

CASCADIAN THERAPEUTICS, INC.

FORM 8-K (Current report filing)

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 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, 2018

CASCADIAN THERAPEUTICS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-33882
(Commission
File Number)

26-0868560
(IRS Employer
Identification No.)

3101 Western Avenue, Suite 600
Seattle, Washington 98121
(Address of principal executive offices, including zip code)

(206) 801-2100
(Registrant's telephone number, including area code)

(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:

- 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 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On February 1, 2018, the Compensation Committee of the Board of Directors (the “Committee”) of Cascadian Therapeutics, Inc., a Delaware corporation (the “Company”), approved the following in connection with the Company’s merger with Seattle Genetics, Inc., a Delaware corporation (“Parent”), and Valley Acquisition Sub, Inc., a Delaware corporation and a wholly owned subsidiary of Parent (the “Merger”):

Extended Non-Compete Restrictions

The Committee approved an amendment to the Employee Invention and Confidentiality Agreement, effective as of April 4, 2016, by and between the Company and Scott Myers, our President and Chief Executive Officer, to bind Mr. Myers to a two-year covenant not to compete with the Company. Mr. Myers had not previously been subject to a non-compete covenant. The amendment to Mr. Myers’ Confidentiality Agreement is filed as Exhibit 10.1 hereto.

The Committee also approved an amendment to each of the agreements listed below to bind Julia Eastland, our Chief Financial Officer, Scott Peterson, our Chief Scientific Officer, and Gary Christianson, our Chief Operating Officer, each to a two-year covenant not to compete with the Company.

- Employee Confidentiality, Invention Assignment and Non-Compete Agreements, effective as of May 17, 2016, by and between the Company and Julia Eastland
- Employee Confidentiality, Invention Assignment and Non-Compete Agreements, effective as of May 17, 2016, by and between the Company and Scott Peterson
- Employee Confidentiality, Invention Assignment and Non-Compete Agreements, effective as of May 17, 2016, by and between the Company and Gary Christianson

Ms. Eastman, Dr. Peterson and Mr. Christianson had previously been subject to one-year covenants not to compete. The form amendment to the Employee Confidentiality, Invention Assignment and Non-Compete Agreements for Ms. Eastland, Dr. Peterson and Mr. Christianson is filed as Exhibit 10.2 hereto.

Addition of Tax Preparation Services

The Committee approved an amendment to the Offer Letter of Employment, effective as of May 4, 2016, by and between the Company and Mr. Myers (the “Scott Myers Employment Agreement”) to provide Mr. Myers with services from a tax preparer of his choosing to help Mr. Myers prepare his taxes for three years following the closing of the Merger. The amendment only provides for such tax preparation services, and does not provide for any tax gross-up payments or any other tax-related entitlements. The amendment to the Scott Myers Employment Agreement is filed as Exhibit 10.3 hereto.

The Committee also approved similar amendments to the following executive officer employment agreements to provide such executive officers with three years of tax preparation services following the closing of the Merger:

- Executive Employment Agreement, effective as of May 17, 2016, by and between the Company and Julia Eastland
- Executive Employment Agreement, effective as of May 17, 2016, by and between the Company and Scott Peterson
- Executive Employment Agreement, effective as of May 17, 2016, by and between the Company and Gary Christianson

These amendments also only provide for tax preparation services, and do not provide for any tax gross-up payments or any other tax-related entitlements. The form amendment to the executive officers’ employment agreements is filed as Exhibit 10.4 hereto.

Transaction-Related Payments

The Committee approved one-time payments, contingent upon the execution of the two-year covenant not to compete with the Company, to Mr. Myers and Ms. Eastland to reward them for their extraordinary efforts and additional burdens associated with leading the Company to the signing of the Merger. Mr. Myers’ transaction bonus is in the amount of \$3,920,000 and Ms. Eastland’s is the amount of \$793,800. Ms. Eastland’s payment was pursuant to her employment agreement, which provides for a special one-time bonus in connection with a change in control transaction. The payments are subject to the closing of the Merger, and will be paid by the Company in a single lump sum within 30 days following the closing.

The form transaction bonus agreement is filed as Exhibit 10.5 hereto.

Additional Information about the Amendment to Employment Agreements and Confidentiality Agreements

The summary of the amendments to employment agreements and confidentiality agreements are incomplete and are qualified in their entirety by the Exhibits.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description of Exhibit</u>
10.1	Amendment to Scott Myers Confidentiality Agreement
10.2	Form of Amendment to Employee Confidentiality, Invention Assignment and Non-Compete Agreements
10.3	Amendment to Scott Myers Employment Agreement
10.4	Form of Amendment to Executive Employment Agreements
10.5	Form of Transaction Bonus Agreement

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description of Exhibit</u>
10.1	<u>Amendment to Scott Myers Confidentiality Agreement</u>
10.2	<u>Form of Amendment to Employee Confidentiality, Invention Assignment and Non-Compete Agreements</u>
10.3	<u>Amendment to Scott Myers Employment Agreement</u>
10.4	<u>Form of Amendment to Executive Employment Agreements</u>
10.5	<u>Form of Transaction Bonus Agreement.</u>

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, thereunto duly authorized.

