

NETWORK 1 SECURITY SOLUTIONS INC
Form SC 13D/A
April 27, 2004

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

SCHEDULE 13D
(RULE 13D-101)

INFORMATION TO BE INCLUDED IN STATEMENTS FILED PURSUANT
TO RULE 13D-1(a) AND AMENDMENTS THERETO FILED PURSUANT TO
RULE 13D-2(a)

(Amendment No. 2)1

NETWORK-1 SECURITY SOLUTIONS, INC.

(Name of Issuer)

Common Stock, \$.01 Par Value

(Title of Class of Securities)

64121N 10 9

(CUSIP Number)

SAM SCHWARTZ, ESQ.
OLSHAN GRUNDMAN FROME ROSENZWEIG & WOLOSKY LLP

Park Avenue Tower
65 East 55th Street
New York, New York 10022
(212) 451-2306

(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

April 13, 2004

(Date of Event Which Requires Filing of This Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of Rule 13d-1(e), 13d-1(f) or 13d-1(g), check the following box .

NOTE. Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. SEE Rule 13d-7 for other parties to whom copies are to be sent.

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5,574,084 (1) (2)

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES*

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

32.5%

14 TYPE OF REPORTING PERSON*

IN

*SEE INSTRUCTIONS BEFORE FILLING OUT!

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CUSIP No. 64121N 10 9
=====

13D

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Page 3 of 23 Pages
=====

- (1) Includes (a) (i) 486,303 shares of Common Stock, (ii) 85,220 shares of Common Stock issuable upon exercise of warrants and (iii) 992,500 shares of Common Stock issuable upon exercise of options, all of which are held by Mr. Horowitz and (b) (i) 2,867,800 shares of Common Stock, (ii) 550,000 shares of Common Stock issuable upon exercise of warrants and (iii) 500,000 shares of Common Stock issuable upon exercise of options, all of which are held by CMH Capital Management Corp.
- (2) Includes (a) 89,970 shares of Common Stock held by Donna Slavitt, Mr. Horowitz's spouse and (b) 2,291 shares of Common Stock held by Horowitz Partners, a general partnership of which Mr. Horowitz is a partner. Mr. Horowitz disclaims beneficial ownership of the shares held by Horowitz Partners except to the extent of his pecuniary interest therein.

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 CUSIP No. 64121N 10 9
 =====

13D

=====
 Page 4 of 23 Pages
 =====

1	NAME OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)	
	CMH Capital Management Corp.	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP*	(a) <input type="checkbox"/> (b) <input type="checkbox"/>
3	SEC USE ONLY	
4	SOURCE OF FUNDS*	
	WC	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e)	<input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION	
	New York	
	7	SOLE VOTING POWER
		-0-
NUMBER OF	8	SHARED VOTING POWER
SHARES		3,917,800 (1)
BENEFICIALLY	9	SOLE DISPOSITIVE POWER
OWNED BY		-0-
EACH	10	SHARED DISPOSITIVE POWER
REPORTING		3,917,800 (1)
PERSON		
WITH		
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON	
	3,917,800 (1)	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES*	<input type="checkbox"/>
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)	
	24.4%	
14	TYPE OF REPORTING PERSON*	

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CUSIP No. 64121N 10 9
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13D

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Page 7 of 23 Pages
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SIGNATURES

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

Dated: April 26, 2004

/s/ Corey M. Horowitz

Corey M. Horowitz

CMH CAPITAL MANAGEMENT CORP.

By: /s/ Corey M. Horowitz

Name: Corey M. Horowitz
Title: President

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CUSIP No. 64121N 10 9
=====

13D

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Page 8 of 23 Pages
=====

EXHIBIT INDEX

Document	Page
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1. Securities Purchase Agreement by and between CMH Capital Management Corp. and FalconStor Software, Inc., dated November 18, 2003 (previously filed).	--
2. Joint Filing Agreement by and between Corey M. Horowitz and CMH Capital Management Corp., dated November 26, 2003 (previously filed).	--
3. Offer Letter, dated December 22, 2003, by and between the Issuer and Corey M. Horowitz, including Incentive Stock Option, dated December 22, 2003, by and between the Issuer and Corey M. Horowitz, Non-Qualified Stock Option, dated December 22, 2003, by and between the Issuer and Corey M. Horowitz and Issuer Capitalization (previously filed).	--
4. Exchange Agreement between the Issuer and its Preferred Stockholders, dated April 13, 2004.	9 - 23

