

Edgar Filing: Cardo Medical, Inc. - Form 10-K/A

Cardo Medical, Inc.  
Form 10-K/A  
February 02, 2009

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington D.C. 20549

FORM 10-K/A  
Amendment No. 1

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE  
ACT OF 1934

For the fiscal year ended June 30, 2008

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 0-21419

Cardo Medical, Inc.

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(Exact name of registrant as specified in its charter)

Delaware 23-2753988

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(State or other jurisdiction of incorporation or organization) (IRS Employer Identification No.)

8899 Beverly Boulevard, Suite 619, Los Angeles, California 90048

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(Address of principal executive offices) (Zip Code)

(310) 274-2036

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Registrant's Telephone Number, including area code -----

Securities registered pursuant to section 12(b) of the Act:

Title of each class Name of each exchange on which registered

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Securities registered pursuant to section 12(g) of the Act:

Common Stock, par value \$.001

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(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act.  Yes  No

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Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. [X] Yes [ ] No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (Section 229.405 of this chapter) is not contained herein and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K [ ]

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). [X] Yes [ ] No

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter. \$11,023,368  
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The Registrant had 203,360,222 shares of common stock, par value \$.001, outstanding as of September 19, 2008.

EXPLANATORY NOTE

Cardo Medical, Inc. (the "Company," "we," "us," "our" or "Cardo") is filing this Amendment No. 1 to its Annual Report on Form 10-K for the year ended June 30, 2008, filed with the Securities and Exchange Commission (the "SEC") on September 29, 2008 (the "Original Filing") to include in Item 9A(T)

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management's conclusion that, based on an assessment conducted by our former principal executive officer and former principal financial officer in connection with such filing, our internal control over financial reporting operated effectively at June 30, 2008. This conclusion was inadvertently omitted from the Original Filing. This Form 10-K/A continues to speak as of the date of the Original Filing, September 29, 2008. As reported herein, clickNsettle.com, Inc. merged with Cardo on August 29, 2008. Our post-merger officers and directors are filing and certifying this Amendment.

### Item 9A(T). CONTROLS AND PROCEDURES

#### Evaluation of disclosure controls and procedures

Disclosure controls and procedures mean the methods designed to ensure that information that the Company is required to disclose in the reports that it files with the Securities and Exchange Commission is recorded, processed, summarized and reported within the time periods required. Our controls and procedures are designed to ensure that all information required to be disclosed is accumulated and communicated to our management to allow timely decisions regarding disclosure.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as of June 30, 2008. Based on this evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report.

#### Management's report on internal control over financial reporting

Our controls and procedures are designed to provide reasonable assurance of the reliability of our financial reporting and accurate recording of our financial transactions. Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Under the supervision and with the participation of the Company's management, including

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the principal executive officer and the principal financial officer, the Company's management conducted an evaluation of the effectiveness of its internal control over financial reporting as of June 30, 2008 as required by the Securities Exchange Act of 1934 Rule 13a-15(c). Our management assessed the risks associated with the reliability of our financial reporting by identifying the risks that could result in a misstatement in our financial statements. In making this assessment, the Company's management used the criteria set forth in the framework in "Internal Control-Integrated framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission. No material weaknesses in our internal control over financial reporting were identified, and our principal executive officer and principal financial officer concluded that the Company has controls in place

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that address our financial reporting risks and that such controls operated effectively as of June 30, 2008.

This Annual Report on Form 10-K does not include an attestation report of the Company's registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's registered public accounting firm pursuant to temporary rules of the Securities and Exchange Commission that permit the Company to provide only management's report in this annual report.

### Changes in internal control over financial reporting

Based on an evaluation, under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, there has been no significant change in our internal controls over financial reporting during our last fiscal quarter identified in connection with that evaluation that materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

A control system, however well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. There are inherent limitations in all control systems, and no evaluation of controls can provide absolute assurance that all control gaps or instances of fraud have been detected. These inherent limitations include the realities that the judgments in decision-making can be faulty, and that simple errors or mistakes can occur.

