

Edgar Filing: Arch Therapeutics, Inc. - Form 8-K

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.

(a) Convertible Note Offering

Beginning March 11, 2015 and through March 13, 2015, Arch Therapeutics, Inc. (the “**Company**”) entered into a series of substantially similar subscription agreements (each a “**Subscription Agreement**”) with each of Anson Investments Master Fund, LP., Equitec Specialists, LLC and Capital Ventures International (collectively, the “**Investors**”) pursuant to which the Company issued unsecured 2016 8% Convertible Notes (the “**Notes**”, and such transaction, the “**Notes Offering**”) to the Investors in the aggregate principal amount of \$750,000. On the Closing of the Notes Offering on March 13, 2015 (the “**Closing Date**”), each Investor was issued a Note in the principal amount of \$250,000. The Investors, or their affiliates, are current stockholders of the Company and holders of its Series A Warrants and Series C Warrants. After deducting for estimated fees and expenses, the aggregate net proceeds to the Company from the sale of the Notes are expected to be approximately \$725,000. The Company did not engage any underwriter or placement agent in connection with the Notes Offering.

The Notes become due and payable on March 13, 2016 (the “**Stated Maturity Date**”) and may not be prepaid. The Notes bear interest on the unpaid principal balance at a rate equal to eight percent (8.0%) (computed on the basis of the actual number of days elapsed in a 360-day year) per annum until either (a) converted into shares of the Company’s common stock, \$0.001 par value per share (“**Common Stock**”) or (b) the outstanding principal and accrued interest on the Notes is paid in full by the Company. Interest on the Notes becomes due and payable upon their conversion or the Stated Maturity Date and may become due and payable upon the occurrence of an event of default under the Notes. The Notes contain customary events of default, which include, among other things, (i) the Company’s failure to pay other indebtedness of \$100,000 or more within the specified cure period for such breach; (ii) the acceleration of the stated maturity of such indebtedness; (iii) the insolvency of the Company; and (iv) the receipt of final, non-appealable judgments in the aggregate amount of \$100,000 or more.

At any time prior to the Stated Maturity Date, the holders of the Notes have the right to convert some or all of such Notes into the number of shares of Common Stock determined by dividing (a) the aggregate sum of the (i) principal amount of the Note to be converted, and (ii) amount of any accrued but unpaid interest with respect to such portion of the Note to be converted; and (b) the conversion price then in effect (the shares of Common Stock issuable upon such conversion, the “**Conversion Shares**”). The initial conversion price is \$0.20 per share, and it may be (A) reduced to any amount and for any period of time deemed appropriate by the Board of Directors of the Company, or (B) reduced or increased proportionately as a result of stock splits, stock dividends, recapitalizations, reorganizations, and similar transactions. A holder shall not have the right to convert any portion of a Note, if after giving effect to such conversion, the holder, together with its affiliates collectively, would beneficially own more than 4.99% or 9.99% (at the holder’s discretion) of the shares of Common Stock outstanding immediately after giving effect to such conversion.

The issuance and sale of the Notes and Conversion Shares (collectively, the “**Securities**”) has not been, and will not upon issuance be, registered under the Securities Act of 1933, as amended (the “**Securities Act**”), and the Securities may not be offered or sold in the United States absent registration under or exemption from the Securities Act and any applicable state securities laws. The Securities were issued and sold in reliance upon an exemption from registration afforded by Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated under the Securities Act, based on the following facts: each of the Investors has represented that it is (and on the date of any conversion or sale of the Notes and/or Conversion Shares will be) an accredited investor as defined in Rule 501(a) promulgated under the Securities Act, that it is acquiring the Securities for investment only and not with a view towards, or for resale in connection with, the public sale or distribution thereof in violation of applicable securities laws and that it has sufficient investment experience to evaluate the risks of the investment; the Company used no advertising or general solicitation in connection with the issuance and sale of the Securities to the Investors; the Securities will be issued as restricted securities.

The foregoing description of the Subscription Agreement and Notes does not purport to be complete and is qualified in its entirety by reference to the copies of the form of Subscription Agreement and form of Note filed herewith as Exhibits 10.1 and 10.2, respectively, to this Current Report on Form 8-K, which are incorporated herein by reference.

(b) Adjustment to Series A Exercise Price

The Company's issuance of the Notes on the Closing Date triggered the anti-dilution provisions of the Series A Warrants and, as a result, the exercise price of the Series A Warrants was reduced to \$0.20 per share and the aggregate number of shares issuable under the Series A Warrants increased by 5,700,000 shares (or fifty-percent (50%)) from 11,400,000 shares to 17,100,000 shares, in each case effective as of the Closing Date.

(c) Series C Warrant Amendment

On March 13, 2015, the Company entered into that certain Amendment to Series C Warrants to Purchase Common Stock, dated as of March 13, 2015, with Cranshire Capital Master Fund, Ltd. (the "**Amendment**"), to amend the expiration date of the Series C Warrants. In particular, pursuant to the Amendment, the expiration date of the Series C Warrants was extended to 5:00 p.m., New York time, on June 2, 2015.

The preceding description of the Amendment is qualified in its entirety by reference to the copy of the Amendment filed herewith as Exhibit 10.3 to this Current Report on Form 8-K, which is incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

Reference is made to the disclosure set forth in Item 1.01 of this Current Report on Form 8-K, which disclosure is incorporated by reference into this Item 2.03.

Item 3.02 Unregistered Sales of Equity Securities.

Reference is made to the disclosure set forth in Item 1.01 of this Current Report on Form 8-K, which disclosure is incorporated by reference into this Item 3.02.

Item 8.01 Other Events.

In accordance with Section 8 of the Series A Warrants and Series C Warrants, on March 13, 2015, the Company distributed the notice attached hereto as Exhibit 99.1 to this Current Report on Form 8-K to the Holders of the Series A Warrants and Series C Warrants.

Item 9.01 Financial Statements and Exhibit

(d) Exhibits

Exhibit Description

10.1	Form of Subscription Agreement
10.2	Form of 8% Convertible Note
10.3	Amendment to Series C Warrants to Purchase Common Stock
99.1	Notice of Amendment Distributed by the Company on March 13, 2015

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.

ARCH THERAPEUTICS, INC.

Dated: March 13, 2015 By: /s/ Terrence W. Norchi, M.D.
Name: Terrence W. Norchi, M.D.
Title: President, Chief Executive
Officer

Exhibit List

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