

HAPC, Inc.
Form PRER14A
February 14, 2007
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a)

of the Securities Exchange Act of 1934

(Amendment No. 1)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Under Rule 14a-12

HAPC, INC.

(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

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x Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

1) Title of each class of securities to which transaction applies:

Common Stock of InfuSystem, Inc.

2) Aggregate number of securities to which transaction applies:

Acquisition of all of the outstanding securities of InfuSystem, Inc.

3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

\$140,000,000 is being paid for all of the outstanding capital stock of InfuSystem, Inc.

4) Proposed maximum aggregate value of transaction:

\$140,000,000

5) Total fee paid:

\$14,980

x Fee paid previously with preliminary materials:

** Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

1) Amount previously paid:

2) Form, Schedule or Registration Statement No.:

3) Filing Party:

4) Date Filed:

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HAPC, INC.

350 Madison Avenue, 20th Floor

New York, New York 10017

(212) 418-5070

PROXY STATEMENT FOR SPECIAL MEETING OF STOCKHOLDERS OF

HAPC, INC.

To the Stockholders of HAPC, INC. ("HAPC"):

You are cordially invited to attend a special meeting (the "Special Meeting") of the stockholders of HAPC, INC., or HAPC, to be held at a.m., Eastern Time, on _____, 2007, at the offices of _____ relating to HAPC's acquisition of InfuSystem, Inc. or InfuSystem.

The transaction will be effected by the acquisition by Iceland Acquisition Subsidiary, Inc. or Acquisition Sub, a wholly-owned subsidiary of HAPC, of all of the issued and outstanding capital stock of InfuSystem, a California corporation and wholly-owned subsidiary of I-Flow Corporation, or I-Flow, a Delaware corporation. Concurrently with Acquisition Sub's acquisition of all of the issued and outstanding capital stock of InfuSystem, Acquisition Sub will merge with and into InfuSystem with the result that InfuSystem will become a wholly-owned subsidiary of HAPC.

At this important meeting, you will be asked to consider and vote upon the following proposals:

the acquisition to approve the acquisition by Acquisition Sub of all of the issued and outstanding capital stock of InfuSystem pursuant to the Stock Purchase Agreement, dated as of September 29, 2006, by and among I-Flow, InfuSystem, HAPC and Acquisition Sub ("Proposal 1");

the stock incentive plan proposal to approve the adoption of the HAPC 2006 Stock Incentive Plan (the "Plan") pursuant to which HAPC will reserve up to 2,000,000 shares of common stock for issuance pursuant to the Plan ("Proposal 2");

the amendment to the certificate of incorporation proposal to approve an amendment to HAPC's amended and restated certificate of incorporation to change HAPC's name from HAPC, INC. to InfuSystem Holdings, Inc. ("Proposal 3"); and

to transact such other business as may properly come before the meeting or any adjournment or postponement thereof.

The Board of Directors of HAPC has fixed the close of business on _____, 2007, as the record date (the "Record Date") for the determination of stockholders entitled to notice of and to vote at the Special Meeting and at any adjournment thereof. A list of stockholders entitled to vote as of the Record Date at the Special Meeting will be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours for a period of ten calendar days before the Special Meeting at HAPC's offices at 350 Madison Avenue, 20th Floor, New York, New York 10017, and at the time and place of the meeting during the duration of the meeting.

Adoption of each proposal will require the following vote:

For purposes of Proposal 1, the affirmative vote of a majority of the shares outstanding as of the Record Date of HAPC's common stock that were issued in HAPC's initial public offering, including shares subsequently purchased in the open market, that are present in person or by proxy at the Special Meeting and that vote on the proposal, *provided* less than 20% of the shares of HAPC's common

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stock issued in HAPC's initial public offering vote against the acquisition proposal and elect a cash conversion of their shares as described below.

For purposes of Proposal 2, the affirmative vote of a majority of the shares of HAPC's common stock issued and outstanding as of the Record Date that are present in person or by proxy at the Special Meeting.

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For purposes of Proposal 3, the affirmative vote of a majority of the shares of HAPC's common stock issued and outstanding as of the Record Date.

