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RARE MEDIUM GROUP INC
Form SC TO-I
March 13, 2003

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Schedule TO
Tender Offer Statement under Section 14(d) (1) or 13(e) (1)
Of the Securities Exchange Act of 1934

Rare Medium Group, Inc.
(Name of Subject Company (Issuer) and Filing Person (Offeror))

Common Stock, par value \$0.01 per share
(Titles of Class of Securities)

75382N109
(CUSIP Number of Class of Securities)

Robert C. Lewis, Esq.
Senior Vice President, General Counsel and Secretary
Rare Medium Group, Inc.
19 West 44th Street, Suite 507
New York, New York 10036
(212) 730-7540
(Name, Address and Telephone Number of Person Authorized to Receive Notices
and
Communications on Behalf of the Filing Persons)

Copy To:

Gregory A. Fernicola, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
(212) 735-3000

CALCULATION OF FILING FEE

Transaction Valuation*	Amount of Filing Fee**
\$2,500,000	\$203.00

* Estimated for purposes of calculating the filing fee only. This calculation assumes the purchase of 2,500,000 shares of common stock of Rare Medium Group, Inc. at the tender offer price of \$1.00 per share of common stock.

** The amount of the filing fee, calculated in accordance with the Securities Exchange Act of 1934, equals 0.0000809 of the transaction valuation.

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

Amount Previously Paid: Not Applicable Filing Party: Not Applicable
Form or Registration No.: Not Applicable Filed: Not Applicable

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Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- third-party tender offer subject to Rule 14d-1.
 issuer tender offer subject to Rule 13e-4.
 going-private transaction subject to Rule 13e-3.
 amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

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This Tender Offer Statement on Schedule TO relates to the offer by Rare Medium Group, Inc., a Delaware corporation ("Rare Medium" or the "Company"), to purchase shares of its voting common stock, \$0.01 par value per share (the "Common Stock"). Rare Medium is offering to purchase up to 2,500,000 shares at a price of \$1.00 per share, net to the seller in cash, without interest. Rare Medium's offer is being made upon the terms and subject to the conditions set forth in the Offer to Purchase dated March 13, 2003 ("Offer to Purchase") and in the related Letter of Transmittal ("Letter of Transmittal") which, as amended or supplemented from time to time, together constitute the offer. This Tender Offer Statement on Schedule TO is intended to satisfy the reporting requirements of Section 13(e) of the Securities Exchange Act of 1934.

All information in the Offer to Purchase and the related Letter of Transmittal is hereby expressly incorporated by reference in answer to all items in this Schedule TO, except as otherwise set forth below.

ITEM 1. Summary Term Sheet.

The information set forth in the "Summary Term Sheet" of the Offer to Purchase is incorporated herein by reference.

ITEM 2. Subject Company Information.

(a) The name of the subject company is Rare Medium Group, Inc., a Delaware corporation. The address of the Company's principal executive offices is 19 West 44th Street, Suite 507, New York, New York 10036. The Company's telephone number is (212) 730-7540.

(b) This Schedule TO relates to the Company's voting common stock, par value \$0.01 per share, of which there were 7,039,758 shares issued and outstanding as of February 28, 2003. The information set forth in the section of the Offer to Purchase titled "Introduction" is incorporated herein by reference.

(c) The information set forth in the section of the Offer to Purchase titled "Price Range of Shares" is incorporated herein by reference.

ITEM 3. Identity and Background of Filing Person.

Rare Medium is the filing person and subject company. The business address and telephone number of Rare Medium are set forth under Item 2(a) of

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this Schedule TO.

Pursuant to General Instruction C to Schedule TO, the following persons are the directors and/or executive officers of Rare Medium:

Glenn S. Meyers	Chairman and Chief Executive Officer
Jeffrey A. Leddy	President and Chief Operating Officer
Robert C. Lewis	Senior Vice President, General Counsel and Secretary
Craig C. Chesser	Senior Vice President Finance and Treasurer
Michael A. Hultberg	Senior Vice President and Controller
Jeffrey M. Killeen	Director
William F. Stasior	Director

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Andrew D. Africk	Director
Marc J. Rowan	Director
Michael S. Gross	Director

The business address and telephone number for all of the above directors and executive officers are c/o Rare Medium Group, Inc., 19 West 44th Street, Suite 507, New York, New York 10036 and (212) 730-7540.

