

PRECISION OPTICS CORPORATION, INC.

Form 8-K

November 29, 2016

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) November 22, 2016

PRECISION OPTICS CORPORATION, INC.

(Exact name of registrant as specified in its charter)

Massachusetts **001-10647** **04-2795294**
(State or other jurisdiction (Commission (IRS Employer
of incorporation) File Number) Identification No.)

22 East Broadway, Gardner, Massachusetts **01440**
(Address of principal executive offices) (Zip Code)

(978) 630-1800

(Registrant's telephone number, including area code)

Not applicable.

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(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 (see General Instruction A.2. below):

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))

Item 1.01 Entry into a Material Definitive Agreement.

Item 3.02 Unregistered Sales of Equity Securities.

On November 22, 2016, we entered into securities purchase agreements with accredited investors for the sale and purchase of 1,333,334 units with each unit consisting of one share of our common stock, \$0.01 par value and one warrant to purchase one-half of one share of our common stock, at a purchase price of \$0.60 per unit. We received \$800,000 in gross proceeds from the offering. We intend to use the net proceeds from this placement for general working capital purposes.

The warrants issued in this offering will vest on October 2, 2017 and expire on October 16, 2017. The warrant exercise price is variable and depends on our achievement of certain performance criteria (both defined below). The warrant exercise price will be \$0.40 per share if we achieve both of the revenue and income performance criteria, the exercise price will be \$0.20 per share if we achieve one of the performance criteria, and the exercise price will be \$0.01 if we do not achieve either of the performance criteria.

Pursuant to the revenue criterion, we must achieve at least \$1.85 million of revenue in any one quarter during the fiscal year ending June 30, 2017. Pursuant to the income criterion, we must achieve positive net income in any two quarters, during the fiscal year ending June 30, 2017. Both criteria will be determined under U.S. Generally Accepted Accounting Principles and by our audited consolidated annual financial statements and our quarterly financial statements. Both criteria will not include revenue from extraordinary non-recurring events such as proceeds from strategic agreements that are not tied directly to the delivery of goods and services.

In conjunction with the offering, we also entered into a registration rights agreement with the investors, whereby we are obligated to file a registration statement with the Securities Exchange Commission on or before 90 calendar days after November 22, 2016 to register the resale by the investors of the 1,333,334 shares and warrant shares purchased in the offering.

In conjunction with the offering, certain anti-dilution provisions of the warrants issued in conjunction with our June 25, 2008 and September 28, 2012 financing transactions were triggered. For purposes of this calculation, we assumed that all warrants issued in this offering were exercised at an exercise price of \$0.40. As a result, the number of existing June 25, 2008 warrants increased from 517,222 to 568,776 and the related exercise price of the warrants decreased from \$0.98 to \$0.89 per share. Also, as a result of the offering, the number of existing September 28, 2012 warrants increased from 2,293,013 to 2,503,237 and 222,559 to 240,144, respectively, and the related exercise price decreased from \$1.06 to \$0.97 and from \$0.83 to \$0.77, respectively.

The description of the offering does not purport to be complete and is qualified in its entirety by reference to the complete text of the form of the securities purchase agreement by and among us and the investors, dated November 22, 2016, the form of registration rights agreement by and among us and the investors, dated November 22, 2016, and the form of warrant by and among us and the investors, dated November 22, 2016, which are filed as Exhibits 10.1, 10.2 and 10.3, respectively, to this Current Report on Form 8-K, and are incorporated herein by reference.

The issuance of the shares of common stock was exempt from registration pursuant to the exemption contained in Section 4(a)(2) of the Securities Act of 1933, as amended, and Rule 506 of Regulation D, inasmuch as it was not a public offering since no general solicitation or advertising of any kind was used in connection with the issuance and there was only a limited number of recipients or the recipients were knowledgeable accredited investors who understand the investment risks. Accordingly, the shares issued as part of the offering have not been registered under the Securities Act of 1933, as amended, and until so registered, the securities may not be offered or sold in the United States absent registration or availability of an applicable exemption from registration.

This report does not constitute an offer to sell or the solicitation of an offer to buy, and these securities cannot be sold in any state or jurisdiction in which this offer, solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of any state or jurisdiction. Any offer will be made only by means of a prospectus, including a prospectus supplement, forming a part of the effective registration statement.

This report contains forward-looking statements. Forward-looking statements include, but are not limited to, statements that express our intentions, beliefs, expectations, strategies, predictions or any other statements related to our future activities or future events or conditions. These statements are based on current expectations, estimates and projections about our business based, in part, on assumptions made by our management. These statements are not guarantees of future performances and involve risks, uncertainties and assumptions that are difficult to predict. Therefore, actual outcomes and results may differ materially from what is expressed or forecasted in the forward-looking statements due to numerous factors, including those risks discussed in our Annual Report on Form 10-K and in other documents that we file from time to time with the SEC. Any forward-looking statements speak only as of the date on which they are made, and we do not undertake any obligation to update any forward-looking statement to reflect events or circumstances after the date of this report, except as required by law.

Item 9.01 Financial Statements and Exhibits.

- 10.1 Form of Purchase Agreement, by and among Precision Optics Corporation, Inc. and several Investors, dated November 22, 2016
- 10.2 Form of Registration Rights Agreement, by and among Precision Optics Corporation, Inc. and several Investors, dated November 22, 2016
- 10.3 Form of Warrant, by and among Precision Optics Corporation, Inc. and several Investors, dated November 22, 2016

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.

Precision Optics Corporation, Inc.
(Registrant)

Date November 29, 2016

/s/ Joseph N. Forkey
Name: Joseph N. Forkey

Title: Chief Executive Officer