Each of Proposals 2 and 3 is conditioned upon the approval of Proposal 1 and, in the event Proposal 1 does not receive the necessary vote for approval, then HAPC will not complete any of the transactions specified in the others. If, however, Proposal 1 is approved and either Proposal 2 or 3 is not, HAPC will still consummate the acquisition.

In the event that the acquisition of InfuSystem is not undertaken, HAPC must complete an alternative business combination with a fair market value of at least 80% of its net assets (excluding the deferred underwriting discount and commission held in the trust account in the amount of approximately \$5,468,000) at the time of the business combination within 18 months after the consummation of its initial public offering, which occurred on April 18, 2006 (or within 24 months after the consummation of its initial public offering if a definitive agreement relating to a business combination has been executed within 18 months after the consummation of its initial public offering). It is likely that HAPC will have insufficient time and resources to complete an alternative business combination within this time period and HAPC will most likely have to liquidate after April 18, 2008 (or October 18, 2007 if no agreement is entered into).

Each HAPC stockholder who holds shares of common stock issued in HAPC's initial public offering, or purchased following such offering in the open market, has the right to vote against the acquisition proposal and, at the same time, demand that HAPC convert such stockholder's shares into cash equal to a pro rata portion of the proceeds held in the trust account, including interest, in which a substantial portion of the net proceeds of HAPC's initial public offering have been deposited. As of December 31, 2006, this amount was equal to \$5.82 per share, less income taxes owed on accrued interest. (The closing prices of HAPC's common stock, warrants and units on February 12, 2007, were \$5.58, \$0.30 and \$6.14, respectively.) If the acquisition is not completed, your shares will not be converted to cash at this time, even if you so elected. If the holders of 3,375,050 or more shares of common stock issued in HAPC's initial public offering, an amount equal to 20% or more of the total number of shares issued in the initial public offering, vote against the acquisition and demand conversion of their shares into a pro rata portion of the trust account, then HAPC will not be able to consummate the acquisition. In the event that the conversion price of the common stock is higher than the then prevailing market price of the common stock, there is a greater risk that HAPC stockholders will vote against the acquisition.

HAPC's shares of common stock, warrants and units consisting of one share of common stock and two warrants trade on the OTC Bulletin Board under the symbols HAPN.OB, HAPNW.OB and HAPNU.OB, respectively.

After careful consideration of the terms and conditions of the proposed acquisition of InfuSystem, the adoption of the Plan and the amendment to the amended and restated certificate of incorporation, the Board of Directors of HAPC has determined that such proposals and the transactions contemplated thereby are fair to and in the best interests of HAPC and its stockholders. In connection with the acquisition proposal, the Board of Directors of HAPC has received an opinion from BNY Capital Markets, Inc., to the effect that as of September 29, 2006, the date the Stock Purchase Agreement was entered into, based upon conditions that existed as of that date, and subject to the considerations described in its opinion and based upon such other matters as BNY Capital Markets, Inc. considered relevant, the consideration to be paid by HAPC in the acquisition pursuant to the Stock Purchase Agreement is fair to HAPC from a financial point of view. **The Board of Directors of HAPC unanimously recommends that you vote or give instruction to vote (i) FOR the proposal to acquire all of the issued and outstanding capital stock of InfuSystem pursuant to the Stock Purchase Agreement by and among InfuSystem, I-Flow, Acquisition Sub and HAPC; (ii) FOR the proposal to adopt the Plan; and (iii) FOR the proposal to approve an amendment to the amended and restated certificate of incorporation to change HAPC's corporate name, all as described in Proposals 1, 2, and 3, respectively.**

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Enclosed is a Notice of Special Meeting and Proxy Statement containing detailed information concerning the acquisition, adoption of the Plan and amendment to the amended and restated certificate of incorporation. Whether or not you plan to attend the Special Meeting, we urge you to read this material carefully. I look forward to seeing you at the meeting.