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EXCHANGE AGREEMENT

AGREEMENT, dated as of April 13, 2004, by and among NETWORK-1 SECURITY SOLUTIONS, INC. (the "Company"), a Delaware corporation with offices at 445 Park Avenue, Suite 1028, New York, New York 10022, and the holders of the Company's Series E Convertible Stock (the "Series E Preferred Stock") and the Series D Convertible Preferred Stock (the "Series D Preferred Stock") signatory hereto (collectively, the "Preferred Stockholders").

WHEREAS, as part of a recapitalization of the Company, the Board of Directors of the Company has determined that it is in the best interest of the Company to eliminate its outstanding shares of Preferred Stock (the "Preferred Stock") by exchanging such securities for shares of Common Stock, par value \$.01 per share, of the Company (the "Common Stock"), upon the terms and subject to the conditions set forth herein;

WHEREAS, each of the Preferred Stockholders and the Company desire that the Preferred Stockholders exchange (i) 2,483,508 shares of Series E Preferred Stock which is convertible into 4,967,016 shares of Common Stock and (ii) 231,054 shares of Series D Preferred Stock which is convertible into 391,478 shares of Common Stock, for an aggregate of 6,698,118 shares of Common Stock, or 1.25 times the number of shares of Common Stock for each share of Common Stock that each Preferred Stockholder would have received upon conversion of their Preferred Stock, all upon the terms and subject to the conditions set forth therein. The Common Stock issuable in exchange for the shares of Preferred Stock are referred to herein as the "Shares."

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

Issuance of Shares for Preferred Stock

1.1 Exchange Agreement. At the Closing provided for in Section 1.2, the Company will issue to each Preferred Stockholder and, subject to the terms and conditions of this Agreement, each Preferred Stockholder will exchange the Preferred Stock for the number of Shares set forth in Exhibit A hereto (the "Exchange") in accordance with Schedule A hereto.

1.2 The Closing. The closing of the Exchange (the "Closing") shall take place at the offices of Olshan Grundman Frome Rosenzweig & Wolosky, LLP, Park Avenue Tower, 65 East 55th Street, New York, New York on the date that this Agreement is executed by the parties hereto (the time and date of the Closing being herein referred to as the "Closing Date"). On the Closing Date there will be delivered to the Preferred Stockholders the Shares on the Closing Date against delivery and cancellation of the original Preferred Stock in accordance with Schedule A hereto.

ARTICLE II

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value \$.01 per share (the "Preferred Stock"), of which 1,250,000 shares have been designated Series D Convertible Preferred Stock and 3,500,000 shares have been designated Series E Convertible Preferred Stock, having the designations, dividend rights, voting powers, conversion and redemption rights, rights on liquidation or dissolution, and other preferences and relative, participating, optional, or other preferences and relative, participating, optional, or other special rights, and the qualifications, limitations or restrictions thereof, set forth in their respective Certificates of Designations. Immediately prior to the Closing, the Company shall have 8,314,458 shares of Common Stock, 2,483,508 shares of Series E Convertible Preferred Stock, and 231,054 shares of Series D Convertible Preferred Stock outstanding. All issued and outstanding shares of Common Stock and Preferred Stock have been validly issued and are fully paid and nonassessable and have not been issued in violation of any Federal or state securities laws. Except for (a) upon the exercise of the options and warrants which are currently outstanding to purchase 5,481,860 shares of Common Stock (including options to purchase 3,297,370 under the Company's Stock Option Plan), there are not, as of the date hereof, any outstanding or authorized subscriptions, options, warrants, calls, rights, commitments, or any other agreements obligating the Company to issue (i) any additional shares of its capital stock or (ii) any securities convertible into, or exercisable or exchangeable for, or evidencing the right to subscribe for, any shares of its capital stock. Other than the Company's Stock Option Plan, the Company has not adopted or authorized any plan for the benefit of its officers, employees, or directors which require or permit the issuance, sale, purchase, or grant of any shares of the Company's capital stock, any securities convertible into, or exercisable or exchangeable for, or evidencing the right to subscribe for any shares of the Company's capital stock, or any phantom shares or any stock appreciation rights.