Cardo Medical's pre-merger disclosure controls and procedures and internal control over financial reporting.

Prior to the merger of CKST and Cardo, Cardo identified material weaknesses in its disclosure controls and procedures and its internal control over financial reporting as of December 31, 2007 and, accordingly, concluded

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that its disclosure controls and procedures and internal control over financial reporting were not effective as of that date. Cardo has reported these weaknesses and its efforts to mitigate and remediate these weaknesses in its filings with the SEC.

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

Exhibit No. Document

Exhibit No.	Document
2.1(1)	Merger Agreement and Plan of Reorganization, dated as of June 18, 2008, by and among clickNsettle.com, Inc., Cardo Medical, LLC and Cardo Acquisition, LLC
2.2(2)	First Amendment to Merger Agreement and Plan of Reorganization, dated as of August 29, 2008, by and among clickNsettle.com, Inc., Cardo Medical, LLC and Cardo Acquisition, LLC
3.1(3)	Amended and Restated Certificate of Incorporation
3.2(4)	Amended and Restated Bylaws
10.6(5)	Stock Purchase Agreement, dated as of December 19, 2007, by and among clickNsettle.com, Inc., Frost Gamma Investments Trust, Dr. Jane Hsiao, Steven D. Rubin and Subbarao Uppaluri
10.7(4)	First Amendment to Stock Purchase Agreement, dated as of January 31, 2008, by and among clickNsettle.com, Inc., Frost Gamma Investments Trust, Dr. Jane Hsiao, Steven D. Rubin and Subbarao Uppaluri
21.1(2)	Subsidiaries of clickNsettle.com, Inc.

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- 31.1 Certification of Chief Executive Officer  
31.2 Certification of Chief Financial Officer  
32 Certification Pursuant to Rule 13a-14(b) and Section 906 of the  
Sarbanes-Oxley Act of 2002 (Subsections (a) and (b) of Section  
1350, Title 18, United States Code)
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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

CARDO MEDICAL, INC.

Dated: January 28, 2009

By: /s/Andrew Brooks

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Chief Executive Officer  
(principal executive officer)

Dated: January 28, 2009

By:/s/Derrick Romine

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Chief Financial Officer  
(principal financial officer)

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, Andrew Brooks, certify that:

1. I have reviewed this Amendment No. 1 to annual report on Form 10-K of Cardo Medical, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

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c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

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5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: January 28, 2009

/s/ Andrew Brooks

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Andrew Brooks  
Chief Executive Officer



CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, Derrick Romine, certify that:

1. I have reviewed this Amendment No. 1 to annual report on Form 10-K of Cardo Medical, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial

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reporting; and

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5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: January 28, 2009

/s/ Derrick Romine

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Derrick Romine  
Chief Financial Officer

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Exhibit 32

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CERTIFICATION PURSUANT TO RULE 13a-14(b) AND SECTION 906 OF THE SARBANES-  
OXLEY ACT OF 2002 (SUBSECTIONS (a) AND (b) OF SECTION 1350, TITLE 18, UNITED  
STATES CODE)

In connection with Amendment No. 1 to the Annual Report on Form 10-K of  
Cardo Medical, Inc. for the fiscal year ended June 30, 2008, as filed with  
the Securities and Exchange Commission (the "Report"), we, Andrew Brooks,  
Chief Executive Officer of Cardo Medical, Inc., and Derrick Romine, Chief  
Financial Officer of Cardo Medical, Inc., hereby certify pursuant to 18  
U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley  
Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or  
15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all  
material respects, the financial condition and results of operations of Cardo  
Medical, Inc.

Dated: January 28, 2009

/s/ Andrew Brooks

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Andrew Brooks

Chief Executive Officer

Dated: January 28, 2009

/s/ Derrick Romine

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Derrick Romine

Chief Financial Officer

A signed original of this written statement required by Section 906 has been  
provided to Cardo Medical, Inc. and will be retained by Cardo Medical, Inc.  
and furnished to the Securities and Exchange Commission or its staff upon  
request.