

BOSTON OMAHA CORP

FORM 8-K (Current report filing)

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Address	1411 HARNEY ST. SUITE 200 OMAHA, NE, 68102
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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 28, 2018 (February 27, 2018)

BOSTON OMAHA CORPORATION (formerly known as REO PLUS, INC.)
(Exact name of registrant as specified in its Charter)

Delaware
(State or other jurisdiction of Incorporation)

001-38113
(Commission File Number)

27-0788438
(IRS Employer Identification Number)

(Address and telephone number of principal executive offices, including zip code)

1411 Harney St., Suite 200
Omaha, Nebraska 68102

(857) 256-0079

(Former name or address, if changed since last report)
Not Applicable

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of 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))

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

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 1.01 ENTRY INTO A DEFINITIVE MATERIAL AGREEMENT

On February 27, 2018, the Compensation Committee of the Board of Directors of Boston Omaha Corporation, a Delaware corporation, (the “Company”) approved changes to the Company’s Management Incentive Bonus Plan (the “Plan”), effected through an amendment and restatement of the Plan, including placing certain caps on the total payments under the Plan through December 2032 and additional annual caps thereafter. Previously, there were no caps on the amounts payable under the Plan.

The description of the amendment and restatement of the Plan is not complete and is qualified in its entirety by reference to the full text of the Amended and Restated Management Incentive Bonus Plan, a copy of which is attached to this Current Report on Form 8-K as Exhibit 10.1 and is incorporated herein by reference.

On February 27, 2018, the Company amended certain employment agreements with each of Alex B. Rozek and Adam K. Peterson, who serve as the Company’s Co-Chief Executive Officers. Each of the amendments extends the time during which Mr. Rozek and Mr. Peterson, respectively, will receive a base salary at the federal minimum wage until determined otherwise by the Compensation Committee of the Company’s Board of Directors.

The description of the amendments to the employment agreements is not complete and is qualified in its entirety by reference to the full text of Amendment No. 2 to Employment Agreement of each of Alex B. Rozek and Adam K. Peterson, copies of which are attached to this Current Report on Form 8-K as Exhibits 10.2 and 10.3, respectively, and incorporated herein by reference.

ITEM 8.01 OTHER EVENTS

On February 28, 2018, the Company issued a press release entitled “Boston Omaha Corporation Announces Amendments to Management Incentive Bonus Plan.” The full text of the press release is attached to this Current Report on Form 8-K as Exhibit 99.1, and is incorporated herein by reference.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS.

(d) Exhibits. The Exhibit Index set forth below is incorporated herein by reference.

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Exhibit Title</u>
10.1	<u>Amended and Restated Management Incentive Bonus Plan.</u>
10.2	<u>Amendment No. 2 to Employment Agreement dated February 27, 2018 by and between Boston Omaha Corporation and Alex B. Rozek.</u>
10.3	<u>Amendment No. 2 to Employment Agreement dated February 27, 2018 by and between Boston Omaha Corporation and Adam K. Peterson.</u>
99.1	<u>Press release, dated February 28, 2018, titled “Boston Omaha Corporation Announces Amendments to Management Incentive Bonus Plan.”</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 hereunto duly authorized.

BOSTON OMAHA CORPORATION
(Registrant)

