

22nd Century Group, Inc.

Form SC 13G/A

January 18, 2018

**SECURITIES  
AND  
EXCHANGE  
COMMISSION  
Washington,  
D.C. 20549**

**SCHEDULE  
13G**

Under the  
Securities  
Exchange Act of  
1934

(Amendment No.  
1)\*

22<sup>nd</sup> Century  
Group, Inc.  
(Name of Issuer)

Common Stock,  
\$0.00001 par  
value  
(Title of Class of  
Securities)

90137F103  
(CUSIP Number)

December 31,  
2017  
(Date of event  
which requires  
filing of this  
statement)

Check the  
appropriate box  
to designate the  
rule pursuant to  
which this  
Schedule 13G is  
filed:

☐ Rule 13d-1(b)  
☒ Rule 13d-1(c)  
☐ Rule 13d-1(d)

(Page 1 of 6  
Pages)

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\*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter the disclosures provided in a prior cover page.

The information required in the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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|   |                                                                                                                                             |
|---|---------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | NAMES OF<br>REPORTING<br>PERSONS                                                                                                            |
| 2 | Empery Asset<br>Management, LP<br>CHECK<br>THE<br>APPROPRIATE<br>BOX IF A<br>MEMBER (b) " " OF A<br>GROUP                                   |
| 3 | SEC USE ONLY<br>CITIZENSHIP OR<br>PLACE OF                                                                                                  |
| 4 | ORGANIZATION                                                                                                                                |
| 5 | Delaware<br>NUMBER OF<br>SHARES<br>BENEFICIALLY OWNED BY<br>EACH<br>REPORTING<br>PERSON WITH                                                |
|   | SOLE<br>VOTING<br>POWER<br><br>SHARED<br>VOTING<br>POWER                                                                                    |
| 6 | 9,531 shares of<br>Common Stock<br><br>10,543,211<br>shares of<br>Common Stock<br>issuable upon<br>exercise of<br>Warrants (See<br>Item 4)* |
| 7 | SOLE<br>DISPOSITIVE<br>POWER                                                                                                                |
| 8 |                                                                                                                                             |

SHARED  
DISPOSITIVE  
POWER

9,531 shares of  
Common Stock

10,543,211  
shares of  
Common Stock  
issuable upon  
exercise of  
Warrants (See  
Item 4)\*

AGGREGATE  
AMOUNT  
BENEFICIALLY  
OWNED BY EACH  
REPORTING  
PERSON

**9** 9,531 shares of  
Common Stock

10,543,211 shares of  
Common Stock  
issuable upon exercise  
of Warrants (See Item  
4)\*

**10** CHECK BOX  
IF THE  
AGGREGATE  
AMOUNT IN ..  
ROW (9)  
EXCLUDES  
CERTAIN

**11** SHARES  
PERCENT OF  
CLASS  
REPRESENTED BY  
AMOUNT IN ROW  
(9)

4.99% (See Item 4)\*

TYPE OF  
REPORTING  
PERSON

12

PN

\* As more fully described in Item 4, the Warrants are subject to a 4.99% blocker and the percentage set forth in row (11) gives effect to such blocker. However, as more fully described in Item 4, the securities reported in rows (6), (8) and (9) show the number of shares of Common Stock that would be issuable upon full exercise of such reported securities and do not give effect to such blocker. Therefore, the actual number of shares of Common Stock beneficially owned by such Reporting Person, after giving effect to such blocker, is less than the number of securities reported in rows (6), (8) and (9).

NAMES OF  
REPORTING  
PERSONS

CHECK

THE

APPROPRIATE

BOX IF A

MEMBER (b) "

OF A

GROUP

SEC USE ONLY

CITIZENSHIP OR

## PLACE OF

## ORGANIZATION

United States

NUMBER OF  
SHARES

SOLE  
VOTING  
POWER

**BENEFICIALLY 5  
OWNED BY  
EACH  
REPORTING  
PERSON WITH**

# SHARED VOTING POWER

9,531 shares of  
Common Stock

**6** 10,543,211  
shares of  
Common Stock  
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exercise of  
Warrants (See  
Item 4)\*

SOLE  
DISPOSITIVE  
POWER

## 8 SHARED DISPOSITIVE

POWER

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ROW (9)