Sincerely,

John Voris

Chief Executive Officer

YOUR VOTE IS IMPORTANT. WHETHER YOU PLAN TO ATTEND THE SPECIAL MEETING OR NOT, PLEASE SIGN, DATE AND RETURN THE ENCLOSED PROXY CARD AS SOON AS POSSIBLE IN THE ENVELOPE PROVIDED. IF YOU SIGN AND RETURN THE PROXY CARD, BUT DO NOT GIVE INSTRUCTIONS ON HOW TO VOTE YOUR SHARES, YOUR SHARES WILL BE VOTED, AS RECOMMENDED BY THE HAPC BOARD OF DIRECTORS, FOR THE APPROVAL OF THE ACQUISITION PROPOSAL, FOR THE APPROVAL OF THE STOCK INCENTIVE PLAN PROPOSAL AND FOR APPROVAL OF THE AMENDMENT TO THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION PROPOSAL.

SEE THE SECTION TITLED RISK FACTORS BEGINNING ON PAGE 15 FOR A DISCUSSION OF VARIOUS FACTORS THAT YOU SHOULD CONSIDER IN CONNECTION WITH THE ACQUISITION OF INFUSYSTEM SINCE, UPON HAPC S ACQUISITION OF INFUSYSTEM, THE OPERATIONS AND ASSETS OF HAPC WILL LARGELY BE THOSE OF INFUSYSTEM.

THIS PROXY STATEMENT IS DATED _____, 2007, AND IS FIRST BEING MAILED TO HAPC STOCKHOLDERS ON OR ABOUT _____, 2007.

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HAPC, INC.

350 Madison Avenue, 20th Floor

New York, New York 10017

(212) 418-5070

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

TO BE HELD ON _____, 2007

TO THE STOCKHOLDERS OF HAPC, INC.:

Notice is hereby given that a special meeting of stockholders, including any adjournments or postponements thereof, of HAPC, INC., or HAPC, a Delaware corporation, will be held at _____ a.m. Eastern Time, on _____, 2007, at the offices of _____ for the following purposes:

the acquisition proposal to approve the acquisition by Iceland Acquisition Subsidiary, Inc. or Acquisition Sub, a Delaware corporation and wholly-owned subsidiary of HAPC, of all of the issued and outstanding capital stock of InfuSystem, Inc. or InfuSystem, a California corporation and wholly-owned subsidiary of I-Flow Corporation or I-Flow, a Delaware corporation, pursuant to the Stock Purchase Agreement, dated as of September 29, 2006, by and among I-Flow, InfuSystem, HAPC and Acquisition Sub (Proposal 1);

the stock incentive plan proposal to approve the adoption of the HAPC 2006 Stock Incentive Plan (the Plan) pursuant to which HAPC will reserve up to 2,000,000 shares of common stock for issuance pursuant to the Plan (Proposal 2);

the amendment to the certificate of incorporation proposal to approve an amendment to HAPC s amended and restated certificate of incorporation, to change HAPC s name from HAPC, INC. to InfuSystem Holdings, Inc. (Proposal 3); and

to consider and vote upon such other business as may properly come before the meeting or any adjournment or postponement thereof.

The Board of Directors of HAPC has fixed the close of business on _____, 2007 as the date for which HAPC stockholders are entitled to receive notice of, and to vote at, the special meeting and any adjournments or postponements thereof. Only the holders of record of HAPC common stock on that date are entitled to have their votes counted at the special meeting and any adjournments or postponements thereof.

HAPC will not transact any other business at the special meeting, except for business properly brought before the special meeting, or any adjournment or postponement thereof, by HAPC s Board of Directors.

Your vote is important. Please sign, date and return your proxy card as soon as possible to make sure that your shares are represented at the special meeting. If you are a stockholder of record of HAPC common stock, you may also cast your vote in person at the special meeting. If your shares are held in an account at a brokerage firm or bank, you must instruct your broker or bank on how to vote your shares.

The Board of Directors of HAPC unanimously recommends that you vote FOR Proposal 1, the acquisition proposal, FOR Proposal 2, the stock incentive plan proposal and FOR Proposal 3, the amendment to the certificate of incorporation proposal.

By Order of the Board of Directors,

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Pat LaVecchia
Secretary

, 2007

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SUMMARY OF THE MATERIAL TERMS OF THE ACQUISITION

The parties to the Stock Purchase Agreement are HAPC, INC., I-Flow Corporation, Iceland Acquisition Subsidiary, Inc. and InfuSystem, Inc. See the section entitled "Proposal No. 1 The Acquisition Proposal" .