Cascadian Therapeutics, Inc.

Date: February 7, 2018

By: /s/ Julia M. Eastland

Name: Julia M. Eastland

Title: Chief Financial Officer and Chief Business Officer

AMENDMENT TO EMPLOYEE INVENTION ASSIGNMENT AND CONFIDENTIALITY AGREEMENT

THIS AMENDMENT TO EMPLOYEE INVENTION ASSIGNMENT AND CONFIDENTIALITY AGREEMENT (this "Amendment"), dated as of _____, 2018 (the "Amendment Date"), is entered into by and between Cascadian Therapeutics, Inc. (the "Company") and Scott Myers ("Executive").

WHEREAS, the Company and Executive are parties to that certain Employee Invention Assignment and Confidentiality Agreement, made effective as of April 4, 2016 (the "Agreement"); and

WHEREAS, the Company and Executive each desire to amend the terms of the Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises in this Amendment, the parties hereto hereby amend the Agreement as follows, effective as of the date hereof, in the following particulars:

1. A new Section 13 is hereby added to the Agreement and the remaining sections are renumbered accordingly:

"13. **Covenant Not to Compete.** I agree that my services rendered are unique and irreplaceable, and that competitive use and knowledge of any Confidential Information would substantially and irreparably injure the Company's business, prospects and good will. I also agree that the Company's business as a biopharmaceutical company is global in nature due to the type of products developed and commercialized by such companies and being developed by the Company. Therefore, I agree that during the period of my employment with the Company and for a period of two (2) years thereafter, I shall not, directly or indirectly, through any other person, firm, corporation or other entity (whether as an officer, director, employee, partner, consultant, holder of equity or debt investment, lender or in any other manner or capacity):

(a) develop, sell, market, offer to sell products and/or services anywhere in the world that (i) target Her-2 positive metastatic breast cancer or Her-2 positive metastatic colorectal cancer, or (ii) have the same or similar technological approach or technology platform (e.g., same receptors, same mechanism of action, etc.) and have the same potential indication(s) as any product being developed, offered or sold by the Company on the date of the termination of my employment with the Company for any reason, provided that the foregoing shall not be violated by my activities with an entity where the portion of the competitive business involved is less than fifteen percent (15%) of the total expenditures of the portion of the entity that is under my supervision;

(b) interfere with, disrupt, alter or attempt to disrupt or alter the relationship, contractual or otherwise, between the Company and any consultant, contractor, customer, potential customer, or supplier of the Company.

I acknowledge that the foregoing geographic, activity and time limitations contained in this Section 13 are reasonable and properly required for the adequate protection of the Company's business. In the event that any such geographic, activity or time limitation is deemed to be unreasonable by a court, I shall submit to the reduction of either said activity or time limitation to such activity or period as the court shall deem reasonable. In the event that I am in violation of the aforementioned restrictive covenants, then the time limitation thereof shall be extended for a period of time equal to the pendency of such proceedings, including appeals.

Notwithstanding anything contained in this Agreement to the contrary, I may own, directly or indirectly, solely as an investment, securities of any person or company having a class of securities publically traded, if I am not a controlling person of, or a member of a group which controls, such person or company and I do not, directly or indirectly own more than one percent (1%) of any class of securities of such person or company.”

2. In all other respects, the provisions of this Agreement are hereby ratified and confirmed, and they shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day first above written.

CASCADIAN THERAPEUTICS, INC.

EXECUTIVE

By: _____
Its: _____

Scott Myers

FORM OF AMENDMENT TO EMPLOYEE CONFIDENTIALITY, INVENTION ASSIGNMENT AND NON-COMPETE AGREEMENT

THIS AMENDMENT TO EMPLOYEE CONFIDENTIALITY, INVENTION ASSIGNMENT AND NON-COMPETE AGREEMENT (this “Amendment”), dated as of _____, 2018 (the “Amendment Date”), is entered into by and between Cascadian Therapeutics, Inc. (the “Company”) and _____ (“Executive”).

