

CAPSTONE TURBINE Corp  
Form 4  
September 04, 2014

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

OMB APPROVAL

OMB Number: 3235-0287  
Expires: January 31, 2015  
Estimated average burden hours per response... 0.5

Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

**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 \*  
JAGGERS JOHN V

2. Issuer Name and Ticker or Trading Symbol  
CAPSTONE TURBINE Corp  
[CPST]

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

(Last) (First) (Middle)

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

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

C/O SEVIN ROSEN FUNDS, 13355  
NOEL ROAD, SUITE 1350

09/02/2014

(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

DALLAS, TX 75240

(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 Ownership (Instr. 4)			
			Code	V	Amount or (D) Price					
Common Stock	09/02/2014		A		7,113 <u>(1)</u>	A	\$ 1.23	475,860	D	
Common Stock								9,744	I <u>(2)</u>	See Footnote

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

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SEC 1474  
(9-02)

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**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)	8. Price of Derivative Security (Instr. 5)	9. Number of Derivative Securities Owned Following Transaction (Instr. 5)
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## Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
JAGGERS JOHN V C/O SEVIN ROSEN FUNDS 13355 NOEL ROAD, SUITE 1350 DALLAS, TX 75240		X		

## Signatures

John V. Jagers                      09/04/2014  
 \_\_Signature of                      Date  
 Reporting Person

## 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) Capstone shares received in lieu of quarterly Director cash fees.

(2) Total Common Shares of 9,744 represents 16 of such common shares held by SRB Associates VII L.P. ("SRBVII"), and 9,728 such common shares held by Sevin Rosen VII Affiliates Fund L.P. ("SRVII AFF"). Reporting person is a general partner of SRBVII, and a general partner of the general partner of SRVII AFF, and disclaims beneficial ownership of these shares except to his proportionate partnership interest in these shares.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, see Instruction 6 for procedure. Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.

Other Events.

As previously announced, on November 20, 2017, the Bankruptcy Court granted interim relief on a number of “first day” motions in the Chapter 11 Proceedings (the “First Day Orders”). One of the First Day Orders was that certain Interim Order (A) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with Respect to Stock and (B) Granting Related Relief (the “Trading Order”), which adopts certain procedures with respect to the equity of the Company, providing that:

any person or entity who is or becomes (i) a beneficial owner of at least 1.34 million shares of the Company’s common stock (which represents approximately 4.5% of the issued and outstanding common stock) or (ii) a holder of the Company’s Series B Non-Participating Preferred Stock (each of (i) and (ii), a “Substantial Shareholder”) shall file with the Bankruptcy Court, with copy to counsel and any official committee appointed in the Chapter 11 Proceedings, a declaration of such status within 20 days after service of the Notice of Order (which was November 22, 2017), or within 14 days after becoming a Substantial Shareholder;

at least 14 days prior to effectuating any transfer of equity securities that would result in (A) an increase in the amount of Company equity securities beneficially owned by a Substantial Shareholder, or (B) an increase in the amount of Company common stock beneficially owned by a person or entity which would result in such person becoming a Substantial Shareholder, such person or entity shall file with the Bankruptcy Court a notice of such proposed transfer (“Declaration of Intent to Accumulate Stock”);

at least 14 days prior to effectuating any transfer of beneficial ownership of equity securities that would result in (A) a decrease in the amount of Company equity securities beneficially owned by a Substantial Shareholder, or (B) a person or entity ceasing to be a Substantial Shareholder, such person or entity shall file with the Bankruptcy Court a notice of such proposed transfer (with a Declaration of Intent to Accumulate Stock, a “Declaration of Proposed Transfer”); and

the Debtors and any official committee appointed in the Chapter 11 Proceedings shall have 7 days after the filing of a Declaration of Proposed Transfer to object to the proposed transfer of the Company's equity securities (a "Proposed Transfer") on the grounds that the Proposed Transfer might adversely affect the Company's ability to utilize its net operating losses ("NOLs"), and any such objection shall serve to render the Proposed Transfer ineffective until the Debtors or official committee withdraws the objection or the Bankruptcy Court enters a final, non-appealable order approving the Proposed Transfer. If the Debtors or an official committee do not object within the 7-day period, such Proposed Transfer can proceed as set forth in the Declaration of Proposed Transfer. Additional Proposed Transfers are each subject to the above procedures.