Date: February 28, 2018

By: /s/ Alex B. Rozek _____
Alex B. Rozek,
Co-Chief Executive Officer

BOSTON OMAHA CORPORATION

AMENDED AND RESTATED MANAGEMENT INCENTIVE BONUS PLAN

1. **PURPOSE.** The purpose of this Amended and Restated Management Incentive Bonus Plan (the “**Plan**”) is to promote the success of Boston Omaha Corporation (the “**Company**”) by providing financial incentives to eligible Employees (individually a “**Participant**” and collectively the “**Participants**”) to strive for increasing the per share book value of the Company.
 2. **DEFINITIONS.** The following definitions shall be applicable throughout the Plan:
 - a. “**Adjusted Stockholders’ Equity Per Share**” shall mean the stockholders equity of the Company as determined on a per share basis at the end of any fiscal year as determined by the Company’s independent auditors in accordance with generally accepted accounting principles as adjusted, excluding from such calculation any increase in stockholders’ equity per share resulting from issuances by the Company of its securities or securities of any subsidiary for cash consideration.
 - b. “**Annual Period**” means the twelve-month period representing the Company’s fiscal year starting January 1 and ending December 31.
 - c. “**Award**” means the amount of cash paid to a Participant under the Plan with respect to Annual Periods.
 - d. “**Award Determination Date**” means the date following the end of each Annual Period that the Committee meets to review individual and Company performance, which shall in any event be no later than 60 days from the end of each Annual Period.
 - e. “**Committee**” shall mean the Compensation Committee of the Company’s Board of Directors.
 - f. “**Effective Date**” means August 1, 2015.
 - g. “**Employee**” means any individual, including an officer, who is a full service employee of the Company or any entity in which the Company owns more than 50% of the outstanding ownership interests entitled to vote for the election of directors or the equivalent managing body of such entity, determined on a worldwide basis.
 - h. “**Net Growth Target Objectives**” shall mean the Adjusted Stockholders’ Equity Per Share of the Company at the end of any fiscal year which equals at least 106% of the Adjusted Stockholders Equity Per Share as of the end of the preceding fiscal year.
 - i. “**Participant**” means any individual who meets the requirements of Section 4 of the Plan.
 - j. “**Participation Date**” means 90 days from the Employee’s date of hire.
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- k. “ **Term of the Plan** ” means the period during which the Plan is effective. This period shall begin on the Effective Date and end on a date to be determined in accordance with Section 10 of the Plan.

3. POWERS AND ADMINISTRATION.

- a. Administration by the Committee. Subject to any powers to be exercised by the Company’s Board of Directors, the Committee shall administer the Plan and have such powers and duties as are conferred upon it under this Plan, or any amendments thereto, or by the Board of Directors of the Company. The Committee shall have the authority and complete discretion to (i) prescribe, amend and rescind rules relating to the Plan; (ii) select Participants to receive Awards; (iii) place limits on the annual amounts paid under the Plan; (iv) construe and interpret the Plan; (v) make changes in relation to the Term of the Plan; (vi) correct any defect or omission, or reconcile any inconsistency in the Plan; (vii) authorize any person to execute on behalf of the Company any instrument required to effectuate the grant of an Award; and (viii) make all other determinations deemed necessary or advisable for the administration of the Plan.
- b. Committee’s Interpretation Final. The Committee’s interpretation and construction of any provision of the Plan shall be final and binding on all persons claiming an interest in an Award granted or issued under the Plan. Neither the Committee nor any director shall be liable for any action or determination made in good faith with respect to the Plan. The Company, in accordance with its bylaws, shall indemnify and defend such parties to the fullest extent provided by law and such bylaws.
- c. Nontransferability of Awards. An award granted a Participant shall not be assignable or transferable in whole or in part, either voluntarily or by operation of law or otherwise. In the event of the Participant’s death, an Award is transferable by the Participant only by will or the laws of descent and distribution. Any attempted assignment, transfer or attachment by any creditor in violation of this Subsection 3(c) shall be null and void.

4. ELIGIBILITY AND PARTICIPATION.

- a. Eligibility. All executive officers of the Company and other Employees deemed eligible by the Committee shall be eligible to participate in the Plan. The Company’s Co-Chief Executive Officers shall be eligible to participate in the Plan. In addition, the Compensation Committee may from time to time specifically designate additional Employees eligible for participation in the Plan.
- b. Participation Date. The Participation Date for an eligible employee will be 90 days from the Employee’s date of hire or the date the Committee deems the Participant eligible to participate in the Plan. Participants hired after the beginning of the Annual Period shall receive a pro-rated Award based on the number of days eligible to participate in the Plan versus the number of days available during the Annual Period. For instance, a person hired on April 15th will have a Participant Date of July 15th and have 260 (365 eligible days less 105 non-eligible days) eligible days to participate in the Plan. Participants must be employed with the Company on the Award Determination Date and the date Award is paid to be eligible for an Award under the Plan.