WHEREAS, the Company and Executive are parties to that certain Employee Confidentiality, Invention Assignment and Non-Compete Agreement, made effective as of _____ (the “Agreement”); and

WHEREAS, the Company and Executive each desire to amend the terms of the Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises in this Amendment, the parties hereto hereby amend the Agreement as follows, effective as of the date hereof, in the following particulars:

1. The last sentence of the first paragraph of Section 7 is hereby amended to read as follows:

“Therefore, Employee agrees that during the period of Employee’s employment with the Company and for a period of two (2) years thereafter, Employee shall not, directly or indirectly, through any other person, firm, corporation or other entity (whether as an officer, director, employee, partner, consultant, holder of equity or debt investment, lender or in any other manner or capacity):”

2. The first sentence of subsection (a) of Section 7 is hereby amended to read as follows:

“(a) develop, sell, market, offer to sell products and/or services anywhere in the world that (i) target Her-2 positive metastatic breast cancer or Her-2 positive metastatic colorectal cancer, or (ii) have the same or similar technological approach or technology platform (e.g., same receptors, same mechanism of action, etc.) and have the same potential indication(s) as any product being developed, offered or sold by the Company on the date of the termination of Employee’s employment with the Company for any reason, provided that the foregoing shall not be violated by Employee’s activities with an entity where the portion of the competitive business involved is less than fifteen percent (15%) of the total expenditures of the portion of the entity that is under Employee’s supervision.”

3. In all other respects, the provisions of this Agreement are hereby ratified and confirmed, and they shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day first above written.

CASCADIAN THERAPEUTICS, INC.

EXECUTIVE

By: _____
Its:

AMENDMENT TO OFFER LETTER OF EMPLOYMENT

THIS AMENDMENT TO OFFER LETTER OF EMPLOYMENT (this “ Amendment ”), dated as of _____, 2018 (the “ Amendment Date ”), is entered into by and between Cascadian Therapeutics, Inc. (the “ Company ”) and Scott Myers (“ Executive ”).

WHEREAS, the Company and Executive are parties to that certain Offer Letter of Employment, made effective as of April 4, 2016 (the “ Agreement ”), pursuant to which Executive is currently employed by Company; and

WHEREAS, the Company and Executive each desire to amend the terms of the Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises in this Amendment, the parties hereto hereby amend the Agreement as follows, effective as of the date hereof, in the following particulars:

1. A new Section 9 is hereby added to the Agreement and the remaining sections are renumbered accordingly:

“9. Tax Preparation. If you are deemed a Disqualified Individual, as such term is defined in Section 280G of the Code, with respect to a Change in Control of the Company, the Company will pay a tax preparer of your choosing for three (3) tax years of tax preparation services following the Change in Control.”

2. In all other respects, the provisions of the Agreement are hereby ratified and confirmed, and they shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day first above written.

CASCADIAN THERAPEUTICS, INC.

EXECUTIVE

By: _____
Its: _____

Scott Myers

FORM OF AMENDMENT TO EXECUTIVE EMPLOYMENT AGREEMENT

THIS FORM OF AMENDMENT TO EXECUTIVE EMPLOYMENT AGREEMENT (this "Amendment"), dated as of _____, 2018 (the "Amendment Date"), is entered into by and between Cascadian Therapeutics, Inc. (the "Company") and _____ ("Executive").

WHEREAS, the Company and Executive are parties to that certain Executive Employment Agreement, made effective as of _____ (the "Agreement"), pursuant to which Executive is currently employed by Company; and

WHEREAS, the Company and Executive each desire to amend the terms of the Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises in this Amendment, the parties hereto hereby amend the Agreement as follows, effective as of the date hereof, in the following particulars:

- 1. A new Section 6.4 is hereby added to the Agreement and the remaining sections are renumbered accordingly:

"6.4 The Company hereby agrees that, if the Executive is deemed a Disqualified Individual, as such term is defined in Section 280G of the Code, with respect to a Change in Control of the Company, the Company will pay a tax preparer of the Executive's choosing for three (3) tax years of tax preparation services following the Change in Control."

- 2. In all other respects, the provisions of the Agreement are hereby ratified and confirmed, and they shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day first above written.

CASCADIAN THERAPEUTICS, INC.

EXECUTIVE

By: _____
Its: _____

TRANSACTION BONUS AGREEMENT

THIS TRANSACTION BONUS AGREEMENT dated as of _____, 2018 (this “Agreement”) is entered into by and between Cascadian Therapeutics, Inc. (the “Company”) and _____ (“Service Provider”).

**ARTICLE 1
TRANSACTION BONUS**

1.01 Transaction Bonus.

(a) Subject to the terms and conditions set forth in this Agreement, upon a Change in Control, Service Provider shall be entitled to receive a special transaction bonus in the amount of _____ (the “Transaction Bonus”) from the Company.