The following persons may be deemed to be affiliates of Rare Medium:

Apollo Investment
Fund IV, L.P.
Apollo Overseas
Partners IV, L.P.
AIF/RRRR LLC
AP/RM Acquisition, LLC

The business address and telephone number for Apollo Investment Fund IV, L.P., Apollo Overseas Partners IV, L.P., AIF/RRRR LLC and AP/RM Acquisition, LLC (collectively, the "Apollo Stockholders") are Two Manhattanville Road, Purchase, New York 10577 and (914) 694-8000.

Messrs. Africk, Rowan and Gross, directors of the Company, are principals of Apollo Advisors IV, L.P, which together with an affiliated investment manager, serves as the manager of each of the Apollo Stockholders. Messrs. Africk, Rowan and Gross disclaim beneficial ownership of shares held by the Apollo Stockholders.

ITEM 4. Terms of the Transaction.

(a) The information set forth in the sections of the Offer to Purchase titled "Summary Term Sheet," "Introduction," "Number of Shares; Purchase Price Proration," "Procedures for Tendering Shares," "Withdrawal Rights," "Purchase of Shares and Payment of Purchase Price," "Conditional Tender of Shares," "Conditions of the Offer," "Extension of the Offer; Termination; Amendment" and "Certain U.S. Federal Income Tax Consequences" is incorporated herein by reference.

(b) Rare Medium has been advised that none of its directors,

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executive officers or affiliates intend to tender their shares of Common Stock in the offer.

ITEM 5. Past Contacts, Transactions, Negotiations and Agreements.

The description of the original investment in Rare Medium by the Apollo Stockholders contained in Rare Medium's Definitive Proxy Statement for the Annual Meeting of Stockholders held on August 19, 1999 (the "1999 Proxy Statement") is incorporated herein by reference. Such description is qualified in its entirety by the text of the Amended and Restated Securities Purchase Agreement among Rare Medium and the Apollo Stockholders, dated as of June 4, 1999 (the "1999 Securities Purchase Agreement"), the terms of Rare Medium's Series A Preferred Stock contained in Rare Medium's Restated Certificate of Incorporation, as amended (the "Certificate of Incorporation") and the text of the Series 1-A Warrants and Series 2-A Warrants (collectively, the "Warrants") purchased by the Apollo Stockholders. The 1999 Proxy Statement, the 1999 Securities Purchase Agreement, the Certificate of Incorporation and the Series 1-A and 2-A Warrants are filed as Exhibits (d) (1), (d) (2), (d) (3), (d) (4), (d) (5) and (d) (6) hereto, respectively.

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The description of a subsequent investment in Rare Medium by the Apollo Stockholders, the description of various modifications of the terms of the original investment and the description of related agreements contained in Item 3 of Rare Medium's Solicitation/Recommendation Statement on Schedule 14D-9 filed with the Securities and Exchange Commission ("SEC") on April 9, 2002 (the "Schedule 14D-9") are incorporated herein by reference. Such descriptions are qualified in their entirety by the text of the Investment Agreement among Rare Medium and the Apollo Stockholders, dated April 2, 2002 (the "2002 Investment Agreement") and the Stipulation of Settlement in the matter of In Re Rare Medium Group, Inc. Shareholders Litigation, Consolidated C.A. No. 18879 NC (the "Stipulation of Settlement"). The Schedule 14D-9, the 2002 Investment Agreement and Stipulation of Settlement are filed as Exhibits (d) (7), (d) (8) and (d) (9) hereto, respectively.

The Stipulation of Settlement was approved by the Delaware Court of Chancery on December 2, 2002. In connection with the settlement agreement, the Company effectuated a one for ten reverse stock split and completed a rights offering in July 2002, and the Apollo Stockholders completed a limited tender offer in May 2002, among other things.