- c. Participation and Approval. For each Annual Period, either or both of the Co-Chief Executive Officers shall present to the Committee a list of recommended Participants and a recommended target Award for each Participant for the fiscal year, which recommendations may be submitted after the commencement of the current Annual Period. The Committee shall review the Co-Chief Executive Officer's report, make any adjustments the Committee deems necessary, and approve target Awards for the Annual Period. The Committee or the Co-Chief Executive Officer shall communicate to each Participant his or her participation in the Plan and his or her individual objectives and targets.

5. CALCULATION OF AWARDS.

- a. Awards Based on Net Growth Target Objectives. Awards for the Annual Period shall be based on successful completion of attaining Net Growth Target Objectives. The total Awards shall equal 20% of the amount by which Adjusted Stockholders' Equity Per Share for the applicable fiscal year exceeds 106% of Adjusted Stockholders' Equity Per Share for the preceding fiscal year, subject to any limitation on total amounts payable under the Plan as may be established by the Plan and/or the Committee and in any event subject to a high water mark for the highest level for the Adjusted Stockholders' Equity Per Share as previously determined by the Committee based upon the Company's financial statements as filed with the Securities and Exchange Commission. As an illustration only, assuming that the Company has issued and outstanding 20,000,000 shares of Class A Common Stock and Class B Common Stock on a combined basis at the end of the 2019 Annual Period, if the Company's Adjusted Stockholders' Equity Per Share at the end of the 2018 Annual Period is \$10.00 and the Company's Adjusted Stockholders' Equity Per Share at the end of the 2019 Annual Period is \$11.00, then the total maximum Awards payable for 2019 (subject to the Committee's approval) shall equal \$1,600,000 (\$11.00 less \$10.60 = \$.40 multiplied by 20% equals \$.08 per share multiplied by 20,000,000).
- b. Determination of Award Target. Target amounts for Awards for Participants are determined by competitive market information relevant to the job the individual is performing for the Company, the job function of the individual and the individuals' expected contributions to the Company. The target amounts may be a specified cash amount or a percentage of base pay.
- c. Maximum Amount Payable. Notwithstanding anything else contained herein, the maximum amount payable under the Plan for all participants shall not exceed the following amounts:
 - i. During the period through December 31, 2032, the aggregate amount payable to all Participants under the Plan for the period from 2018 through 2032 shall not exceed Fifteen Million Dollars (\$15,000,000.00); and

- ii. Commencing January 1, 2033, the maximum aggregate amount which Participants shall be eligible to earn for 2033 and thereafter under the Plan in any one calendar year shall not exceed Twenty-Five Million Dollars (\$25,000,000.00) as adjusted by the CPI Index (as defined below) (the “**Annual Maximum Plan Payment**”). The “**CPI Index**” shall mean the “Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average, All Items” as published by the Bureau of Labor Statistics of the United States Department of Labor, or any comparable successor or substitute index designated by the Committee appropriately adjusted, to reflect an increase in the cost of living over and above the cost of living as reflected by the CPI Index at January 1, 2018 (the “**Base CPI Index**”). Commencing on January 1, 2033 and annually thereafter, there shall be an adjustment (each, an “**Adjustment**”) in the Annual Maximum Plan Payment calculated by multiplying the then current Annual Maximum Plan Payment by a fraction, the numerator of which shall be the CPI Index for the last month of the previous calendar year and the denominator of which (for each such fraction) shall be the Base CPI Index.
6. **PAYMENT.** All payments are to be made in cash, less applicable federal, state, local and FICA taxes, as soon as practicable after the Award Determination Date, but in all events within 75 days after the Award Determination Date.
7. **AMENDMENT OF THE PLAN.** The Committee may, from time to time, terminate, suspend, or discontinue the Plan, in whole or part, or revise or amend it in any respect whatsoever.
8. **SOURCE OF FUNDS.** All awards paid under the Plan are paid from the general assets of the Company and are not liabilities of the Company at any time prior to the time when payment is made. Nothing contained in the Plan shall require the Company to segregate any monies from its general funds, or to create any trust or make any special deposit in respect of any amounts payable under the Plan to or for any Participant or group of Participants.
9. **RIGHTS AS AN EMPLOYEE.** The Plan shall not be construed to give any individual the right to remain in the employ of the Company or to affect the right of the Company to terminate such individual’s status as an Employee. Participation in the Plan will not affect participation in any other compensatory plan maintained by the Company.
10. **EFFECTIVE DATE OF PLAN.** The Plan is effective on the Effective Date and shall remain in effect until such time as the Committee decides to terminate the Plan.

