

**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:
August 11, 2023**

Gacho Group Holdings, Inc.

(Exact name of registrant as specified in its charter)

Delaware
State of
Incorporation

001-40075
Commission
File Number

52-2158952
IRS Employer
Identification No.

**112 NE 41st Street, Suite 106
Miami, FL 33137**
Address of principal executive offices

212-739-7700
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

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.

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

Title of each class
Common Stock

Trading Symbol(s)
VINO

Name of each exchange on which registered
The Nasdaq Stock Market LLC

Item 1.01 Entry into a Material Definitive Agreement

As previously reported on our Current Report on Form 8-K filed on February 21, 2023, Gaucho Group Holdings, Inc. (the “Company,” “we,” “us” or “our”), and an institutional investor (the “Holder”) entered into that certain Securities Purchase Agreement, dated as of February 21, 2023 (the “Securities Purchase Agreement”) and the Company issued to the Holder a senior secured convertible note (the “Note”) and warrant to purchase 3,377,099 shares of common stock of the Company (the “Warrant” and together with the Securities Purchase Agreement and the Note, the “Note Documents”).

For the full description of the Note Documents, please refer to our Current Report on Form 8-K and the exhibits attached thereto as filed with the SEC on February 21, 2023.

On May 21, 2023, an Event of Default occurred with respect to the Note. As a result, on August 11, 2023, the Company and the Holder entered into an agreement (the “Letter Agreement”) pursuant to which, among other things: (i) the Holder agreed to forbear from issuing an Event of Default Notice and Event of Default Redemption Notice; (ii) the Holder waived the requirement in the Note to pay Interest on the Note monthly in cash for a certain period of time; (iii) the Holder agreed to waive application of the Default Rate in Note for a certain period of time; (iv) the Holder agreed to waive the requirement in the Note for the Company to prepay, redeem, or convert one quarter of the initial Principal and Interest on the Note by each three (3) month anniversary of the Issuance Date for a certain period of time; (v) the Company adjusted the exercise price of the Warrant from \$1.34 to \$0.45; (vi) the Investor may continue to convert the Note at the Alternate Conversion Price or at \$0.45; (vii) the Investor agreed to waive certain requirements under the Note Documents with respect to the Offering (defined below).

All terms not defined herein shall refer to the defined terms in the Note Documents.

The foregoing description of the Letter Agreement is a summary only, does not purport to be complete and is qualified in its entirety by the full text of the document, a copy of which is attached as Exhibit 10.1, and incorporated herein by reference.

The representations, warranties and covenants contained in the agreements described in Item 1.01 of this Current Report on Form 8-K are not intended to be a source of factual, business or operational information about the Company; were made only for purposes of such agreements and as of specific dates; were solely for the benefit of the parties to such agreements and may be subject to limitations agreed upon by the parties, including being qualified by disclosures for the purpose of allocating contractual risk between the parties instead of establishing matters as facts; and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors or security holders. Accordingly, investors should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of the parties.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth in Item 1.01 of this Current Report on Form 8-K with respect to the Letter Agreement is incorporated by reference into Item 3.02 of this Current Report on Form 8-K.

The shares of common stock that have been and may be issued under the Note Documents and the Letter Agreement are being offered and sold in a transaction exempt from registration under the Securities Act of 1933, as amended (the “Securities Act”), in reliance on Section 4(a)(2) thereof and/or Rule 506(b) of Regulation D thereunder. The Company filed a Form D with the SEC on or about March 3, 2023.

Item 8.01. Other Events.

Pending approval from our Board of Directors, the Company will be raising funds for working capital through the sale of units at \$0.45 per unit, each unit equal to 1 share of common stock and 1/5 of a warrant (the “Units”) for proceeds of up to \$555,379, not including warrant exercise (the “Offering”). Each whole warrant will be exercisable at \$0.45. The Units and shares underlying the warrants are referred to herein as the “Securities”. The Company intends for the Offering to comply with Nasdaq Rule 5635.

The Securities will only be offered to a small select group of accredited investors, as defined in Rule 501 of Regulation D promulgated under the Securities Act, all of whom have a substantial pre-existing relationship with the Company. The Securities will not be registered under the Securities Act and may not be offered or sold in the United States absent registration or an applicable exemption from the registration requirements of the Securities Act and other applicable securities laws. The Securities constitute “restricted securities” and shall bear a restrictive legend.

This current report on Form 8-K is issued in accordance with Rule 135c under the Securities Act, and is neither an offer to sell any securities, nor a solicitation of an offer to buy, nor shall there be any sale of any such securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

10.1 [Letter Agreement, dated as of August 11, 2023, by and among Gaucho Group Holdings, Inc. and the subscriber listed therein](#)
104 Cover Page Interactive Data File (embedded within the Inline XBRL document)

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 11th day of August 2023.

Gaicho Group Holdings, Inc.

By: /s/ Scott L. Mathis

Scott L. Mathis, President & CEO



FROM THE DESK OF SCOTT MATHIS

DIRECT: 212.739.7650

FAX: 212.655.0140

SMATHIS@GAUCHOHOLDINGS.COM

August 11, 2023

[REDACTED]

Re: Modification to Purchase Agreement

Dear Sirs:

Reference is made to (a) that certain Securities Purchase Agreement dated as of February 21, 2023 (the "**Purchase Agreement**") between the Company and the purchaser identified therein, which are the same as the addressee listed above (collectively, the "**Investor**"), (b) a senior secured convertible note of the Company issued to the Investor (the "**Note**"), (c) and the other transaction documents, as modified from time to time, referred to collectively, as the "**Transaction Documents**". Capitalized terms used but not defined herein shall have the meanings given to them in the Purchase Agreement, or if not defined therein, in the Note, or if not defined therein, in the applicable Transaction Document, in each case as of the date hereof.

