

TOUSA INC
Form 8-K
May 28, 2008

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):

May 22, 2008

TOUSA, Inc.

(Exact name of registrant as specified in its charter)

Delaware

001-32322

76-0460831

(State or other jurisdiction
of incorporation)

(Commission
File Number)

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

4000 Hollywood Blvd., Suite 500 N,
Hollywood, Florida

33021

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

954-364-4000

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))

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Item 1.01 Entry into a Material Definitive Agreement.

On May 27, 2008, the United States Bankruptcy Court for the Southern District of Florida, Fort Lauderdale Division (the "Court") entered an order (the "Order") further extending the interim termination date under the Senior Secured Super-Priority Debtor in Possession Credit and Security Agreement, dated as of January 29, 2008, (as amended on March 15, 2008 and April 29, 2008 (the "DIP Credit Agreement")) from May 23, 2008 to June 11, 2008 (as extended, the "Interim Termination Date"). The Order also terminated the Commitments (as defined in the DIP Credit Agreement) under the DIP Credit Agreement, and any and all obligations related thereto. All other terms of the DIP Credit Agreement and the Court's Interim Order (i) Authorizing the Debtors to Obtain Post petition Financing on a Superpriority and Priming Basis Pursuant to Sections 363 and 364 of the Bankruptcy Code, (ii) Granting Priming Liens and Superpriority Claims to Post petition Lenders Pursuant to Section 364(c) and (d) of the Bankruptcy Code, (iii) Authorizing use of Cash Collateral Pursuant to Section 363 of the Bankruptcy Code, (iv) Providing Adequate Protection to Prepetition Secured Lenders Pursuant to Sections 361, 362, 363, and 364 of the Bankruptcy Code and (v) Prescribing Form and Manner of Notice and Scheduling Time for Final Hearing, dated January 31, 2008 (the "Interim Order"), dated January 31, 2008, continue to govern through and including the extended Interim Termination Date.

Item 9.01 Financial Statements and Exhibits.

Forward-looking statements

This Current Report on Form 8-K (including the exhibits) may contain 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, including statements regarding the intent, belief or current expectations of the Company and its management which are made with words such as "will," "expect," "believe," and similar words. Any such forward-looking statements are not guarantees of future performance and involve a number of risks and uncertainties that could materially affect actual results such as, but not limited to: (i) the Company's ability to continue as a going concern; (ii) the ability of the Company to operate pursuant to the terms of its debtor-in- possession credit facility; (iii) the Company's ability to obtain court approval with respect to motions in the Chapter 11 proceeding; (iv) the ability of the Company to develop, confirm and consummate one or more plans of reorganization with respect to the Chapter 11 proceeding; (v) risks associated with third parties seeking and obtaining court approval to terminate or shorten the exclusivity period for the Company to propose and confirm one or more plans of reorganization, for the appointment of a Chapter 11 trustee or to convert the cases to Chapter 7 cases; (vi) the ability of the Company to obtain and maintain normal terms with vendors and service providers; (vii) the Company's ability to maintain contracts that are critical to its operations; (viii) the potential adverse impact of the Chapter 11 cases on the Company's liquidity or results of operations; (ix) the ability of the Company to fund and execute its business plan;(x) the ability of the Company to attract, motivate and/or retain key executives and employees; (xi) the ability of the Company to attract and retain homebuyers and land purchasers; and (xii) other risks and factors regarding the Company and the home building industry identified from time-to-time in the Company's reports filed with the SEC, including the risk factors identified in its Annual Report on Form 10-K for the year ended December 31, 2006, and its Quarterly Reports on Form 10-Q for the quarters ended March 31, June 30, and September 30, 2007, which can also be found on the Company's website at www.tousa.com. All information set forth herein is as of today's date, and the Company undertakes no duty to update this information.

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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.

TOUSA, Inc.

May 28, 2008

By: *Angela Valdes*

Name: Angela Valdes

Title: Vice President and Chief Accounting Officer

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Exhibit Index

| Exhibit No. | Description |
|--------------------|---|
| 99.1 | Order Further Extending Interim Termination Date Under the Senior Secured Super-Priority Debtor-In-Possession Credit and Security Agreement |