Further, the Trading Order provides that:

any person or entity who is or becomes, at any time since December 31, 2013, a beneficial owner of 50% or more of any class of the Company's equity securities (a "50-Percent Shareholder") shall file with the Bankruptcy Court, with copy to counsel and any official committee appointed in the Chapter 11 Proceedings a declaration of such status within 30 days after the effective date of the notice of entry of the Interim Order (which was November 20, 2017), or within 10 business days after becoming a 50-Percent Shareholder;

at least 15 days prior to filing any federal or state tax return, or amendment to such return, that claims any deduction for worthlessness of stock for a tax year ending before the Debtors' emergence from Chapter 11 protection, a 50-Percent Shareholder shall file with the Bankruptcy Court a notice of such intended claim of worthlessness ("Declaration of Intent to Claim Worthlessness"); and

the Debtors and any official committee appointed in the Chapter 11 Proceedings shall have 10 business days after the filing of a Declaration of Intent to Claim Worthlessness to object to the proposed claim of worthlessness of the Company's equity securities (a "Proposed Declaration of Worthlessness") on the grounds that such Proposed Declaration of Worthlessness might adversely affect the Company's ability to utilize its NOLs, and any such objection shall serve to render the filing of any tax return in which the Proposed Declaration of Worthlessness is made ineffective until the Debtors or official committee withdraws the objection or the Bankruptcy Court sustains the objection. If the Bankruptcy Court sustains the objection, the 50-Percent Shareholder must file an amended tax return revoking the proposed deduction. If the Debtors or an official committee do not object within the 10-business day period, such Proposed Declaration of Worthlessness can proceed as set forth in the Declaration of Intent to Claim Worthlessness. Additional tax returns or amendments of tax returns including claims of worthlessness of the Company's equity securities are each subject to the above procedures.

A final hearing on the motion for a final order has been scheduled by the Bankruptcy Court to be held on January 17, 2018. Any objections or responses to entry of the proposed final order shall be filed with the clerk of the Bankruptcy Court on or before January 10, 2018 and served upon the applicable notice parties.

The Trading Order does not amend or supersede the other protections for the NOLs found in the Company's Amended and Restated Bylaws (the "Bylaws") or the Company's Amended and Restated Rights Agreement (the "Rights Agreement"). The Bylaws include certain restrictions on transactions involving Company common stock by persons or entities who own, or as a result of the transaction would own, 4.9% or more of the Company's common stock. Any acquisition of common stock above this level is void, unless the Board of Directors approves the acquisition. Further, the Rights Agreement allow the Company's Board of Directors, in the event that a person or entity acquires beneficial

ownership of 5% or more of, or announces a merger, acquisition, tender offer or exchange offer for, the Company's common stock, to trigger the rights of all other common stockholders to purchase shares of the Company's common stock at a discount in order to dilute the acquiring person or entity.

The foregoing description of the Trading Order does not purport to be complete and is qualified in its entirety by reference to the Trading Order filed hereto as Exhibit 99.1 and is incorporated herein by reference.

#### Cautionary Note Regarding the Company's Common Stock

The Company cautions that trading in its securities during the pendency of the Chapter 11 Proceedings is highly speculative and poses substantial risks. Trading prices for the Company's securities may bear little or no relationship to the actual recovery, if any, by holders of such securities in the Chapter 11 Proceedings.

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## Additional Information on the Chapter 11 Proceedings

Court filings and other information related to the court-supervised proceedings are available at a website administered by the Company's claims agent, Prime Clerk, at <https://cases.primeclerk.com/realindustry>. Additional information on Real Industry can be found at its website [www.realindustryinc.com](http://www.realindustryinc.com).

