

CALMARE THERAPEUTICS Inc
Form DEFA14A
July 02, 2018

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K/A

CURRENT REPORT

**PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported): July 2, 2018 (June 8, 2018)

CALMARE THERAPEUTICS INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of Incorporation)

001-08696

(Commission File Number)

36-2664428

(IRS Employer
Identification Number)

1375 Kings Highway East

Fairfield, CT 06824

(Address of principal executive offices)

203-368-6044

(Registrant's Telephone Number)

N/A

(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

This Current Report on Form 8-K/A (the “Amendment”) is being filed as an amendment to the Current Report on Form 8-K filed by the Registrant on June 15, 2018 (the “Original 8-K”). The Original 8-K was filed with the Securities and Exchange Commission to report the preliminary tally of consents by stockholders (the “Consents”) with respect to the proposals that were submitted to the stockholders by certain minority stockholders on December 5, 2018. The purpose of this Amendment is to (i) provide, in accordance with Item 5.07 of Form 8-K, the information set forth in a report dated June 26, 2018 from an outside independent ballot tabulation firm (IVS Associates, Inc. (“IVS”)) concerning the final tally of the Consents and (ii) update the exhibit to reflect the press release issued by the Registrant on July 2, 2018 announcing the final tally of Consents.

ITEM 5.07. Submission of Matters to a Vote of Security Holders

On June 26, 2018, IVS, an independent ballot tabulation firm, reported the final tally of Consents with respect to the proposals that were submitted to the vote of all stockholders by certain minority stockholders on December 5, 2018. The proposals were neither supported by the management of the Registrant, nor were the proposals supported by four of the five current directors of the Registrant. The final tally is based on information tabulated by IVS. Based on the final tally, none of the proposals were adopted because the proposals did not receive Consents from a majority of the stock outstanding on the February 13, 2018 record date.

As of the close of business on February 13, 2018, the record date for the Consents, there were 38,997,971 shares of common stock of the Registrant (the “Common Stock”) issued and outstanding. The six proposals, none of which were approved by the Company’s stockholders, proposed to remove four of the five current directors, elect new directors to the Board, make three different amendments to the Registrant’s existing Bylaws, and repeal prior amendments to the Bylaws. As shown below, the proposals were not approved because the number of Consents received represented less than a majority of the Common Stock outstanding on the record date.

Set forth below is the final tally calculated by IVS of Consents for each respective proposal.

Proposal 1 – Removal of Four of the Five Current Directors. (This proposal was not approved based on the following final results calculated by IVS.)

| | | | | |
|-----------------|--|------------|------------|------------|
| | <i>Conrad Mir Peter Brennan Rustin Howard Carl O’Connell</i> | | | |
| <i>Consents</i> | 15,083,737 | 15,083,737 | 15,083,737 | 15,083,737 |

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| | | | |
|-------------------------|---------|---------|---------|
| <i>Does Not Consent</i> | 0 | 0 | 0 |
| <i>Revokes Consent</i> | 302,500 | 302,500 | 302,500 |

Proposal 2 – Election of Directors. (This proposal was not approved based on the following final results calculated by IVS.)

| | <i>Stanley Yarbrow</i> | <i>Robert Conway</i> | <i>Steve Roehrich</i> | <i>Robert Davis</i> | <i>Benjamin Large</i> |
|-------------------------|-------------------------------|-----------------------------|------------------------------|----------------------------|------------------------------|
| <i>Consents</i> | 15,083,737 | 15,083,737 | 15,083,737 | 15,083,737 | 15,083,737 |
| <i>Does Not Consent</i> | 0 | 0 | 0 | 0 | 0 |
| <i>Revokes Consent</i> | 302,500 | 302,500 | 302,500 | 302,500 | 302,500 |

Proposal 3 – Amendment to Section 2.01 of the Registrant’s Bylaws. (This proposal was not approved based on the following final results calculated by IVS.)

| | <i>Amendment to Section 2.01 of the Registrant’s Bylaws</i> |
|-------------------------|--|
| <i>Consents</i> | 15,386,237 |
| <i>Does Not Consent</i> | 0 |
| <i>Revokes Consent</i> | 0 |

Proposal 4 – Amendment to Section 7.01 of the Registrant’s Bylaws. (This proposal was not approved based on the following final results calculated by IVS.)