**EMPLOYMENT AGREEMENT
AMENDMENT NO. 2**

This Amendment No. 2 to Employment Agreement (this “ **Amendment** ”) is entered into as of February 27, 2018 by and between Alex B. Rozek (the “ **Executive** ”) and Boston Omaha Corporation, a Delaware corporation (the “ **Company** ”).

The Company and the Executive are parties to an Employment Agreement dated August 1, 2015, which was amended pursuant to that certain Employment Agreement Amendment No. 1, dated as of June 5, 2017 (as so amended, the “ **Agreement** ”).

Now, therefore, in consideration of the premises and the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Amendment to Article II, Section 2.01(A) of the Agreement. The Company and the Executive agree that the Agreement is hereby amended by deleting all of Article II, Section 2.01(A), and inserting the following in its place:

“The Executive will serve for a Base Salary equal to the federal minimum wage until such time that Base Salary is otherwise modified by the Company’s Compensation Committee and shall not be entitled to any Base Salary in excess of the federal minimum wage for any period prior to such date.”

2. No Other Amendment. Except as expressly amended hereby, the Agreement shall remain unamended and in full force and effect. This Amendment is only effective in the specific instance and for the specific purpose for which it is given and shall not be effective for any other purpose, and shall not be deemed to be a waiver of, amendment of, or consent to or modification of any other term or provision of the Agreement.

3. Governing Law. This Amendment, the performance of this Amendment and any and all matters arising directly or indirectly herefrom shall be governed by and construed and enforced in accordance with the internal laws of the Commonwealth of Massachusetts, without giving effect to the conflict or choice of law provisions and principles thereof.

4. Counterparts. This Amendment may be executed in any number of counterparts including facsimile or PDF counterpart signature pages, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF , the Company and the Executive have duly executed this Amendment as of the date first written above.

BOSTON OMAHA CORPORATION

By: /s/ Adam K. Peterson

Name: Adam K. Peterson

Title: Co-Chief Executive Officer

EXECUTIVE

/s/ Alex B. Rozek

Alex B. Rozek

**EMPLOYMENT AGREEMENT
AMENDMENT NO. 2**

This Amendment No. 2 to Employment Agreement (this “ **Amendment** ”) is entered into as of February 27, 2018 by and between Adam K. Peterson (the “ **Executive** ”) and Boston Omaha Corporation, a Delaware corporation (the “ **Company** ”).

The Company and the Executive are parties to an Employment Agreement dated August 1, 2015, which was amended pursuant to that certain Employment Agreement Amendment No. 1, dated as of June 5, 2017 (as so amended, the “ **Agreement** ”).

Now, therefore, in consideration of the premises and the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Amendment to Article II, Section 2.01(A) of the Agreement. The Company and the Executive agree that the Agreement is hereby amended by deleting all of Article II, Section 2.01(A), and inserting the following in its place:

“The Executive will serve for a Base Salary equal to the federal minimum wage until such time that Base Salary is otherwise modified by the Company’s Compensation Committee and shall not be entitled to any Base Salary in excess of the federal minimum wage for any period prior to such date.”

2. No Other Amendment. Except as expressly amended hereby, the Agreement shall remain unamended and in full force and effect. This Amendment is only effective in the specific instance and for the specific purpose for which it is given and shall not be effective for any other purpose, and shall not be deemed to be a waiver of, amendment of, or consent to or modification of any other term or provision of the Agreement.

3. Governing Law. This Amendment, the performance of this Amendment and any and all matters arising directly or indirectly herefrom shall be governed by and construed and enforced in accordance with the internal laws of the Commonwealth of Massachusetts, without giving effect to the conflict or choice of law provisions and principles thereof.

4. Counterparts. This Amendment may be executed in any number of counterparts including facsimile or PDF counterpart signature pages, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF , the Company and the Executive have duly executed this Amendment as of the date first written above.