EXCLUDES  
CERTAIN  
SHARES  
PERCENT OF  
CLASS  
**11** REPRESENTED BY  
AMOUNT IN ROW  
(9)

**12** 4.99% (See Item 4)\*

TYPE OF  
REPORTING  
PERSON

IN

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| NAMES OF REPORTING PERSONS |                                                                                    |
|----------------------------|------------------------------------------------------------------------------------|
|                            | Martin D. Hoe                                                                      |
|                            | CHECK THE APPROPRIATE BOX IF A MEMBER (b) " OF A GROUP                             |
|                            | SEC USE ONLY CITIZENSHIP OR PLACE OF ORGANIZATION                                  |
|                            | United States                                                                      |
| 5                          | SOLE VOTING POWER                                                                  |
|                            | SHARED VOTING POWER                                                                |
| 6                          | 9,531 shares of Common Stock                                                       |
|                            | 10,543,211 shares of Common Stock issuable upon exercise of Warrants (See Item 4)* |
| 7                          | SOLE DISPOSITIVE POWER                                                             |
| 8                          | SHARED DISPOSITIVE                                                                 |

POWER

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(9)

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TYPE OF  
REPORTING  
PERSON

IN

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This Amendment No. 1 (this "Amendment") amends the statement on Schedule 13G filed on August 1, 2017 (the "Original Schedule 13G", as amended, the "Schedule 13G"), with respect to shares of Common Stock, \$0.00001 par value (the "Common Stock"), of 22<sup>nd</sup> Century Group, Inc. (the "Company"). Capitalized terms used herein and not otherwise defined in this Amendment have the meanings set forth in the Schedule 13G. This Amendment amends and restates Items 4 and 5 in their entirety as set forth below.

#### **Item 4. OWNERSHIP.**

The information as of the date of the event which requires filing of this statement required by Items 4(a) – (c) is set forth in Rows 5 – 11 of the cover page for each Reporting Person hereto and is incorporated herein by reference for each such Reporting Person. The percentage set forth in Row 11 of the cover page for each Reporting Person is based on 123,543,117 shares of Common Stock issued and outstanding as of October 30, 2017, as represented in the Company's Prospectus Supplement on Form 424(b)(3) filed with the Securities and Exchange Commission on December 15, 2017 and assumes the exercise of the reported warrants (the "Reported Warrants") subject to the Blockers (as defined below).

Pursuant to the terms of the Reported Warrants, the Reporting Persons cannot exercise the Reported Warrants to the extent the Reporting Persons would beneficially own, after any such exercise, more than 4.99% of the outstanding shares of Common Stock (the "Blockers"), and the percentage set forth in Row 11 of the cover page for each Reporting Person gives effect to the Blockers. Consequently, as of the date of the event which requires the filing of this statement, the Reporting Persons were not able to exercise all of the Reported Warrants due to the Blockers.

The Investment Manager, which serves as the investment manager to the Empery Funds, may be deemed to be the beneficial owner of all shares of Common Stock held by, and underlying the Reported Warrants (subject to the Blockers) held by, the Empery Funds. Each of the Reporting Individuals, as Managing Members of the General Partner of the Investment Manager with the power to exercise investment discretion, may be deemed to be the beneficial owner of all shares of Common Stock held by, and underlying the Reported Warrants (subject to the Blockers) held by, the Empery Funds. The foregoing should not be construed in and of itself as an admission by any Reporting Person as to beneficial ownership of shares of Common Stock owned by another Reporting Person. Each of the Empery Funds and the Reporting Individuals hereby disclaim any beneficial ownership of any such shares of Common Stock.

#### **Item 5. OWNERSHIP OF FIVE PERCENT OR LESS OF A CLASS.**

If this statement is being filed to report the fact that as of the date hereof the reporting person has ceased to be the beneficial owner of more than five percent of the class of securities, check the following: [X]

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## SIGNATURES

After reasonable inquiry and to the best of our knowledge and belief, the undersigned certify that the information set forth in this statement is true, complete and correct.

DATED: January 18, 2018

EMPERY ASSET MANAGEMENT, LP

By: EMPERY AM GP, LLC, its General Partner

By: /s/ Ryan M. Lane

Name: Ryan M. Lane

Title: Managing Member

/s/ Ryan M. Lane

Ryan M. Lane

/s/ Martin D. Hoe

Martin D. Hoe