(b) For purposes of this Agreement, “Change in Control” shall mean the first to occur of any of the following:

(i) any Person becomes the “beneficial owner” (as defined in Rule 13d-3 of the United States Securities Exchange Act of 1934, as amended), directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the total voting power represented by the Company’s then-outstanding voting securities; provided, however, that the acquisition of additional securities by any one Person who is considered to own more than fifty percent (50%) of the total voting power of the securities of the Company will not be considered a Change in Control;

(ii) the consummation of the sale, transfer or disposition by the Company of all or substantially all of the Company’s assets;

(iii) the consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) more than fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation;

(iv) any other transaction which qualifies as a “corporate transaction” under Section 424(a) of the Code wherein the stockholders of the Company give up all of their equity interest in the Company (except for the acquisition, sale or transfer of all or substantially all of the outstanding shares of the Company); or

(v) a change in the effective control of the Company that occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by members of the Board whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election; provided, however, that if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change in Control.

For purposes of this Section 1.01(b), Persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

(c) For purposes of this Agreement, “Person” shall mean a “person” as such term is used in Sections 13(d) and 14(d) of the United States Securities Exchange Act of 1934, as amended.

1.02 Payment and Distribution.

(a) The Transaction Bonus shall be paid by the Company to Service Provider in a single lump sum within thirty (30) days following the date of the Change in Control (“Closing Date”).

(b) Notwithstanding any provision of this Agreement to the contrary, no portion of the Transaction Bonus shall be made to Service Provider if he or she voluntarily terminates service to the Company for any reason prior to the Closing Date unless such termination was initiated by the Company.

1.03 Termination of this Agreement. Except as otherwise provided herein, this Agreement shall remain in effect until Service Provider’s Transaction Bonus has been paid in full. Notwithstanding the foregoing, if no Change in Control has occurred prior to or as of the first (1st) anniversary of the date of this Agreement, then this Agreement shall terminate and be of no force or effect.

1.04 Payment Condition. The Service Provider shall not be entitled to any payment under this Agreement unless and until the Service Provider executes a two (2) year covenant not to compete in a form satisfactory to the Company.

**ARTICLE 2
MISCELLANEOUS**

2.01 Amendment and Termination. This Agreement may only be amended or terminated through express written agreement of all of the parties hereto.

2.02 Limitation of Service Provider’s Right. Nothing in this Agreement shall be construed as conferring upon Service Provider any right to continue in the service of the Company or a Company affiliate, nor shall it interfere with the rights of the Company or a Company affiliate to terminate the service of Service Provider and/or to take any personnel action affecting Service Provider without regard to the effect which such action may have upon Service Provider as a recipient or prospective recipient of benefits under this Agreement.

2.03 Nonalienation of Benefits. Except as expressly provided herein, Service Provider shall not have the power or right to transfer, alienate, or otherwise encumber Service Provider’s interest under this Agreement.

2.04 Withholding Taxes. The Company may make such provisions and take such action as it deems necessary or appropriate for the withholding of any taxes which it is required by any law or regulation of any governmental authority, whether Federal, state or local, to withhold in connection with any benefits under this Agreement, including, but not limited to, the withholding of appropriate sums from any amount otherwise payable to Service Provider. Service Provider, however, shall be responsible for the payment of all individual tax liabilities relating to any such benefits.

2.05 Severability. If any provision of this Agreement is held unenforceable, the remainder of the Agreement shall continue in full force and effect without regard to such unenforceable provision and shall be applied as though the unenforceable provision were not contained in the Agreement.

2.06 Governing Law; Jurisdiction. This Agreement shall be construed in accordance with and governed by the laws of the State of Delaware, without reference to the principles of conflict of laws. Any suit, action or proceeding arising under or related to this Agreement must be brought and pursued only in the state or federal courts in Delaware. Service Provider and the Company freely and irrevocably consent to the exclusive personal jurisdiction and venue of such courts, waive any right to argue that personal jurisdiction or venue in any of such courts is improper, inappropriate, or inconvenient, and agree never to consent to any suit, action or proceeding arising under or related to this Agreement being brought in, transferred to, or litigated anywhere other than in one of such courts, and **wave any right to a jury trial**.

2.07 Successors. Neither party may assign any of its rights and obligations under this Agreement to any other person or entity without the other party's advance written consent. Subject to the foregoing, this Agreement shall bind the parties' respective successors, heirs, assigns, administrators, executors, and legal representatives.

2.08 Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto and supersedes all prior agreements, correspondence, conversations and negotiations with respect to the subject matter hereof.

[*Signature page follows.*]

IN WITNESS WHEREOF , the parties have executed this Transaction Bonus Agreement on the date first above written.

CASCADIAN THERAPEUTICS, INC.

By: _____

SERVICE PROVIDER
