

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM S-8

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

22nd CENTURY GROUP, INC.

(Exact Name of Registrant as Specified in Its Charter)

Nevada
*(State or Other Jurisdiction of Incorporation or
Organization)*

98-0468420
*(I.R.S. Employer
Identification No.)*

8650 Main Street, Suite 4, Williamsville, New York 14221
(Address of Principal Executive Office) (Zip Code)

22nd CENTURY GROUP, INC. 2014 OMNIBUS INCENTIVE PLAN, AS AMENDED AND RESTATED
(Full title of the plan)

Thomas L. James, Esq.
Vice President, General Counsel and Secretary
22nd Century Group, Inc.
8650 Main Street, Suite 4,
Williamsville, New York 14221
(Name and address of agent for service)

(716) 270-1523
(Telephone Number, including area code, for agent for service)

Copy to:
John J. Wolfel, Esq.
Foley & Lardner LLP
One Independent Drive, Suite 1300
Jacksonville, Florida 32202
(904) 359-2000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer Non-accelerated filer
Smaller reporting company 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 under Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title Of Securities To Be Registered	Amount To Be Registered (1)	Proposed Maximum Offering Price Per Share (2)	Proposed Maximum Aggregate Offering Price	Amount Of Registration Fee
Common Stock (\$0.00001 par value per share)	5,000,000	\$ 2.21	\$ 11,050,000	\$ 1,340
Total	5,000,000		\$ 11,050,000	\$ 1,340

(1) Represents shares added to the Company's 2014 Omnibus Incentive Plan pursuant to an amendment and restatement approved by the Company's stockholders at its 2019 annual meeting, which increased the number of shares available for award by an aggregate of 5,000,000 shares. In addition, pursuant to Rule 416(c) under the Securities Act of 1933, as amended, this Registration Statement also covers an indeterminate number of additional shares of common stock that may be offered or issued in the event of a stock dividend, reverse stock split, split-up, recapitalization, forfeiture of stock under the plan, or other similar event.

(2) Estimated solely for the purpose of calculating the registration fee in accordance with Rules 457(c) and (h) of the Securities Act of 1933, as amended. The price per share and aggregate offering price are calculated on the basis of the average of the high and low sale prices of our common stock on the NYSE American market on May 2, 2019, in accordance with Rule 457(c) under the Securities Act of 1933, as amended, for the 5,000,000 shares available for future issuance under the 2014 Omnibus Incentive Plan.

EXPLANATORY NOTE

This Registration Statement relates solely to the registration of additional securities of the same class as other securities for which a Registration Statement on this form relating to an employee benefit plan is effective. Pursuant to Instruction E of Form S-8, this Registration Statement incorporates by reference the contents of the Registration Statements previously filed with respect to the Company's 2014 Omnibus Incentive Plan on Form S-8 (Registration Nos. 333-195380 and 333-217771).

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized in Williamsville, New York, on this day of May 7, 2019.

22ND CENTURY GROUP, INC.

By: /s/ Henry Sicignano, III
Henry Sicignano, III
President, Chief Executive Officer and Director

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Thomas L. James and Henry Sicignano III, and each of them, as such person's true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for such person and in such person's name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) and additions to this registration statement on Form S-8 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, and hereby grants to such attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as such person might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or such person's substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated as of the 7th day of May, 2019.

<u>Signature</u>	<u>Title</u>
<u>/s/ Henry Sicignano, III</u> Henry Sicignano, III	President, Chief Executive Officer and Director (Principal Executive Officer)
<u>/s/ John T. Brodfuehrer</u> John T. Brodfuehrer	Chief Financial Officer (Principal Financial and Accounting Officer)
<u>/s/ Nora B. Sullivan</u> Nora B. Sullivan	Director
<u>/s/ Joseph Alexander Dunn, Ph.D.</u> Joseph Alexander Dunn, Ph.D.	Director
<u>/s/ James W. Cornell</u> James W. Cornell	Director
<u>/s/ Richard M. Sanders</u> Richard M. Sanders	Director

