of thirty-six months from the date of issuance, vest and are exercisable as described below, and are on such additional terms as shall be set forth in a definitive option agreement to be entered into between the Company and Mr. Koster. Of such options, Twenty-Five Million shares shall vest immediately at an exercise price of \$.024 per share, Ten Million shares shall vest within six (6) months of the issuance date at an exercise price of \$.030 per share, Ten Million shares shall vest within one (1) year of the issuance date at an exercise price \$.05 per share and Five Million shares shall vest within two (2) years of the issuance date at an exercise price of \$.150 per share. Mr. Koster shall be eligible to receive additional equity options as part of his annual compensation based upon future individual and Company performance.

ITEM 6. EXHIBITS

The following Exhibits are filed as part of this Report or incorporated herein by reference:

- 4.11 Form of Amended and Restated Convertible Promissory Note. (1)
- 4.12 Form of Amended and Restated Convertible Promissory Note replacing the original June 2008 Convertible Notes. (2)
- 4.13 Form of Amended and Restated Convertible Promissory Note replacing the original March 2009 Convertible Debentures. (2)
- 4.14 Form of Amended and Restated Convertible Promissory Note replacing the original October 2009 I Convertible Debentures and October 2009 II Convertible Debentures with Stitching Gemeenschappelijk Bezit LTC. (2)
- 4.15 Form of Amended and Restated Convertible Promissory Note replacing the original January 2010 Convertible Note with Arch Hill Capital. (2)
- 4.16 Form of Amended and Restated Convertible Promissory Note replacing the original replacement Q2 2010 Convertible Debentures with Stitching Gemeenschappelijk Bezit LTC. (2)
- 10.30 Securities Purchase Agreement dated March 30, 2011 by and between Lithium Technology Corporation and Cicco Holding AG. (1)
- 10.31 Joint Venture and Shareholder's Agreement dated March 30, 2011 by and between GAIA Holding B.V. and Cicco Holding AG. (1)
- 10.32 Letter Agreement effective as of February 14, 2011 by and between Lithium Technology Corporation and OUIDA Management Consultancy BV. (1)
- 10.33 Letter Agreement dated as of March 28, 2011 by and between Lithium Technology Corporation and FMSUD Consultancy B.V. (1)

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- 10.34 Letter Agreement dated as of April 1, 2011 by and between Lithium Technology Corporation and FMSUD Consultancy B.V. (1)
- 10.35 Letter Agreement dated as of March 28, 2011 by and between Lithium Technology Corporation and Dr. Christian van den Berg. (1)
- 10.36 Form of Indemnification Agreement. (1)
- 10.37 Shareholder's Agreement dated March 30, 2011 by and between Arch Hill Capital, B.V., Stichting Gemeenschappelijk Bezit LTC and Cicco Holding AG. (2)
- 10.38 Letter Agreement dated April 12, 2011 from Arch Hill Capital B.V. terminating the Governance Agreement. (2)
- 10.39 Letter Agreement dated January 3, 2011 by and between Lithium Technology Corporation and Arch Hill Capital N.V. (3)
- 10.40 Letter Agreement dated January 13, 2011 by and between Lithium Technology Corporation and Fidessa Asset Management S.A. (3)
- 10.41 Lease Agreement between Lithium Technology Corporation and W&J Enterprises, LLC dated as of October 29, 2010. (2)
- 10.42 Addendum to Agreement of Payment between GAIA Akkumulatorenwerke GmbH and TBG Technologie-Beteiligungs-Gesellschaft mbH dated as of November 17, 2010. (2)
- 10.43 Agreement between Lithium Technology Corporation and Arch Hill Capital dated as of November 12, 2010. (2)
- 10.44 Letter Agreement dated November 8, 2011 between Gaia Akkumulatorenwerke GmbH and Thüringer Aufbaubank.+
- 31.1 Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes Oxley Act of 2002.+
- 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes Oxley Act of 2002.+
- 32.1 Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.+
- 32.2 Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.+
- 101.INS XBRL Instance Document
- 101.SCH XBRL Taxonomy Extension Scheme Document
- 101.CAL XBRL Taxonomy Extension Calculation Linkbase Document
- 101.DEF XBRL Taxonomy Extension Definition Linkbase Document

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101.LAB XBRL Taxonomy Extension Label Linkbase Document

101.PRE XBRL Taxonomy Extension Presentation Linkbase Document

+ Exhibit filed herewith in this Report.

- (1) Incorporated by reference to the Company's Current Report on Form 8-K dated and filed with the United States Securities and Exchange Commission on April 7, 2011.
- (2) Incorporated by reference to the Company's Amendment to its Annual Report on Form 10-K for the fiscal year ended December 31, 2010 filed with the United States Securities and Exchange Commission on December 19, 2011.
- (3) Incorporated by reference to Arch Hill Capital's Schedule 13D, Amendment No. 17, dated and filed with the United States Securities and Exchange Commission on May 4, 2011.
- (4) Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the three months ended March 31, 2011 filed with the United States Securities and Exchange Commission on May 19, 2011.

SIGNATURES

In accordance with Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

LITHIUM TECHNOLOGY
CORPORATION

Date: December 29, 2011

BY: /s/ Martin Koster
Martin Koster
Chief Executive
Officer
(Principal Executive
Officer)

LITHIUM TECHNOLOGY
CORPORATION

Date: December 29, 2011

BY: /s/ Timothy J. Ryder
Timothy J. Ryder
Chief Financial Officer
(Principal Financial
and Accounting
Officer)