

BIOMET INC
Form 8-K
July 09, 2007

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): July 9, 2007

BIOMET, INC.

(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

Indiana
(State or other jurisdiction

of incorporation)

0-12515
(Commission File Number)

56 East Bell Drive

Warsaw, Indiana 46582

(Address of Principal Executive Offices, Including Zip Code)

(574) 267-6639

(Registrant's Telephone Number, Including Area Code)

Not Applicable

(Former Name or Former Address, if Changed Since Last Report)

35-1418342
(IRS Employer

Identification No.)

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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 2.02 Results of Operations and Financial Condition.

On July 9, 2007, Biomet, Inc. (the Company) issued a press release announcing its earnings for the fourth quarter and fiscal year ended May 31, 2007. A copy of the press release is being furnished as Exhibit 99.1 to this report and is incorporated herein by reference.

The information in this Item 2.02 and Exhibit 99.1 is being furnished and shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that Section. The information in this Item 2.02 and Exhibit 99.1 shall not be incorporated by reference into any filing under the Securities Act of 1933, except as shall otherwise be expressly set forth by specific reference in such filing.

Item 8.01 Other Events

On March 30, 2005 the Company announced that it had received a subpoena from the U.S. Department of Justice through the U.S. Attorney for the District of New Jersey requesting documents related to any consulting and professional service agreements with orthopedic surgeons using or considering the use of the Company's hip or knee implants for the period January 2002 through March 29, 2005. The Company is aware that similar inquiries were directed to other companies in the orthopedics industry. On July 19, 2006 the Company received a letter from the U.S. Department of Justice through the U.S. Attorney for the District of New Jersey requesting additional documents further to the subpoena issued in March 2005. This letter requested additional documents related to consulting and service agreements for the time period January 1998 through the present, as well as research and other grant agreements for that same time period. Further, the letter requested that the Company provide copies of the agreements identified in the supplemental request on an on-going basis. In addition, the requested information related to Company-sponsored training events, the selection process used by the Company to identify consultants and researchers, the Company's product design process for hip and knee implants and information on the Company's orthopedic sales force. The Company has subsequently received additional requests for information, both informally and by subpoena.

The U.S. Attorney's Office and the Company have recently begun discussions regarding a potential resolution of this matter. The results of any resolution remain uncertain at this time, but could, among other things, require monetary payments, cause the Company to significantly change some of its existing business practices, and include the potential for additional governmental oversight. Although the Company has cooperated and intends to continue to cooperate fully with the Department of Justice inquiry, discussions are still in preliminary stages with respect to the terms of any proposed resolution and there can be no assurance that the Company will enter into a consensual resolution of this matter with the U.S. Attorney's Office.

Forward-Looking Statements

This Form 8-K and the accompanying Exhibit 99.1 contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, as amended. Those statements are often indicated by the use of words such as will, intend, anticipate, estimate, expect, plan and similar expressions. Forward-looking statements involve certain risks and uncertainties. Actual results may differ materially from those contemplated by the forward looking statements due to, among others, the following factors: the results of ongoing investigations by the United States Department of Justice; the ability to successfully implement new technologies; the Company's ability to sustain sales and earnings growth; the Company's success in achieving timely approval or clearance of its products with domestic and foreign regulatory entities; the stability of certain foreign economic markets; the impact of anticipated changes in the musculoskeletal industry and the ability of the Company to react to and capitalize on those changes; the ability of the Company to successfully implement its desired organizational changes; the impact of the Company's managerial changes; the Company's inability to satisfy the conditions to closing the proposed transaction with LVB Acquisition, LLC (including receiving the requisite number of shares in the tender offer) and the costs and consequences of not closing the transaction; the effect of the pending transaction with LVB Acquisition, LLC on the Company's business and its relationship with customers, distributors, employees and suppliers; the results and related outcomes of the review by the special committee of Company's board of directors formed to investigate historical stock option granting practices; developments related to the Company's internal controls over financial reporting disclosure controls and procedures; and other factors set forth in the Company's filings with the SEC, including the Company's most recent annual report on Form 10-K (as amended) and quarterly reports on Form 10-Q. Although the Company believes that the assumptions on which the forward-looking statements contained herein are based are reasonable, any of those assumptions could prove to be inaccurate given the inherent uncertainties as to the occurrence or non-occurrence of future events. There can be no assurance as to the accuracy of forward-looking statements contained in this press release. The inclusion of a forward-looking statement herein should not be regarded as a representation by the Company that the Company's objectives will be achieved. The Company undertakes no obligation to update publicly or revise any forward-looking statements, whether as a result of new information, future events or otherwise. Accordingly, the reader is cautioned not to place undue reliance on forward-looking statements which speak only as of the date on which they were made.

Item 9.01. Financial Statements and Exhibits.

| Exhibit No. | Document |
|--------------------|------------------------------------|
| 99.1 | Press Release issued July 9, 2007. |

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.

BIOMET, INC.

/s/ Bradley J. Tandy
By: Bradley J. Tandy
Its: Senior Vice President, General Counsel and
Secretary

Date: July 9, 2007