EXHIBIT INDEX

Exhibit Number	Exhibit Description
<u>3.1</u>	<u>Amended and Restated Certificate of Incorporation of the Company (incorporated herein by reference to Exhibit 3.2 of the Company's Annual Report on Form 10-K for the year ended September 30, 2010 filed with the Commission on December 1, 2010).</u>
<u>3.1.1</u>	<u>Amendment to Certificate of Incorporation of the Company (incorporated by reference to Appendix A to the Company's Definitive Proxy Statement filed with the Commission on March 4, 2014).</u>
<u>3.2</u>	<u>Amended and Restated Bylaws of the Company (incorporated herein by reference to Exhibit 3.2 of the Company's Annual Report on Form 10-K for the year ended December 31, 2014 filed with the Commission on January 30, 2014).</u>
<u>3.2.1</u>	<u>Amendment No. 1 to Amended and Restated Bylaws of the Company (incorporated herein by reference to Exhibit 3.2 of the Company's Form 8-K filed with the Commission on April 28, 2015).</u>
<u>5.1</u>	<u>Opinion of Foley & Lardner LLP with respect to the legality of the shares being registered (filed herewith).</u>
<u>10.1</u>	<u>22nd Century Group, Inc. 2014 Omnibus Incentive Plan, as amended and restated (incorporated by reference from Appendix A to the Company's definitive proxy statement filed with the Commission on March 22, 2019).</u>
<u>10.2</u>	<u>Form of Restricted Stock Award Agreement under 22nd Century Group, Inc. 2014 Omnibus Incentive Plan, as amended and restated (incorporated by reference to Exhibit 10.2 to the Company's Form 8-K filed with the Commission on April 14, 2014).</u>
<u>10.3</u>	<u>Form of Stock Option Award Agreement under 22nd Century Group, Inc. 2014 Omnibus Incentive Plan, as amended and restated (incorporated by reference to Exhibit 10.3 to the Company's Form 8-K filed with the Commission on April 14, 2014).</u>
<u>10.4</u>	<u>Form of Executive Restricted Stock Unit Award Agreement under 22nd Century Group, Inc. 2014 Omnibus Incentive Plan, as amended and restated. (incorporated by reference to Exhibit 10.15 to the Company's Form 10-K filed with the Commission on March 6, 2019).</u>
<u>10.5</u>	<u>Form of Director Restricted Stock Unit Award Agreement under 22nd Century Group, Inc. 2014 Omnibus Incentive Plan, as amended and restated. (incorporated by reference to Exhibit 10.16 to the Company's Form 10-K filed with the Commission on March 6, 2019).</u>
<u>23.1</u>	<u>Consent of Freed Maxick CPAs, P.C. (filed herewith).</u>
<u>23.2</u>	<u>Consent of Foley & Lardner LLP (included in Exhibit 5.1).</u>
<u>24.1</u>	<u>Power of Attorney (included in signature page hereto).</u>

Documents incorporated by reference to filings made by 22nd Century Group, Inc. under the Securities Exchange Act of 1934 are under SEC File No. 001-36338.



ATTORNEYS AT LAW

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May 7, 2019

22nd Century Group, Inc.
8650 Main Street, Suite 4
Williamsville, New York 14221

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

This opinion is being furnished in connection with the Registration Statement on Form S-8 (the "Registration Statement") of 22nd Century Group, Inc. (the "Company"), under the Securities Act of 1933, as amended, for the registration of an additional 5,000,000 shares of common stock, par value \$0.00001 per share, issuable pursuant to the 22nd Century Group, Inc. 2014 Omnibus Incentive Plan, as amended and restated (the "Plan"). The common stock issuable pursuant to the Plan is referred to herein as the "Shares."

In connection with this opinion, we have examined and relied upon such records, documents, certificates and other instruments as in our judgment are necessary or appropriate to form the basis for the opinions hereinafter set forth. In all such examinations, we have assumed the genuineness of signatures on original documents and the conformity to such original documents of all copies submitted to us as certified, conformed or photographic copies, and as to certificates of public officials, we have assumed the same to have been properly given and to be accurate. As to matters of fact material to this opinion, we have relied upon statements and representations of representatives of the Company and of public officials.

The opinions expressed herein are limited in all respects to the federal laws of the United States of America and the applicable provisions of the corporate law of the State of Nevada, and no opinion is expressed with respect to the laws of any other jurisdiction or any effect which such laws may have on the opinions expressed herein. This opinion is limited to the matters stated herein, and no opinion is implied or may be inferred beyond the matters expressly stated herein.

Based upon and subject to the foregoing, we are of the opinion that the Shares are duly authorized and upon the issuance of the Shares as provided in the Plan, the Shares will be validly issued, fully paid and nonassessable.

We hereby consent to the inclusion of this opinion as Exhibit 5.1 in the Registration Statement. In giving this consent, we do not hereby admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules or regulations of the Securities and Exchange Commission promulgated thereunder.

/s/ Foley & Lardner LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in this Registration Statement (No. 333- _____) on Form S-8 of 22nd Century Group, Inc. of our reports dated March 6, 2019, relating to the consolidated financial statements, the financial statement schedule, and the effectiveness of internal control over financial reporting of 22nd Century Group, Inc., with appears in the Annual Report on Form 10-K filed by 22nd Century Group, Inc. with the Securities and Exchange commission on March 6, 2019.

/s/ FREED MAXICK CPAs, P.C

Rochester, New York
May 7, 2019
