

HALE MARTIN M JR
Form 4
December 20, 2018

FORM 4 UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

OMB APPROVAL

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
HALE MARTIN M JR

2. Issuer Name and Ticker or Trading Symbol
FALCONSTOR SOFTWARE INC
[FALC]

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

(Last) (First) (Middle)

3. Date of Earliest Transaction (Month/Day/Year)
12/18/2018

Director 10% Owner
 Officer (give title below) Other (specify below)

See Remarks

C/O HALE CAPITAL PARTNERS, LP, 17 STATE STREET, SUITE 3230

(Street)

4. If Amendment, Date Original Filed(Month/Day/Year)

6. Individual or Joint/Group Filing(Check Applicable Line)

Form filed by One Reporting Person
 Form filed by More than One Reporting Person

NEW YORK, NY 10004

(City) (State) (Zip)

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)	5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount or Price		
Common Stock					70,815 ⁽¹⁾	D	
Common Stock	12/18/2018		M		303,379,065 ⁽²⁾	A	See Footnotes ⁽³⁾ ⁽⁷⁾
					\$ 0.001 ⁽³⁾		

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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number.

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)	6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Underlying Securities (Instr. 3 and 4)		
						Date Exercisable	Expiration Date			
				Code	V	(A)	(D)	Title	Amount Number Shares	
<u>Warrants</u> <u>(2)</u>	\$ 0.001	12/18/2018		M		303,379,065	<u>(4)</u>	<u>(4)</u>	Common Stock	303,37

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
HALE MARTIN M JR C/O HALE CAPITAL PARTNERS, LP 17 STATE STREET, SUITE 3230 NEW YORK, NY 10004	X	X		See Remarks

Signatures

/s/ Martin M.
Hale, Jr. 12/20/2018

**Signature of Reporting Person Date

Explanation of Responses:

- * If the form is filed by more than one reporting person, see Instruction 4(b)(v).
- ** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- (1) Represents shares of vested Restricted Stock previously granted to Martin Hale, Jr. ("MH") under the Falconstor Software, Inc. 2016 Outside Director Equity Compensation Plan in consideration for services performed as a member of the Board of Directors of Falconstor Software, Inc. (the "Issuer"). MH holds these shares for the benefit of Hale Capital Partners, LP ("HCP").
- (2) HCP-FVA, LLC ("HCP-FVA"), a Delaware limited liability company, exercised that certain Financing Unit Warrant, dated February 23, 2018 (the "Financing Unit Warrant"), to purchase 303,379,065 shares of common stock (the "Common Stock") of the Issuer.
- (3) The shares of Common Stock reported herein are held by HCP-FVA and HCP.
- (4) The Financing Unit Warrant is presently exercisable and expires on February 23, 2028, unless the expiration date of the Financing Unit Warrant is accelerated by the Issuer in accordance with the terms of the Financing Unit Warrant. The Issuer accelerated the expiration date of the Financing Unit Warrant to December 31, 2018.
- (5) Represents the remaining backstop warrants held by HCP-FVA to purchase 1,543,630 shares of Common Stock as set forth in the previous filings of HCP-FVA and MH.
- (6) The derivative securities reported herein are held by HCP-FVA.
- (7)

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MH is the Chief Executive Officer of HCP, the sole member of HCP-FVA. MH is also (i) the sole owner and managing member of Hale Fund Partners, LLC, a Delaware limited liability company ("HFP"), the general partner of HCP and (ii) the sole owner and Chief Executive Officer of Hale Fund Management, LLC, a Delaware limited liability company ("HFM"). HFM is (i) the general partner of Hale Capital Management, LP ("HCM"), the manager of HCP and (ii) the manager of HCP-FVA. Each of MH, HFP, HFM and HCM disclaims beneficial ownership of the securities reported herein, except to the extent of his or its pecuniary interest.

Remarks:

MH serves as a director on the board of directors of the Issuer as a representative of HCP-FVA. Accordingly, HCP, HFP, HFM

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.

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