
**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:
March 27, 2020

Gaucha Group Holdings, Inc.

(Exact name of registrant as specified in its charter)

Delaware
State of
Incorporation

0-55209
Commission
File Number

52-2158952
IRS Employer
Identification No.

135 Fifth Ave., 10th Floor
New York, NY 10010
Address of principal executive offices

212-739-7650
Telephone number, including
Area code

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 communication 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 communication pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communication 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 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging growth company ☒ [X]

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. ☒ [X]

Securities registered pursuant to Section 12(b) of the Act:

Title of each class
N/A

Trading Symbol(s)

Name of each exchange on which registered

Item 3.03 Material Modification to Rights of Security Holders.

On March 27, 2020, holders of a majority of the issued and outstanding shares of Series B Convertible Preferred Stock (the “Series B Shares”) of Gaucho Group Holdings, Inc. (the “Company”) approved an amendment to the Certificate of Designation of the Series B Convertible Preferred Stock (the “Third Amendment”) and on March 29, 2020, the Board of Directors of the Company unanimously approved the Third Amendment, which extended the period in which holders of the Series B Shares may voluntarily elect to convert such shares into shares of common stock of the Company to December 31, 2020. In addition, the Third Amendment extends the date upon which the Company shall redeem all then-outstanding Series B Shares and all unpaid accrued and accumulated dividends to December 31, 2020. The Third Amendment was filed with the Secretary of State of the State of Delaware on March 30, 2020.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On March 29, 2020, the Board of Directors unanimously approved an extension to Mr. Mathis’ employment agreement with the Company, dated September 28, 2015 (the “Employment Agreement”) to expire on December 31, 2020. All other terms of the Employment Agreement remain the same. The Board of Directors also approved the payment of Mr. Mathis’ cost of living salary adjustment of 3% for the years 2019 and 2020 to be paid in equal monthly installments beginning January 1, 2021, provided the Company has uplisted to a national stock exchange. The Board of Directors granted a retention bonus to Mr. Mathis that consists of the real estate lot on which Mr. Mathis has been constructing a home at Algodon Wine Estates, to vest in one-third increments over the next three years (the “Retention Period”), provided Mr. Mathis’s performance as an employee with the Company continues to be satisfactory, as deemed by the Board of Directors. The current market value of the lot is \$115,000, and before ownership of the lot can be transferred to Mr. Mathis, the Company must be legally permitted to issue a deed for the property. Mr. Mathis is eligible to receive a pro-rata portion of the bonus if his employment is terminated before the end of the Retention Period.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

See item 3.03 above.

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

On March 27, 2020, stockholders holding a majority of the issued and outstanding Series B Shares approved the Third Amendment by written consent pursuant to the Company’s bylaws and the Delaware General Corporation Law.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

- 4.1 [Amendment to the Company’s Certificate of Designation of the Series B Convertible Preferred Stock as unanimously approved by the Board of Directors on March 29, 2020 and the Series B Preferred stockholders on March 27, 2020 and filed with the Delaware Secretary of State](#)
 - 10.1 [Retention Bonus Agreement by and between the Company and Scott L. Mathis dated March 29, 2020](#)
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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on the 1st day of April 2020.

Gaucha Group Holdings, Inc.

By: /s/ Scott L. Mathis

Scott L. Mathis, President & CEO

**AMENDMENT TO THE CERTIFICATE OF DESIGNATION OF SERIES B
CONVERTIBLE PREFERRED STOCK OF
GAUCHO GROUP HOLDINGS, INC.**

**PURSUANT TO SECTION 242 OF THE
DELAWARE GENERAL CORPORATION LAW**

Gaucha Group Holdings, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (hereinafter called the "Corporation"), DOES HEREBY CERTIFY:

That pursuant to resolutions adopted by unanimous consent of the Board of Directors of the Corporation, and the resolutions adopted by the holders of a majority of the issued and outstanding shares of Series B Convertible Preferred Stock, the Certificate of Designation for the Series B Convertible Preferred Stock, \$0.01 par value per share, dated February 21, 2017, as amended on December 3, 2019 and as further amended on January 30, 2020 (the "Certificate of Designation"), is further amended as follows:

1. Section 5(a) of the Certificate of Designation be and it hereby is deleted in its entirety and a new Section 5(a) be inserted in lieu thereof to read as follows:

5. Conversion Rights; Mandatory Conversion. The holders of the Series B Convertible Preferred Stock shall have the following rights and obligations with respect to the conversion of such shares into shares of Common Stock:

