

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): January 4, 2021

DPW HOLDINGS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

001-12711
(Commission File Number)

94-1721931
(I.R.S. Employer Identification No.)

201 Shipyard Way, Suite E, Newport Beach, CA 92663
(Address of principal executive offices) (Zip Code)

(949) 444-5464
(Registrant's telephone number, including area code)

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))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.001 par value	DPW	NYSE American

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 1.02 TERMINATION OF A MATERIAL DEFINITIVE AGREEMENT.

As previously reported, on October 2, 2020, DPW Holdings Inc. (the “**Company**”) entered into an At-the-Market Issuance Sales Agreement (as amended on December 1, 2020, the “**Sales Agreement**”) with Ascendant Capital Markets, LLC, as sales agent (the “**Agent**”) to sell shares of its common stock, par value \$0.001 (the “**Common Stock**”), through an “at the market offering” (the “**ATM Offering**”) as defined in Rule 415 under the Securities Act of 1933, as amended (the “**Securities Act**”).

The offer and sale of the Shares were made pursuant to the Company’s effective “shelf” registration statement on Form S-3 and an accompanying base prospectus contained therein (Registration Statement No. 333-222132) filed with the SEC on December 18, 2017, as amended on January 8, 2018, and declared effective by the SEC on January 11, 2018.

On December 31, 2020, the Company and the Agent mutually agreed to terminate the Sales Agreement pursuant to the execution of the Termination Agreement dated as of such date. The Company sold an aggregate of 12,582,000 Shares and raised gross proceeds of \$39,978,350 through the Sales Agreement.

The foregoing description of the terms of the Termination Agreement does not purport to be complete and is subject to, and qualified in its entirety by reference to, the Termination Agreement, which is filed herewith as **Exhibit 10.1** and is incorporated herein by reference.

ITEM 7.01 REGULATION FD DISCLOSURE

On January 4, 2021, the Company issued a press release announcing the termination of the Sales Agreement, a copy of which press release is furnished herewith as **Exhibit 99.1** and is incorporated by reference herein.

In accordance with General Instruction B.2 of Form 8-K, the information under this item, **Exhibit 99.1** shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall such information be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, except as shall be expressly set forth by specific reference in such a filing. This report will not be deemed an admission as to the materiality of any information required to be disclosed solely to satisfy the requirements of Regulation FD.

The Securities and Exchange Commission encourages registrants to disclose forward-looking information so that investors can better understand the future prospects of a registrant and make informed investment decisions. This Current Report on Form 8-K and exhibits may contain these types of statements, which are “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995, and which involve risks, uncertainties and reflect the Registrant’s judgment as of the date of this Current Report on Form 8-K. Forward-looking statements may relate to, among other things, operating results and are indicated by words or phrases such as “expects,” “should,” “will,” and similar words or phrases. These statements are subject to inherent uncertainties and risks that could cause actual results to differ materially from those anticipated at the date of this Current Report on Form 8-K. Investors are cautioned not to rely unduly on forward-looking statements when evaluating the information presented within.

ITEM 9.01 EXHIBITS

(d) [Exhibits](#)

Exhibit No.	Description
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10.1	Termination Agreement
99.1	Press Release issued by the registrant on January 4, 2021

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.

DPW HOLDINGS, INC.

Date: January 4, 2021

By: /s/ Henry Nisser
Henry Nisser
Executive Vice President

TERMINATION AGREEMENT

This Termination Agreement (the “**Agreement**”) is made, entered into, and given as of the 31st day of December, 2020 (the “**Effective Date**”), by and between DPW Holdings, Inc., a Delaware corporation (“**DPW**”) and Ascendant Capital Markets, LLC (“**ACM**”). DPW and ACM are at times collectively referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

WHEREAS, the Parties entered into a certain At-The-Market Issuance Sales Agreement dated as of October 2, 2020 (the “**Sales Agreement**”);

WHEREAS, the Parties desire to terminate the Sales Agreement pursuant to the terms as set forth herein;

NOW, THEREFORE, in consideration of the promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. **Termination of Sales Agreement.** Notwithstanding anything contained in the Sales Agreement, the Parties agree that the Sales Agreement shall be terminated in its entirety upon the Effective Date.
 2. **Consideration.** Each Party to this Agreement acknowledges that it has received good, valuable and sufficient consideration for entering into this Agreement and further acknowledges and warrants that, except as expressly provided herein, this Agreement shall not be voidable for any reason including, but not limited to, any claim of mistake of fact or the adequacy or inadequacy of consideration.
 3. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.
 4. **Governing Law; Jurisdiction; Waiver of Jury Trial.** This Agreement shall be governed by and construed under the laws of the State of New York without regard to the choice of law principles thereof. Each Party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City and County of New York in the State of New York for the adjudication of any dispute hereunder or in connection herewith or therewith or with any transaction contemplated hereby or thereby, and hereby irrevocably waives any objection that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.
 5. **Remedies.** In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each Party to this Agreement will be entitled to specific performance hereunder. Accordingly, the Parties agree that, in addition to any other remedies available to it at law or in equity, any Party shall be entitled to seek injunctive relief to enforce the terms of this Agreement.
 6. **Severability.** If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction.
 7. **Counterparts/Execution.** This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains an electronic file of an executed signature page, such signature page shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or electronic file signature page (as the case may be) were an original thereof.
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8. Further Assurances. Each Party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