This letter agreement (this "**Letter Agreement**") confirms our recent discussions about, among other matters, certain modifications to the Purchase Agreement and the Note.

1. An Event of Default occurred pursuant to Section 4(xxi) of the Note as of May 21, 2023. The Investor hereby agrees to forbear on issuing an Event of Default Notice and Event of Default Redemption Notice pursuant to Section 4(b) of the Note through December 31, 2023 for such Event of Default.
2. The Investor hereby waives the requirement in Section 2(a) of the Note to pay Interest on the Note monthly in cash effective for payments due August 1, 2023 through December 31, 2023.
3. The Investor may continue to convert the Note at the Alternate Conversion Price.
4. The Investor hereby waives the increase of the Interest Rate to the Default Rate in Section 2(b) of the Note effective May 21, 2023 through December 31, 2023, excluding \$3,157.80 already converted.
5. The Investor hereby waives the requirement in section 4(xxi) of the Note for the Company to prepay, redeem, or convert one quarter of the initial Principal and Interest on the Note by each three (3) month anniversary of the Issuance Date effective as of the date of this Letter Agreement through December 31, 2023.
6. On July 14, 2023, the Company issued a total of 270,272 shares at \$0.555 per share to the non-executive directors of the Company as compensation for service as members of the Board of Directors of the Company for the first half of 2023 (the "**Board Compensation**").

GAUCHO GROUP HOLDINGS, INC. GROUP (NASDAQ:VINO)
112 NE 41ST STREET, SUITE 106, MIAMI, FL 33137
(main) 212.739.7700 (fax) 212.655.0140 | www.gauchoholdings.com

7. The Investor hereby waives the covenant in Section 4(k) of the Purchase Agreement with respect to the Board Compensation.
8. The Investor hereby waives the adjustment of the exercise price of the Warrant Agreement No. GGH-1 dated February 21, 2023 (the “**Warrant**”) pursuant to Section 2(c) as a result of the Board Compensation.
9. The Investor hereby waives the requirement in Section 7(a) of the Note to adjust the Conversion Price upon issuance of Common Stock pursuant to the Board Compensation, effective as of July 14, 2023.
10. The Company plans on raising additional capital through the sale of units at \$0.45 per unit, each unit equal to 1 share of common stock and 1/5 of a warrant (the “**Units**”) for proceeds of up to \$555,379, not including warrant exercise (the “**Offering**”). Each whole warrant will be exercisable at \$0.45.
11. The Investor hereby provides written consent to the Company for the Offering and waives their right of a Subsequent Placement Option Redemption per Section 10 of the Note for the Offering, provided that the Offering closes no later than September 15, 2023.
12. The Company, pursuant to Section 2(c) of the Warrant and the Offering, hereby adjusts the exercise price of the Warrant from \$1.34 to \$0.45.
13. The Company, pursuant to Section 7(a) of the Note, hereby adjusts the Conversion Price of the Note to \$0.45.

This Letter Agreement is a Transaction Document and is limited as written. As of the date first written above, each reference in the Purchase Agreement or any other applicable Transaction Document to “**this Agreement**,” “**hereunder**,” “**hereof**,” “**herein**,” or words of like import, and each reference in the other Transaction Documents to such Purchase Agreement or other Transaction Documents (including, without limitation, by means of words like “**thereunder**,” “**thereof**” and words of like import), shall refer to the Purchase Agreement as modified thereby, and this Letter Agreement and the Purchase Agreement shall be read together and construed as a single agreement. The execution, delivery and effectiveness of this Letter Agreement shall not, except as expressly provided herein, (A) waive or modify any right, power or remedy under, or any other provision of, any Transaction Document or (B) commit or otherwise obligate any Purchaser to enter into or consider entering into any other amendment, waiver or modification of any Transaction Document.

All communications and notices hereunder shall be given as provided in the Transaction Documents. This Letter Agreement (a) shall be governed by and construed in accordance with the law of the State of New York, (b) is for the exclusive benefit of the parties hereto and the other Purchasers and beneficiaries of the Purchaser Agreement and, together with the other Transaction Documents, constitutes the entire agreement of such parties, superseding all prior agreements among them, with respect to the subject matter hereof, (c) may be modified, waived or assigned only in writing and only to the extent such modification, waiver or assignment would be permitted under the Transaction Documents (and any attempt to assign this Letter Agreement without such writing shall be null and void), (d) is a negotiated document, entered into freely among the parties upon advice of their own counsel, and it should not be construed against any of its drafters and (e) shall survive the satisfaction or discharge of the amounts owing under the Transaction Documents. The fact that any term or provision of this Letter Agreement is held invalid, illegal or unenforceable as to any person in any situation in any jurisdiction shall not affect the validity, enforceability or legality of the remaining terms or provisions hereof or the validity, enforceability or legality of such offending term or provision in any other situation or jurisdiction or as applied to any person.

This Letter Agreement is expressly conditioned on the following conditions precedent:

- (1) The Company’s Board of Directors shall have approved this Letter Agreement and all undertakings thereto in all respects and shall provide written evidence of the same to the Investors by August 15, 2023; and
- (2) The Company shall have verified and confirmed with its transfer agent that there are no impediments to the issuance of shares as a result of this Letter Agreement.

Kindly confirm your agreement with the above by signing in the space indicated below and by PDFing a partially executed copy of this letter to the undersigned, and which may be executed in identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement.

[Signatures follow on next page]

Very truly yours,

GAUCHO GROUP HOLDINGS, INC.

By: _____
Scott L Mathis
President & Chief Executive Officer

AGREED AND ACCEPTED:

█

By: _____
Name: █
Title: █