

ARCA biopharma, Inc.
Form 8-K
February 01, 2013

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): February 1, 2013 (January 31, 2013)

ARCA biopharma, Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction

of Incorporation)

000-22873
(Commission

File Number)

36-3855489
(I.R.S. Employer

Identification No.)

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8001 Arista Place, Suite 430, Broomfield, CO 80021

(Address of Principal Executive Offices) (Zip Code)

(720) 940-2200

(Registrant's Telephone Number, Including Area Code)

Not Applicable

(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

On January 31, 2013, ARCA biopharma, Inc. (ARCA or the Company) entered into a placement agency agreement (the Agency Agreement) with Dawson James Securities, Inc. (the Placement Agent), pursuant to which the Placement Agent agreed to use its reasonable best efforts to arrange for the sale of up to 987,820 shares of ARCA 's common stock and warrants to purchase up to 395,128 shares of ARCA 's common stock in one or more public offerings (the Offerings) under the Company 's registration statement on Form S-3 (File No.333-172686) (the Registration Statement). ARCA has agreed to pay the Placement Agent an aggregate fee equal to 7% of the gross proceeds received in any Offering. ARCA has also agreed to reimburse the Placement Agent for expenses incurred by it in connection with any Offering in amount equal to 1% of the aggregate gross proceeds raised. The Agency Agreement provides that the Placement Agent shall be the exclusive placement agent in connection with any Offering for a period of at least thirteen months from the date of the Agency Agreement.

The Agency Agreement contains customary representations, warranties and covenants by ARCA. It also provides for customary indemnification by each of ARCA and the Placement Agent for losses or damages arising out of or in connection with the sale of the securities being offered. ARCA has agreed to indemnify the Placement Agent for liabilities under the Securities Act of 1933, as amended. ARCA has also agreed to contribute to payments the Placement Agent may be required to make with respect to such liabilities.

On January 31, 2013, ARCA entered into a subscription agreement (the Subscription Agreement) with certain institutional investors (the Investors) in connection with an Offering, pursuant to which ARCA agreed to sell an aggregate of 987,820 shares of its common stock and warrants to purchase a total of 395,128 shares of its common stock to the Investors for aggregate gross proceeds, before deducting fees to the Placement Agent and other estimated offering expenses payable by ARCA, of approximately \$730,000. The common stock and warrants were sold in combination consisting of one share of common stock and a warrant to purchase 0.40 shares of common stock. The purchase price for each share (with its related warrant) is \$0.739, which is equal to the consolidated price of the stock and warrants, based on the closing bid price of \$0.689 for the common stock as reported on the Nasdaq Capital Market on January 30, 2013, and a price of \$0.125 per warrant share. Subject to certain ownership limitations, the warrants will be exercisable on the date that the warrants are issued and will remain exercisable for five years thereafter at an exercise price of \$0.689 per share. The exercise price of the warrants is subject to adjustment in the case of stock splits, stock dividends, combinations of shares and similar recapitalization transactions.

The Offering was effected as a takedown off the Registration Statement, which became effective on April 4, 2011, pursuant to a prospectus supplement filed with the Securities and Exchange Commission on February 1, 2013.

ARCA has also agreed to indemnify the Investors against certain losses resulting from its breach of any of its representations, warranties, covenants under agreements with the Investors.

The net proceeds to ARCA from the Offering, after deducting placement agent fees and the estimated offering expenses borne by ARCA, and excluding the proceeds, if any, from the exercise of the warrants issued in the Offering, are expected to be approximately \$630,000. The Offering is expected to close on or before February 5, 2013. After giving effect to the Offering, but without giving effect to the exercise of the warrants being offered, ARCA will have 19,088,298 shares of common stock outstanding.

A copy of the opinion of Cooley LLP relating to the legality of the issuance and sale of the securities in the Offering is attached as Exhibit 5.1 hereto. The foregoing summaries of the terms of the Agency Agreement, the form of warrant to be issued to the Investors and the Subscription Agreement are subject to, and qualified in their entirety by, such documents attached hereto as Exhibits 1.1, 4.1, and 10.1, respectively, which are incorporated herein by reference.

Forward-Looking Statements

Statements in this report that are not strictly historical in nature constitute forward-looking statements. Such statements include, but are not limited to, ARCA's issuance of securities, the amount of proceeds from the Offering and the closing of the Offering. Such forward-looking statements involve known and unknown risks, uncertainties and other factors, that may cause actual results to be materially different from any results expressed or implied by such forward-looking statements. All forward-looking statements are qualified in their entirety by this cautionary statement. ARCA is providing this information as of this date and does not undertake any obligation to update any forward-looking statements contained in this report as a result of new information, future events or otherwise.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit Number	Description
1.1	Placement Agency Agreement by and between ARCA biopharma, Inc. and Dawson James Securities, Inc., dated January 31, 2013
4.1	Form of Common Stock Purchase Warrant
5.1	Opinion of Cooley LLP
10.1	Subscription Agreement
23.1	Consent of Cooley LLP (included in Exhibit 5.1)

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.

Dated: February 1, 2013

ARCA biopharma, Inc.

(Registrant)

By: /s/ Patrick M. Wheeler
Name: Patrick M. Wheeler
Title: Chief Financial Officer

EXHIBIT INDEX

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