

FALCONSTOR SOFTWARE INC

Form 8-K

December 28, 2018

**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): December 27, 2018

FALCONSTOR SOFTWARE, INC.

(Exact name of registrant as specified in its charter)

Delaware                                      000-23970      77-0216135  
(State or Other Jurisdiction (Commission (IRS Employer  
of Incorporation)                      File Number) Identification No.)

701 Brazos Street, Suite 400, Austin,      78701  
Texas  
(Address of Principal Executive Offices) (Zip Code)

Registrant's Telephone Number, Including Area Code: 631-777-5188

N/A

(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):

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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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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.

**Item 3.02 Unrestricted Sale of Equity Securities.**

On December 27, 2018, the Company issued 122,978,047 shares (the “Shares”) of Common Stock, \$.001 par value. The Shares were issued pursuant to the exercise by Michael Kelly, a Director of the Company, of Warrants to purchase 763,915 Shares and the balance of the Shares were issued to another investor pursuant to the exercise of Warrants. Mr. Kelly and the other investor were granted the Warrants in connection with the Company’s previously disclosed and completed Private Placement. Mr. Kelly and the other investor exercised the Warrants through a cash payment of \$.001 per Share.

The Shares issued by the Company were issued pursuant to the exemption contained in Section 4(2) of the Securities Act of 1933, as amended.

**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.

Date: December 27, 2018 **FALCONSTOR SOFTWARE, INC.**

By: /s/ Brad Wolfe

Name: Brad Wolfe

Title: Executive Vice President, Chief Financial Officer and Treasurer