HAPC believes that InfuSystem is one of the largest providers of ambulatory infusion pump management services for oncologists and their patients in the United States. Although InfuSystem is currently a subsidiary of I-Flow, InfuSystem has demonstrated that it is a self-sufficient business with positive cash flows as evidenced by its net income and statements of cash flow for recent financial periods. InfuSystem's principal offices are located in Madison Heights, Michigan. See the section entitled "Business of InfuSystem" .

At the closing of the acquisition, HAPC's wholly-owned subsidiary, Iceland Acquisition Subsidiary, Inc. or Acquisition Sub, will acquire all of the issued and outstanding capital stock of InfuSystem from I-Flow. Concurrently with the closing of the acquisition, Acquisition Sub will merge with and into InfuSystem and cease to exist as an independent entity. As the entity surviving the merger, InfuSystem will continue its corporate existence under the laws of the State of California as a wholly-owned subsidiary of HAPC. See the section entitled "The Stock Purchase Agreement" .

At the closing, I-Flow will be paid an aggregate of \$140,000,000 (subject to certain working capital adjustments to be determined at the time of closing) in a combination of cash and a secured promissory note in an amount of up to \$75,000,000 for all of the outstanding capital stock of InfuSystem. The actual amount of the promissory note will range from \$55,000,000 to \$75,000,000 depending upon the number of HAPC stockholders who exercise their conversion rights as described herein. See the section entitled "The Stock Purchase Agreement" .

The acquisition of all of the issued and outstanding capital stock of InfuSystem by Acquisition Sub cannot be completed unless the holders as of _____, 2007 of at least a majority of the shares of HAPC's common stock issued in HAPC's initial public offering, including shares subsequently purchased in the open market, that are present in person or by proxy and entitled to vote at the special meeting and that vote on the proposal, approve the acquisition, provided less than 20% of the shares of HAPC's common stock issued in HAPC's initial public offering vote against the acquisition proposal and elect a cash conversion of their shares. See the section entitled "Proposal No. 1 The Acquisition Proposal" .

In the event that the Stock Purchase Agreement is terminated by I-Flow (i) because of HAPC's failure to obtain the necessary approval of the acquisition by the HAPC stockholders (as described in the Stock Purchase Agreement) by April 30, 2007 or (ii) because HAPC is unwilling or unable to consummate the transactions contemplated by the Stock Purchase Agreement notwithstanding the fact all conditions precedent to the Stock Purchase Agreement have been satisfied or are capable of fulfillment, HAPC will pay I-Flow a break up fee. The fee is \$1,000,000 in the case of I-Flow's termination due to HAPC's failure to hold the special meeting by April 30, 2007 to obtain the HAPC stockholders' approval of the acquisition, and \$3,000,000 in all other cases where a break up fee is payable. See the section entitled "The Stock Purchase Agreement" .

Payment of the break up fee has been guaranteed to I-Flow by Messrs. Sean D. McDevitt and Philip B. Harris. Mr. McDevitt is Chairman of HAPC. See the section entitled "The Stock Purchase Agreement" . Messrs. McDevitt and Harris have delivered to I-Flow a letter of credit issued by JPMorgan Chase Bank for the benefit of I-Flow which I-Flow may draw upon in the event that the \$1,000,000 or \$3,000,000 break up fee, as the case may be, is not paid when due and payable.

In addition to voting on the acquisition proposal, the stockholders of HAPC will vote on proposals to approve the HAPC 2006 Incentive Stock Plan and to amend HAPC's amended and restated certificate of incorporation to change HAPC's corporate name to InfuSystem Holdings, Inc. See sections "Proposal No. 2 The Stock Incentive Plan Proposal" and "Proposal No. 3 Amendment to Certificate of Incorporation Proposal" .

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PROXY STATEMENT FOR SPECIAL MEETING OF STOCKHOLDERS OF HAPC, INC.

The Board of Directors of HAPC, INC has unanimously adopted and approved the Stock Purchase Agreement, dated September 29, 2006, by and among I-Flow Corporation, InfuSystem, Inc., a wholly-owned subsidiary of I-Flow, HAPC and Iceland Acquisition Subsidiary, Inc., a wholly-owned subsidiary of HAPC, refer