(a) **Voluntary Conversion.** Subject to and in compliance with the provisions of this Section 5, on or before December 31, 2020, the holder of shares of Preferred Stock may elect to convert such shares into fully-paid and non-assessable shares of Common Stock, except that the Company shall not be required to convert less than 2,500 shares of Series B Convertible Preferred Stock in the event such holder seeks to convert less than all of such holder's shares. Holders will be notified of the date on which the right to voluntarily convert provided for herein shall expire. The number of shares of Common Stock that a holder of Series B Convertible Preferred Stock shall be entitled to receive upon conversion shall be the product obtained by multiplying the Series B Applicable Conversion Rate (determined as provided in Section 5(b)) by the number of shares of Series B Convertible Preferred Stock being converted at any time.

2. Section 6(a) of the Certificate of Designation be and it hereby is deleted in its entirety and a new Section 6(a) be inserted in lieu thereof to read as follows:

6. Redemption.

(a) **Redemption of Preferred Stock.** Subject to the provisions of Section 5, and any actions previously taken pursuant thereto, on December 31, 2020 (the "Redemption Date"), the Corporation shall redeem all then-outstanding shares of Series B Preferred Stock ("Series B Redemption") for a price per Share equal to the Liquidation Value for such Share, plus all unpaid accrued and accumulated dividends on such Share (whether or not declared) (the "Series B Redemption Price," for all holders collectively, the "Aggregate Series B Redemption Price"). The Aggregate Series B Redemption Price shall be payable in immediately available funds to the respective holders of the Series B Preferred Stock within sixty (60) days following the Redemption Date and the Corporation shall contribute all of its assets to the payment of the Aggregate Series B Redemption Price, and to no other corporate purpose, except to the extent prohibited by applicable Delaware law.

IN WITNESS WHEREOF, this Amendment to the Certificate of Designation has been executed on behalf of the Corporation by its Chief Executive Officer, and attested by its Secretary, this 30th day of March, 2020.

Gauche Group Holdings, Inc.

By: /s/Scott Mathis
Name: Scott Mathis
Title: Chief Executive Officer

Attest:

/s/ Maria Echevarria
Maria Echevarria, Secretary



March 29, 2020

Mr. Scott L. Mathis
Gauchobuenosaires.com
135 Fifth Ave., 10th Floor
New York, NY 10010

Re: Employee Retention Bonus Agreement

Dear Scott:

As I hope you know, Gauchobuenosaires.com, Inc. ("GGH" or the "Company") greatly values the efforts you have made in the past on behalf of the Company. We consider your continued service and dedication to GGH essential to our future, and to incentivize you further to remain employed with GGH and to continue doing the great job you have been doing, we are pleased to offer you a "Retention Bonus."

In recognition of your continued service with GGH from the date of this letter and for an additional three (3) years thereafter (referred to as the "Retention Period"), we are offering you a Retention Bonus as described in more detail below and in the accompanying Schedule A. As you know, GGH's liquid (cash) assets are deployed for building and developing corporate assets, so we are offering you the opportunity to obtain ownership of one of the lots owned by the Company at Algodon Wine Estates ("AWE") in San Rafael, Mendoza, Argentina.

The specific lot which you will have the opportunity to acquire (your "AWE Lot") was previously designated, and as you know you have been building a house on that property with your personal funds.

You will be eligible to receive this Retention Bonus if all of the following eligibility criteria are satisfied:

- Your performance has been satisfactory, as determined in the sole discretion of the Company's Board of Directors, from the date of this letter through the end of the Retention Period; and
- You are actively employed by GGH on the last day of the Retention Period.

Notwithstanding the foregoing, you will be eligible to receive a *pro-rata* portion of the Retention Bonus if your employment by GGH is terminated prior to the last day of the Retention Period. This is explained in Schedule A.

Upon establishing ownership of your AWE Lot at the time the property is deeded to you, the value of that lot (less any amount paid to acquire the lot, as explained in Schedule A) would be treated as taxable U.S. compensation, and you will be responsible for all federal and state income tax owed on that compensation. A Form W-2 or 1099 would be issued for the year in which your AWE Lot is deeded to you.

This letter agreement is intended to comply with, or be exempt from, Section 409A of the Internal Revenue Code of 1986, as amended ("Section 409A") and shall be construed and administered in accordance with Section 409A.