## Cautionary Note Regarding Forward-Looking Statements

This Current Report on Form 8-K contains forward-looking statements, which are based on our current expectations, estimates, and projections about the businesses and prospects of the Company, Real Alloy and their subsidiaries ("we" or "us"), as well as management's beliefs, and certain assumptions made by management. Words such as "anticipates," "expects," "intends," "plans," "believes," "seeks," "estimates," "may," "should," "will" and variations of these words are intended to identify forward-looking statements. Such statements speak only as of the date hereof and are subject to change. The Company undertakes no obligation to revise or update publicly any forward-looking statements for any reason. These statements are not guarantees of future performance and are subject to certain risks, uncertainties, and assumptions that are difficult to predict. Forward-looking statements discuss, among other matters: our financial and operational results, as well as our expectations for future financial trends and performance of our business in future periods; our strategy; risks and uncertainties associated with Chapter 11 proceedings; the negative impacts on our businesses as a result of filing for and operating under Chapter 11 protection; the time, terms and ability to confirm a Chapter 11 plan of reorganization for our businesses; the adequacy of the capital resources of our businesses and the difficulty in forecasting the liquidity requirements of the operations of our businesses; the unpredictability of our financial results while in Chapter 11 proceedings; our ability to discharge claims in Chapter 11 proceedings; negotiations with the holders of Real Alloy's Senior Secured Notes, its asset-based facility lender, and its trade creditors; risks and uncertainties with performing under the terms of the debtor-in-possession ("DIP") financing and any other arrangement with lenders or creditors while in Chapter 11 proceedings; our ability to retain employees, suppliers and customers as a result of Chapter 11 proceedings; Real Alloy's ability to conduct business as usual in the United States and worldwide; Real Alloy's ability to continue to serve customers, suppliers and other business partners at the high level of service and performance they have come to expect from Real Alloy; Real Alloy's ability to continue to pay suppliers; Real Alloy's ability to fund ongoing business operations through the DIP financing; the use of the funds anticipated to be received in the DIP financing; the ability to control costs during Chapter 11 proceedings; the risk that our Chapter 11 proceedings may be converted to cases under Chapter 7 of the Bankruptcy Code; the ability of the Company to preserve and utilize the NOLs following Chapter 11 proceedings; the Company's ability to secure operating capital; the Company's ability to take advantage of opportunities to acquire assets with upside potential; the Company's ability to execute on its strategic plan to evaluate and close potential M&A opportunities; our long-term outlook; our preparation for future market conditions; and any statements or assumptions underlying any of the foregoing. Such statements are not guarantees of future performance and are subject to certain risks, uncertainties, and assumptions that are difficult to predict. Accordingly, actual results could differ materially and adversely from those expressed in any forward-looking statements as a result of various factors.

Important factors that may cause such differences include, but are not limited to, the decisions of the bankruptcy court; negotiations with Real Alloy's debtholders and our creditors; our ability to meet the requirements, and compliance with the terms, including restrictive covenants, of the DIP financing and any other financial arrangement while in Chapter 11 proceedings; adverse litigation; changes in domestic and international demand for recycled

aluminum the cyclical nature and general health of the aluminum industry and related industries commodity and scrap price fluctuations and our ability to enter into effective commodity derivatives or arrangements to effectively manage our exposure to such commodity price fluctuations inventory risks, commodity price risks, and energy risks associated with Real Alloy's buy/sell business model; the impact of tariffs and trade regulations on our operations; the impact of any changes in U.S. or non-U.S. tax laws on our operations or the value of our NOLs; our ability to successfully identify, acquire and integrate additional companies and businesses that perform and meet expectations after completion of such acquisitions our ability to achieve future profitability our ability to control operating costs and other expenses that general economic conditions may be worse than expected that competition may increase significantly changes in laws or government regulations or policies affecting our current business operations and/or our legacy businesses, as well as those risks and uncertainties disclosed under the sections entitled "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Real Industry, Inc.'s Forms 10-Q filed with the Securities and Exchange Commission ("SEC") on May 10, 2017, August 8, 2017 and November 9, 2017 and Form 10-K filed with the SEC on March 13, 2017, and similar disclosures in subsequent reports filed with the SEC.

Item 9.01 Financial Statements and Exhibits

(d) EXHIBITS. The following exhibits are filed herewith:

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Exhibit 10.1 Note Purchase Agreement, dated and effective as of November 21, 2017 by and among Real Alloy Holding, Inc., the NPA Guarantors and the Purchasers.

Exhibit 10.2 ABL Credit Agreement, dated and effective as of November 20, 2017, by and among the ABL Borrowers, ABL Guarantors, and ABL Lenders.

Exhibit 99.1 Interim Order of the Bankruptcy Court regarding Certain Transfers and Tax Declarations of Real Industry Common Stock.

EXHIBIT INDEX

Exhibit No.	Description of Exhibit
10.1	<u>Note Purchase Agreement, dated and effective as of November 21, 2017 by and among Real Alloy Holding, Inc., the NPA Guarantors and the Purchasers.</u>
10.2	<u>ABL Credit Agreement, dated and effective as of November 20, 2017, by and among the ABL Borrowers, ABL Guarantors, and ABL Lenders.</u>
99.1	<u>Interim Order of the Bankruptcy Court regarding Certain Transfers and Tax Declarations of Real Industry Common Stock.</u>

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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 thereunto duly authorized.

REAL INDUSTRY, INC.

Date: November 27, 2017    By:    /s/ Kelly G. Howard  
Name: Kelly G. Howard  
Title: Executive Vice President and General Counsel

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