2.4 SEC Filings. The Company has filed all forms, reports, statements and other documents required to be filed with (i) the SEC including, without limitation, (A) all Annual Reports on Form 10-KSB, (B) all Quarterly Reports on Form 10-QSB, (C) all Reports on Form 8-K, (D) all other reports or registration statements and (E) all amendments and supplements to all such reports and registration statements (collectively referred to as the "SEC Reports") and (ii) any other applicable state securities authorities (all such forms, reports, statements and other documents in (i) and (ii) of this Section 2.4 being referred to herein, collectively, as the "Reports"). The Reports (i) were prepared in all material respects in accordance with the requirements of applicable law (including, with respect to the SEC Reports, the Securities Act of 1933, as amended (the "Securities Act"), and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as the case may be, and the rules and regulations of the SEC thereunder applicable to such SEC Reports) and (ii) did not at the time they were filed contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. In addition, since the last quarterly report of the Company on Form 10-QSB filed with the SEC, there have been no material events that require disclosure under the Exchange Act.

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CUSIP No. 64121N 10 9
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13D

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Page 12 of 23 Pages
=====

ARTICLE III

Representations and Warranties of the Preferred Stockholders

Each of the Preferred Stockholders, severally and not jointly, represents and warrants to the Company as follows:

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Percentage"). The failure of any Preferred Stockholder named in Exhibit A to execute this Agreement shall not effect the Closing of the Exchange with respect to those Preferred Stockholders who have executed this Agreement so long as the Agreement has been signed by the Required Percentage.

4.8 Headings. All article and section headings herein are inserted for convenience only and shall not modify or affect the construction or interpretation of any provision of this Agreement.

4.9 Counterparts; Governing Law. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without giving effect to conflict of laws.

4.10 Further Actions. At any time and from time to time, each party agrees, without further consideration, to take such actions and to execute and deliver such documents as may be reasonably necessary to effectuate the purposes of this Agreement.

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CUSIP No. 64121N 10 9
=====

13D

=====
Page 16 of 23 Pages
=====

IN WITNESS WHEREOF, this Agreement has been duly executed on the date hereinabove set forth.

NETWORK-1 SECURITY SOLUTIONS, INC.

By: /s/ Corey M. Horowitz

Name: Corey M. Horowitz
Title: Chairman and Chief
Executive Officer

APPLEGREEN PARTNERS

By: /s/ Seth Lieber

Name: Seth Lieber
Title: Partner

BROOKWOOD PARTNERS, L.P.

By: /s/ Barry Rubenstein

Name: Barry Rubenstein
Title: General Partner

CASILLI REVOCABLE TRUST

By: /s/ Gerald S. Casilli

Name: Gerald S. Casilli
Title: Trustee

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CMH CAPITAL MANAGEMENT CORP.

By: /s/ Corey M. Horowitz

Name: Corey M. Horowitz
Title: President

/s/ Andrew Fingerhut

Andrew Fingerhut

=====
CUSIP No. 64121N 10 9
=====

13D

=====
Page 17 of 23 Pages
=====

/s/ Barry Fingerhut

Barry Fingerhut

/s/ Robert Gladstone

Robert Gladstone

/s/ Amy Katz

Amy Katz

/s/ Irwin Lieber

Irwin Lieber

/s/ Jonathan Lieber

Jonathan Lieber

/s/ Seth Lieber

Seth Lieber

/s/ David Nussbaum

David Nussbaum

/s/ Jennifer Olsen

Jennifer Olsen

/s/ Harvey Pollak

Harvey Pollak

/s/ Barry Rubenstein

Barry Rubenstein

/s/ Marilyn Rubenstein

Marilyn Rubenstein

/s/ James Scibelli

James Scibelli

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CUSIP No. 64121N 10 9
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13D

=====
Page 18 of 23 Pages
=====

SENECA VENTURES

By: /s/ Barry Rubenstein

Name: Barry Rubenstein
Title: General Partner

/s/ Donna Slavitt

Donna Slavitt

/s/ John Slavitt

John Slavitt

WHEATLEY PARTNERS, L.P.

By: /s/ Barry Rubenstein

Name: Barry Rubenstein
Title: CEO, WHEATLEY PARTNERS LLC
General Partner

WHEATLEY PARTNERS II, L.P.