GAUCHO GROUP HOLDINGS, INC. GROUP (OTCQB:VINO)
135 FIFTH AVENUE, FLOOR 10, NEW YORK, NY 10010
(toll free) 866.960.7700 (main) 212.739.7700 (fax) 212.655.0140 | www.gauchobuenosaires.com

This letter agreement and Schedule A attached hereto contain all of the understandings and representations between GGH and you relating to the Retention Bonus and supersedes all prior and contemporaneous understandings, discussions, agreements, representations, and warranties, both written and oral, with respect to the Retention Bonus. This letter agreement may not be amended or modified unless in writing signed by both you and an authorized representative of the Company's Board of Directors.

This letter agreement and all related documents, including Schedule A, and all matters arising out of or relating to this letter agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the law of the State of New York, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of New York.

Please sign and date this letter agreement and return the signed copy to the Company's Chief Financial Officer within fifteen (15) days of the date of this letter.

We very much look forward to your continued employment with GGH.

Very truly yours,

GAUCHO GROUP HOLDINGS, INC.

By: /s/Steven Moel

Steven Moel, Director, on behalf of the Board of Directors

AGREED TO AND ACCEPTED:

/s/Scott L. Mathis

SCOTT L. MATHIS

SCHEDULE A

Employee Name: Scott Mathis (the "Employee")

Retention Bonus Grant Date: March 29, 2020 (the "Grant Date")

Algodon Wine Estates
Lot Number: D11 (the "AWE Lot")

AWE Lot Fair Market Value: U.S. \$ 115,000¹ (the "Purchase Price")

Vesting Schedule: On the third anniversary of the Grant Date, which is the end of the Retention Period, Employee shall be fully vested in the AWE Lot.

If employment with Algodon should terminate prior to the end of the Retention Period for any reason, Employee will have the right to the following: (a) if employment ends on or after the first anniversary of the Grant Date, Employee can purchase the AWE Lot for 67% of the Purchase Price; and (b) if employment ends on or after the second anniversary of the Grant Date, Employee can purchase the AWE Lot for 33% of the Purchase Price.

Employee shall have the right to accept his or her vested interest for 100%, 67% or 33% of the AWE Lot for a period of sixty (60) days after the interest in the AWE Lot vests (the "Vesting Date"). Employee can decline to accept the benefit provided hereby for any reason.

Deeding requirement: Before ownership of the AWE Lot can be transferred to Employee, the Company must be legally permitted to issue a deed for the property. In the event a deed for the AWE Lot is not issuable as of the Vesting Date, Employee's right to ownership shall be delayed without penalty or additional cost until such time as the AWE Lot may be legally deeded.

In the unlikely event that the Company cannot for any reason deliver a deed for the AWE Lot within 24 months after the Vesting Date (e.g., project abandonment, governmental limitations, Act of God), the Company shall provide to Employee a different lot located at AWE that is substantially equivalent in value and which, to the extent practicable, has qualities and attributes (such as location and view) which are similar to those of the AWE Lot.

In light of the foregoing limitations, conditions and potential delays, and to the extent legally permissible, Employee's acceptance of the benefit provided hereunder shall not be deemed to constitute or generate taxable compensation until such time that the AWE Lot (or a mutually agreed upon replacement) is deeded to Employee.

Closing Fees: The usual and customary closing fees associated with the sale of a lot at AWE shall be allocated between the Company and Employee in the same manner as that used in arms' length transactions with unaffiliated lot purchasers.

¹ Fair Market Value is determined as of Grant Date

Property Expenses and
Real Estate Taxes:

All fees and expenses, including maintenance fees generally charged to owners of lots at AWE, and any local real estate taxes, shall remain the responsibility of the Company until the date that the deed for the AWE Lot is transferred to Employee.

After transfer of the Deed, Employee shall be responsible for payment of (a) all maintenance fees charged by AWE, subject to the following paragraph, and (b) all property taxes assessed by the local municipalities or other Argentine tax authorities.

Notwithstanding the foregoing, for a period of seven (7) years following transfer of the deed, maintenance fees assessed by AWE shall be capped at US \$100 per month. At the end of the seven year period, the amount of maintenance fees shall be calculated in accordance with the Company's standard policies and practices used to calculate the fees charged to arms' length lot purchasers, subject to a lifetime maximum of \$250 per month.

The \$250/month limitation is based on the fact that the Company recognizes that 100% of the construction cost of the house located on the AWE Lot and all of its landscaping has been paid for to date entirely by Employee for the benefit of AWE marketing efforts, and that the house being built on the AWE Lot has been used as a model home for the benefit of AWE and will continue to be used as a model home for AWE. This has allowed AWE to show the home to other prospective buyers, show the quality of the construction, induce others to purchase, and help others visualize the "Algodon Lifestyle" and its potential.
