

LIFEWAY FOODS INC
Form 8-K
May 05, 2006

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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): April 28, 2006
LIFEWAY FOODS, INC.**

(Exact name of registrant as specified in its charter)

ILLINOIS

0-17363

36-3442829

(State or other jurisdiction of
incorporation)

(Commission File Number)

(I.R.S. Employer Identification No.)

6431 West Oakton St. Morton Grove, IL

60053

(Address of principal executive offices)

(Zip code)

Registrant's telephone number, including area code: (847) 967-1010

N/A

(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))
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Item 1.01 Entry into a Material Definitive Agreement

SIGNATURE

Fourth Extension to Stockholders Agreement

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Item 1.01 Entry into a Material Definitive Agreement.

On May 3, 2006, Lifeway Foods, Inc. (Lifeway) and DS Waters, L.P. (DSW), an affiliate of Danone Foods, Inc., entered into a Fourth Extension of the Stockholders Agreement, which was originally entered into on October 1, 1999 by and among Danone Foods, Inc., Lifeway and certain other parties. The Stockholders Agreement was previously amended on December 24, 1999 by that certain First Extension to Stockholders Agreement dated September 28, 2004 (First Extension), by that certain Second Extension to Stockholders Agreement dated October 29, 2004 (Second Extension) and by that certain Third Extension to Stockholders Agreement dated December 30, 2004 (the Third Extension). All Lifeway shares held by Danone Foods, Inc. which are the subject to certain provisions of the Stockholders Agreement were transferred to DSW on November 10, 2005. DSW accepted these shares subject to the covenants and restrictions contained in the Stockholders Agreement.

Under the Stockholders Agreement as assigned to DSW, DSW has the right to nominate one Lifeway director, anti-dilutive rights relating to future offerings of securities by Lifeway and limited registration rights. The Stockholders Agreement originally provided that neither Lifeway nor Danone Foods, Inc. would compete with each other with respect to certain dairy products for a period of five years from the original execution (Non-Compete Period) and Danone Foods, Inc. would not own more than 20% of the issued and outstanding common stock of Lifeway as a result of direct or indirect acquisition of shares for a period of five years from the original execution (the Standstill Period). The First Extension, Second Extension and Third Extension extended the Non-Compete Period and Standstill Period to December 31, 2005. As of December 31, 2005, both the Non-Compete Period and Standstill Period expired, while certain provisions of the Stockholders Agreement continued in accordance with its terms. Between December 31, 2005 and the execution of the Fourth Extension, Lifeway and DSW have negotiated the Fourth Extension and now desire to reinstate the Stockholders Agreement to extend the Standstill Period and the Non-Compete Period, with the specific exclusion of Stonyfield Farms, Inc., an affiliate of Danone Foods, Inc. and DSW, from the Non-Compete obligations of the Stockholders Agreement.

Under the Fourth Extension, the terms of the Non-Compete Period and Standstill Period of the Stockholders Agreement will now expire on December 31, 2006.

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SIGNATURE

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.

Dated: May 5, 2006

LIFEWAY FOODS, INC.

By: /s/ Julie Smolyansky

Julie Smolyansky
Chief Executive Officer, President,
and Director