BOSTON OMAHA CORPORATION

By: /s/ Alex B. Rozek _____

Name: Alex B. Rozek

Title: Co-Chief Executive Officer

EXECUTIVE

/s/ Adam K. Peterson _____

Adam K. Peterson

Boston Omaha Corporation Announces Amendments to Management Incentive Bonus Plan

February 28, 2018 04:08 PM Eastern Standard Time

OMAHA, Neb.--(BUSINESS WIRE)--Today Boston Omaha Corporation (NASDAQ:BOMN) (the "Company") announced that its Compensation Committee has approved changes to the Company's Management Incentive Bonus Plan (the "Plan"), including placing certain caps on the total payments under the Plan through December 2032 and additional annual caps thereafter. Previously, there were no caps on the amounts payable under the Plan.

Amounts to be paid under the Plan provide for an incentive payment of up to 20% of the increase in adjusted stockholders equity in excess of a 6% increase in adjusted stockholders' equity determined on a per share basis and measured annually. Any increase in adjusted stockholders' equity per share associated with the sale of the Company's securities for cash is excluded in calculating adjusted stockholders' equity per share.

The key limitations added into the Plan are as follows:

- A cap on total payments under the Plan in an amount not to exceed \$15 million in total for the entire 15 year period (calendar years 2018-2032)
- An annual cap on payments under the Plan thereafter; and
- The establishment of a high water mark under the Plan so that any decrease in book value in any prior year must first be recouped before the 6% hurdle test is applied.

These changes to the Plan reduce senior management's total available compensation relative to the previous system, while maintaining an appropriate and aligned incentive structure. As an illustration, if book value per share grows at 6% or less in any year, management would receive no bonus under the Plan. If book value per share growth exceeds 6% in any year, the Plan will pay out according to the formula that is now capped with specific dollar limits and in any event subject to the requirement that the Company's adjusted stockholders' equity now exceed the additional high water mark test before the 6% hurdle is applied. As previously mentioned, any increase in book value resulting from the sale of Company securities for cash is disregarded in calculating adjusted stockholders' equity.

The current Plan participants include Adam Peterson and Alex Rozek, the Company's Co-Chief Executive Officers. In the future, other senior officers of the Company may be eligible to participate in the Plan.

Each of Mr. Peterson and Mr. Rozek have significant amounts of their net worth invested in Boston Omaha through their respective partnerships. Management believes these personal investments and this Plan align their interests with shareholders.

The Company will file a copy of the Amended and Restated Management Incentive Bonus Plan on Form 8-K with the Securities and Exchange Commission.

About Boston Omaha Corporation

Boston Omaha Corporation is a public company primarily engaged in several lines of business, including outdoor advertising and surety insurance, and also maintains investments in commercial real estate and residential homebuilding businesses.

Forward-Looking Statements

Any statements in this press release about the Company's future expectations, plans and prospects, including statements about our financing strategy, future operations, future financial position and results, market growth, total revenue, as well as other statements containing the words "anticipate," "believe," "continue," "could," "estimate," "expect," "intend," "may," "might," "plan," "potential," "predict," "project," "should," "target," "will," or "would" and similar expressions, constitute forward-looking statements within the meaning of the safe harbor provisions of The Private Securities Litigation Reform Act of 1995. The Company may not actually achieve the plans, intentions or expectations disclosed in the Company's forward-looking statements, and you should not place undue reliance on the Company's forward-looking statements. Actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements the Company make as a result of a variety of risks and uncertainties, including risks related to the Company's estimates regarding the potential market opportunity for the Company's current and future products and services, the Company's expectations regarding the Company's sales, expenses, gross margins and other results of operations, and the other risks and uncertainties described in the "Risk Factors" sections of the Company's public filings with the Securities and Exchange Commission. In addition, the forward-looking statements included in this press release represent the Company's views as of the date hereof. The Company anticipates that subsequent events and developments may cause the Company's views to change. However, while the Company may elect to update these forward-looking statements at some point in the future, the Company specifically disclaim any obligation to do so. These forward-looking statements should not be relied upon as representing the Company's views as of any date subsequent to the date hereof.

Contacts

Boston Omaha Corporation
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