

MEDIFAST INC
Form 10-K/A
November 05, 2007

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-K/A

Amendment No. 2

ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2006

Commission File No. 000-23016

MEDIFAST, INC.

DELAWARE
Incorporation State

13-3714405
Tax Identification number

11445 CRONHILL DRIVE, OWINGS MILLS, MD
Principal Office Address

21117

Phone (410) 581-8042

SECURITIES REGISTERED PURSUANT TO SECTION 12(B) OF THE ACT: NONE

SECURITIES REGISTERED PURSUANT TO SECTION 12(G) OF THE ACT:

COMMON STOCK, PAR VALUE \$.001 PER SHARE

New York Stock Exchange

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Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Yes No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer Accelerated filer Non-accelerated filer

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes No

The aggregate market value of the voting common equity held by non-affiliates of the registrant as of June 30, 2006, based upon the closing price of \$17.87 per share on the American Stock Exchange on that date, was \$208,000,000.

As of March 14, 2007, the Registrant had 13,643,998 shares of Common Stock outstanding.

Explanatory Note

This Amendment No. 2 to our Annual Report on Form 10-K for the fiscal year ended December 31, 2006 is being filed for the sole purpose of updating Item 8, footnote 7, for the estimated future amortization expense on intangible assets pursuant to the restated financial statements filed with the Securities and Exchange Commission on September 6, 2007.

Except as discussed above, we have not modified or updated the disclosure presented in the Amendment No. 1 to Form 10-K for fiscal year ended December 31, 2006 filed on September 6, 2007 with the Securities and Exchange Commission. This Form 10-K/A does not reflect events that have occurred after the filing of the Original Annual Report or modify or update disclosures presented in the Original Annual Report affected by subsequent events. Accordingly, this Form 10-K/A should be read in conjunction with our filings made with the Securities and Exchange Commission ("SEC") subsequent to the date of the filing of the Original Annual Report.

In addition, in accordance with applicable SEC rules, this Form 10-K/A includes updated certifications from our Chief Executive Officer and Chief Financial Officer.

7. TRADEMARKS AND INTANGIBLES

| | As of December 31, 2006 | | As of December 31, 2005 | |
|-------------------------------------|-------------------------|--------------------------|-------------------------|--------------------------|
| | (Restated) | (Restated) | (Restated) | (Restated) |
| | Gross Carrying Amount | Accumulated Amortization | Gross Carrying Amount | Accumulated Amortization |
| Customer lists | \$ 5,587,000 | \$ 1,969,000 | \$ 4,356,000 | \$ 1,398,000 |
| Non-compete agreements | 840,000 | 840,000 | 840,000 | 566,000 |
| Trademarks, patents, and copyrights | | | | |
| finite life | 1,557,000 | 210,000 | 920,000 | 121,000 |
| infinite life | 909,000 | - | 1,059,000 | - |
| Goodwill | - | - | 894,000 | - |
| Total | \$ 8,893,000 | \$ 3,019,000 | \$ 8,069,000 | \$ 2,085,000 |

Amortization expense for the years ended December 31, 2006, 2005 and 2004 was as follows:

| | (Restated) | (Restated) | |
|-------------------------------------|--------------|--------------|------------|
| | 2006 | 2005 | 2004 |
| Customer lists | \$ 774,000 | \$ 1,004,000 | \$ 244,000 |
| Non-compete agreements | 273,000 | 369,000 | 162,000 |
| Trademarks, patents, and copyrights | 152,000 | 58,000 | - |
| Total trademarks and intangibles | \$ 1,199,000 | \$ 1,431,000 | \$ 406,000 |

On January 17, 2006 the Consumer Choice Systems division of the Company was sold which included the sale of \$1,601,000 in gross intangible assets and \$265,000 in accumulated amortization.

The estimated future amortization expense of trademarks and intangible assets is as follows:

| For the years ending December 31, | Amount |
|-----------------------------------|-------------|
| 2007 | \$1,290,000 |
| 2008 | 1,265,000 |
| 2009 | 1,118,000 |
| 2010 | 550,000 |
| 2011 | 545,000 |

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

MEDIFAST, INC.
(Registrant)

/s/ BRADLEY T. MACDONALD

Bradley T. MacDonald
Executive Chairman of the Board
Dated: November 2, 2007

Pursuant to the requirements of the Securities Exchange Act of 1934, the following persons on behalf of the Registrant and in the capacities and on the dates indicated have signed this Report below.

| Name | Title | Date |
|---|---------------------------------|------------------|
| <u>/s/ BRADLEY T. MACDONALD</u> Bradley T. MacDonald | Chairman of the Board, Director | November 2, 2007 |
| <u>/s/ GEORGE LAVIN</u> George Lavin | Director | November 2, 2007 |
| <u>/s/ MICHAEL C. MACDONALD</u> Michael C. MacDonald | Director | November 2, 2007 |
| <u>/s/ MARY T. TRAVIS</u> Mary T. Travis | Director | November 2, 2007 |
| <u>/s/ REV. DONALD F. REILLY, OSA</u> Rev. Donald F. Reilly, OSA | Director | November 2, 2007 |
| <u>/s/ MICHAEL J. MCDEVITT</u> Michael J. McDevitt | Director | November 2, 2007 |
| <u>/s/ JOSEPH D. CALDERONE</u> Joseph D. Calderone | Director | November 2, 2007 |
| <u>/s/ CHARLES P. CONNOLLY</u> Charles P. Connolly | Director | November 2, 2007 |

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/s/ DENNIS M. MCCARTHY

Director

November 2, 2007

Dennis M. McCarthy