Amendment to Section 7.01 of the Registrant’s Bylaws

Consents 15,386,237

Does Not Consent 0

Revokes Consent 0

Proposal 5 – Amendment to Section 2.01 of the Registrant’s Bylaws. (This proposal was not approved based on the following final results calculated by IVS.)

Amendment to Section 2.01 of the Registrant’s Bylaws

Consents 15,386,237

Does Not Consent 0

Revokes Consent 0

Proposal 6 – Repeal of each Amendment to the Registrant’s Bylaws adopted after October 20, 2010. (This proposal was not approved based on the following final results calculated by IVS.)

Repeal of each Amendment to the Registrant’s Bylaws Adopted after October 20, 2010

Consents 15,083,737

Does Not Consent 0

Revokes Consent 302,500

ITEM 7.01. Regulation FD Disclosure

On July 2, 2018, the Registrant issued a press release titled “Calmare Therapeutics Incorporated Reports Final Tally of Consents by Stockholders.” A copy of the press release is provided herewith as Exhibit 99.1.

ITEM 8.01. Other Events

The information set forth above in Item 5.07 Submission of Matters to a Vote of Security Holders and Item 7.01 Regulation FD Disclosure is hereby incorporated by reference.

ITEM 9.01. Financial Statements and Exhibits

Exhibits.

99.1 Press Release, dated July 2, 2018, titled “Calmare Therapeutics Incorporated Reports Final Tally of Consents by Stockholders.”

Participants in Solicitation

THE COMPANY AND ITS DIRECTORS AND EXECUTIVE OFFICERS ARE DEEMED TO BE PARTICIPANTS IN THE CONSENT REVOCATION SOLICITATION. THESE PARTICIPANTS ARE IDENTIFIED IN THE COMPANY’S AMENDED DEFINITIVE CONSENT REVOCATION STATEMENT (AMENDMENT NO. 1) THAT THE COMPANY FILED WITH THE U.S. SECURITY AND EXCHANGE COMMISSION (“SEC”) ON JANUARY 16, 2018. INFORMATION REGARDING THE INTERESTS OF PARTICIPANTS OF THE COMPANY IN THE SOLICITATION OF CONSENT REVOCATIONS AND OTHER RELEVANT MATERIAL WILL BE FILED WITH THE SEC WHEN THEY BECOME AVAILABLE. SOME OF THIS INFORMATION HAS BEEN INCLUDED IN THE PRELIMINARY CONSENT REVOCATION MATERIALS THAT THE COMPANY FILED WITH THE SEC.

Additional Information

STOCKHOLDERS ARE ENCOURAGED TO READ THE COMPANY’S CONSENT REVOCATION STATEMENT AND SUBSEQUENT FILINGS, TOGETHER WITH ANY OTHER RELEVANT DOCUMENTS THAT THE COMPANY FILES WITH THE SEC WHEN THEY BECOME AVAILABLE. THEY WILL CONTAIN IMPORTANT INFORMATION.

INVESTORS AND SECURITY HOLDERS WILL BE ABLE TO OBTAIN THE DOCUMENTS ELECTRONICALLY, FREE OF CHARGE, FROM THE SEC'S WEBSITE, WWW.SEC.GOV OR THE CALMARE THERAPEUTICS INCORPORATED WEBSITE, WWW.CALMARETHERAPEUTICS.COM, OR IN PRINT FORM BY WRITING TO CALMARE THERAPEUTICS INCORPORATED, 1375 KINGS HWY. STE 400, FAIRFIELD, CT 06824-5380 ATTENTION: INVESTOR RELATIONS.

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 thereunto duly authorized.

July 2, 2018 Calmare Therapeutics
Incorporated

By: /s/ Conrad Mir
Conrad Mir
Chief Executive Officer

EXHIBIT INDEX

| Exhibit | Description |
|-------------|---|
| Number | |
| <u>99.1</u> | <u>Press Release, dated July 2, 2018, titled “Calmare Therapeutics Incorporated Reports Final Tally of Consents by Stockholders”.</u> |