By: /s/ Barry Rubenstein

Name: Barry Rubenstein
Title: General Partner

WHEATLEY FOREIGN PARTNERS, L.P.

By: /s/ Barry Rubenstein

Name: Barry Rubenstein
Title: CEO, WHEATLEY PARTNERS LLC
General Partner

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Applegreen Partners c/o Jonathan Lieber 271 Hamilton Road Chappaqua, NY 10514	35,377	70,754	88,442
Brookwood Partners, L.P. 68 Wheatley Road Brookville, NY 11545	117,924	235,848	294,810
Casilli Revocable Trust 2905 Woodside Road Woodside, CA 94062	47,169	94,338	117,922
Andrew Fingerhut 70 East 10th St. Apt. 11L New York, NY 10003	11,792	23,584	29,480
Barry Fingerhut Wheatley Partners, L.P. 825 Third Avenue, 32th Floor New York, New York 10028-1170	165,094	330,188	412,735
Robert Gladstone 25 Evans Drive Brookville, NY 11545	11,792	23,584	29,480
CMH Capital Management Corp. 445 Park Avenue, Suite 1028 New York, NY 10022 Attn: Corey M. Horowitz, President	1,084,935	2,169,870	2,712,337
Amy Katz 26 North Moore Street, Apt. 8W New York, NY 10013	9,433	18,866	23,583
Irwin Lieber 8 Applegreen Drive Old Westbury, NY 11568	165,094	330,188	412,735
Jonathan Lieber 271 Hamilton Road Chappaqua, NY 10514	11,792	23,584	29,480

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CUSIP No. 64121N 10 9	13D	Page 21 of 23 Pages
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Name and Address of Preferred Stockholder -----	Number of Shares of Preferred Stock -----	Number of Shares of Common Stock Upon Conversion of Preferred Stock -----	Number of Shares of Common Stock Upon Exchange -----
Seth Lieber 103 Greene Street New York, NY 10012-3859	11,792	23,584	29,480
David Nussbaum	11,792	23,584	29,480

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83 Village Road
Roslyn Heights, NY 11577

Jennifer Olsen c/o Lawrence S. Dolin 16111 Parkland Drive Shaker Heights, OH 44120	11,792	23,584	29,480
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Harvey Pollak 14 Pine Drive North Roslyn, NY 11576	11,792	23,584	29,480
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Barry Rubenstein 68 Wheatley Road Brookville, NY 11545	47,169	94,338	117,922
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James Scibelli Roberts & Greene, Inc. One Hollow Lane, Suite 208 Lake Success, NY 11040	23,584	47,168	58,960
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Seneca Ventures 68 Wheatley Road Brookville, NY 11545	165,094	330,188	412,735
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Donna Slavitt 1085 Park Avenue, Apt. 3B New York, NY 10028	35,377	70,754	88,442
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John Slavitt 250 Baldwin Avenue, Apt. 801 San Mateo, CA 94401	9,433	18,866	23,582
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Wheatley Partners, L.P. 80 Cuttermill Road, Suite 311 Great Neck, NY 11021	86,792	173,584	216,980
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Wheatley Partners II, L.P. 80 Cuttermill Road, Suite 311 Great Neck, NY 11021	94,339	188,678	235,848
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Wheatley Foreign Partners, L.P. 80 Cuttermill Road, Suite 311 Great Neck, NY 11021	7,547	15,094	18,868
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CUSIP No. 64121N 10 9	13D		Page 22 of 23 Pages
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Name and Address of Preferred Stockholder -----	Number of Shares of Preferred Stock -----	Number of Shares of Common Stock Upon Conversion of Preferred Stock -----	Number of Shares of Common Stock Upon Exchange -----
Woodland Partners 68 Wheatley Road Brookville, NY 11545	94,339	188,678	235,848

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Brookville, NY 11545

Marilyn Rubenstein 68 Wheatley Road Brookville, NY 11545	495	839	1,049
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Sandler Company Investment Partners	9,159	15,518	19,398
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767 Fifth Avenue - 45th Floor
New York, NY 10153

Total Series D Preferred Stock	231,054	391,478	489,348
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TOTAL PREFERRED STOCK (SERIES E AND SERIES D)	2,714,562	5,358,494	6,698,118
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