9. Expenses. The parties hereto shall pay their own costs and expenses in connection herewith.

10. Attorneys' Fees. In the event that it should become necessary for any Party entitled hereunder to bring suit against any other Party to this Agreement for a breach of this Agreement, the Parties hereby covenant and agree that the prevailing Party shall be entitled to recover all reasonable attorneys' fees and costs of court incurred in connection with any such dispute.

11. Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the parties with regard to the subject matter hereof and thereof, superseding all prior agreements or understandings, whether written or oral, between or among the parties. No amendment, modification or other change to this Agreement or waiver of any agreement or other obligation of the parties under this Agreement may be made or given unless such amendment, modification or waiver is set forth in writing and is signed by all parties to this Agreement. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

12. Headings. The headings used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

13. Construction. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

[Intentionally Blank]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

DPW HOLDINGS, INC.

By: /s/ Henry Nisser

Name: Henry Nisser

Title: Executive Vice President & General Counsel

ASCENDIANT CAPITAL MARKETS, LLC

By: /s/ Bradley White

Name: Bradley J. White

Title: Managing Partner



DPW Holdings and the Sales Agent Mutually Terminate the At-the-Market Issuance Sales Agreement

Newport Beach, CA, January 4, 2021 -- DPW Holdings, Inc. (NYSE American: DPW) a diversified holding company (“**DPW**,” or the “**Company**”), announced that it and Ascendant Capital Markets, LLC (the “**Sales Agent**”) have mutually agreed to terminate the At-the-Market Issuance Sales Agreement dated October 2, 2020 (the “**Agreement**”), by and between itself and Sales Agent. The effective date of the termination was December 31, 2020.

The Company sold an aggregate of 12,582,000 shares of its common stock and raised gross proceeds of \$39,978,350 through the Agreement. Sales of common stock sold pursuant to the Agreement were registered on the Company’s shelf registration statement on Form S-3, initially filed with the SEC on December 18, 2017 (File No. 333-222132) and declared effective by the SEC on January 11, 2018. A prospectus supplement relating to the Agreement was filed with the SEC on October 2, 2020 and an amendment to the prospectus supplement was filed with the SEC on December 1, 2020.

For more information on DPW Holdings and its subsidiaries, the Company recommends that stockholders, investors and any other interested parties read the Company’s public filings and press releases available under the Investor Relations section at www.DPWHoldings.com or available at www.sec.gov.

About DPW Holdings, Inc.

DPW Holdings, Inc. is a diversified holding company pursuing growth by acquiring undervalued businesses and disruptive technologies with a global impact. Through its wholly and majority-owned subsidiaries and strategic investments, the Company provides mission-critical products that support a diverse range of industries, including defense/aerospace, industrial, telecommunications, medical, and textiles. In addition, the Company extends credit to select entrepreneurial businesses through a licensed lending subsidiary. DPW’s headquarters are located at 201 Shipyard Way, Suite E, Newport Beach, CA 92663; www.DPWHoldings.com.

Forward-Looking Statements

This press release contains “forward looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These forward-looking statements generally include statements that are predictive in nature and depend upon or refer to future events or conditions, and include words such as “believes,” “plans,” “anticipates,” “projects,” “estimates,” “expects,” “intends,” “strategy,” “future,” “opportunity,” “may,” “will,” “should,” “could,” “potential,” or similar expressions. Statements that are not historical facts are forward-looking statements. Forward-looking statements are based on current beliefs and assumptions that are subject to risks and uncertainties. Forward-looking statements speak only as of the date they are made, and the Company undertakes no obligation to update any of them publicly in light of new information or future events. Actual results could differ materially from those contained in any forward-looking statement as a result of various factors. More information, including potential risk factors, that could affect the Company’s business and financial results are included in the Company’s filings with the U.S. Securities and Exchange Commission, including, but not limited to, the Company’s Forms 10-K, 10-Q and 8-K. All filings are available at www.sec.gov and on the Company’s website at www.DPWHoldings.com.

Contacts:

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