

FALCONSTOR SOFTWARE INC
 Form 3
 September 26, 2013

FORM 3 UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

OMB APPROVAL

OMB Number: 3235-0104
 Expires: January 31, 2005
 Estimated average burden hours per response... 0.5

INITIAL STATEMENT OF BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934,
 Section 17(a) of the Public Utility Holding Company Act of 1935 or Section
 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *		2. Date of Event Requiring Statement	3. Issuer Name and Ticker or Trading Symbol	
Â HALE MARTIN M JR		(Month/Day/Year)	FALCONSTOR SOFTWARE INC [FALC]	
(Last)	(First)	(Middle)	09/16/2013	
570 LEXINGTON AVENUE, Â 49TH FLOOR			4. Relationship of Reporting Person(s) to Issuer	5. If Amendment, Date Original Filed(Month/Day/Year)
(Street)			(Check all applicable)	
NEW YORK, Â NY Â 10022			<input checked="" type="checkbox"/> Director	<input checked="" type="checkbox"/> 10% Owner
(City)	(State)	(Zip)	<input type="checkbox"/> Officer	<input type="checkbox"/> Other
			(give title below)	(specify below)
			6. Individual or Joint/Group Filing(Check Applicable Line)	
			<input checked="" type="checkbox"/> Form filed by One Reporting Person	
			<input type="checkbox"/> Form filed by More than One Reporting Person	

Table I - Non-Derivative Securities Beneficially Owned

1. Title of Security (Instr. 4)	2. Amount of Securities Beneficially Owned (Instr. 4)	3. Ownership Form: Direct (D) or Indirect (I) (Instr. 5)	4. Nature of Indirect Beneficial Ownership (Instr. 5)
------------------------------------	--	---	--

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

SEC 1473 (7-02)

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

Table II - Derivative Securities Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 4)	2. Date Exercisable and Expiration Date (Month/Day/Year)	3. Title and Amount of Securities Underlying Derivative Security (Instr. 4)	4. Conversion or Exercise Price of Derivative Security	5. Ownership Form of Derivative Security: Direct (D) or Indirect (I)	6. Nature of Indirect Beneficial Ownership (Instr. 5)
	Date Exercisable	Expiration Date	Title	Amount or Number of Shares	

(Instr. 5)

Series A Convertible Preferred Stock	Â (1)	Â (1)	Common Stock	8,781,515 (2) (3)	\$ (4)	I	See footnotes (2) (5)
--------------------------------------	-------	-------	--------------	-------------------	--------	---	-----------------------

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
HALE MARTIN M JR 570 LEXINGTON AVENUE 49TH FLOOR NEW YORK, NY 10022	Â X	Â X	Â	Â

Signatures

/s/ Martin M.
Hale, Jr. 09/26/2013

**Signature of Reporting Person Date

Explanation of Responses:

- * If the form is filed by more than one reporting person, see Instruction 5(b)(v).
 - ** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- (1) The Series A Convertible Preferred Stock is convertible at any time, at the holder's election, into Common Stock and has no expiration date. The Series A Convertible Preferred Stock accrues dividends which may, under certain circumstances, be paid in shares of Common Stock.
- (2) The securities reported herein are held by HCP-FVA, LLC, a Delaware limited liability company ("HCP-FVA"). Hale Capital Partners, LP, a Delaware limited partnership ("HCP"), is the sole member of HCP-FVA. The securities reported herein were purchased from FalconStor Software, Inc. (the "Issuer") pursuant to a Preferred Stock Purchase Agreement, dated as of September 16, 2013 (the "Purchase Agreement"), between HCP and the Issuer.
- (3) The shares of Series A Convertible Preferred Stock held by HCP-FVA that were purchased under the Purchase Agreement are initially convertible into 8,781,515 shares of Common Stock (without giving effect any limitations on conversion due to the Blocker, as defined below). The Certificate of Designations for the Series A Convertible Preferred Stock contains a 9.99% beneficial ownership blocker (the "Blocker") and, as a result, the number of shares of Common Stock issuable upon conversion of the shares of Series A Convertible Preferred Stock held by HCP-FVA are limited pursuant to the terms of the Blocker.
- (4) Each share of Series A Convertible Preferred Stock has a stated value of \$10 (the "Stated Value"). Each share of Series A Convertible Preferred Stock is initially convertible into such number of shares of Common Stock determined by dividing the Stated Value by \$1.02488, the initial conversion price of the Series A Convertible Preferred Stock. The conversion price of the Series A Convertible Preferred Stock is subject to adjustment from time to time in accordance with the terms of the Certificate of Designations.
- (5) Martin M. Hale, Jr. ("MH") is the Chief Executive Officer of HCP. MH is also (i) the sole owner and managing member of Hale Fund Partners, LLC, a Delaware limited liability company ("HFP"), the general partner of HCP and (ii) the sole owner and Chief Executive Officer of Hale Fund Management, LLC, a Delaware limited liability company ("HFM"). HFM is (i) the general partner of Hale Capital Management, LP ("HCM"), the manager of HCP and (ii) the manager of HCP-FVA. Each of MH, HFP, HFM and HCM disclaims beneficial ownership of the securities reported herein except to the extent of his or its pecuniary interest.

Â

Remarks:

MH serves on the Board of Directors of the Issuer as a representative of HCP-FVA. Accordingly

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, See Instruction 6 for procedure.

Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.