With court approval of the settlement agreement, Warrants held by the Apollo Stockholders to purchase 275,245 shares of Common Stock have been cancelled, and the dividends on the Series A Preferred Stock will continue to be paid in the form of additional shares of preferred stock in lieu of cash through September 30, 2004. Such dividends would have otherwise become payable in cash at the option of the Apollo Stockholders beginning with the quarter ended September 30, 2002.

The description of the Company's stock plans, equity plan for directors, and the stock options held by, and other agreements with, the Company's directors and officers contained in the Company's Definitive Proxy Statement for the Annual Meeting of Stockholders held on December 17, 2002, is incorporated herein by reference.

On October 15, 2002, the Compensation Committee of the Board of Directors of the Company (the "Committee") approved certain option issuances for executive officers and directors of the Company. Mr. Leddy, the Company's President and Chief Operating Officer, was granted an option to purchase 75,000 shares of Common Stock, at an exercise price of \$0.85 per share, the

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fair market value on the date of grant, vesting ratably annually over three years, subject to acceleration if Mr. Leddy's employment should be terminated by the Company other than for "Cause", as that term is defined in his employment agreement with the Company. In addition, each of the Company's non-employee directors was granted an option to purchase 35,000 shares of Common Stock, at an exercise price of \$0.85 per share, the fair market value on the date of grant vesting annually in thirds on the anniversary of such director's service with the Company if the director was fully vested in previously granted options and otherwise vesting annually in thirds on the anniversary of the date of grant. The Committee also granted each of Messrs. Chesser, Hultberg and Lewis, an option to purchase an additional 20,000 shares of Common Stock, at an exercise price of \$0.85 per share, the fair market value on the date of grant, vesting ratably annually over three years, subject to acceleration if the particular officer should be terminated by the Company other than for "Cause", as that term is defined in their respective employment agreements with the Company. Finally, the Committee approved a grant to Mr. Meyers, the Company's Chairman and Chief Executive Officer, of an option to purchase 155,000 shares of Common Stock, at an exercise price of \$0.85 per share, the fair market value on the date of grant, vesting ratably annually over three years, subject to acceleration if he ceased to be an employee of the Company, other than for "Cause", as such term is defined in his employment agreement. In addition, the exercise price of Mr. Meyers remaining option was reduced to the

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fair market value of the Common Stock at the close of business on the date of the Committee's action.

ITEM 6. Purposes of the Transaction and Plans or Proposals.

The information set forth in the "Summary Term Sheet - What is the purpose of the offer?" and in the section of the Offer to Purchase titled "Purpose of the Offer; Certain Effects of the Offer" is incorporated herein by reference.

ITEM 7. Source and Amount of Funds or Other Consideration.

The information set forth in the section of the Offer to Purchase titled "Source and Amount of Funds" is incorporated herein by reference.

ITEM 8. Interest in Securities of the Subject Company.

The information set forth in the section of the Offer to Purchase titled "Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares" is incorporated herein by reference.

Except as described above, to best of knowledge of the Company, no other persons specified in Instruction 1 to Item 1008(b) of Regulation M-A affected any transaction in the Common Stock during the past 60 days.

ITEM 9. Persons/Assets, Retained, Employed, Compensated or Used.

The information set forth in the sections of the Offer to Purchase titled "Introduction," "Purpose of the Offer; Certain Effects of the Offer" and "Fees and Expenses" is incorporated herein by reference.

ITEM 10. Financial Statements.

Not applicable.

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ITEM 11. Additional Information.

The information set forth in the sections of the Offer to Purchase titled "Purpose of the Offer; Certain Effects of the Offer," "Certain Information Concerning Rare Medium," "Effects of the Offer on the Market for Shares; Registration Under the Exchange Act" and "Certain Legal Matters; Regulatory Approvals" is incorporated herein by reference

ITEM 12. Exhibits.

- (a) (1) (A) Offer to Purchase dated March 13, 2003.*
- (a) (1) (B) Form of Letter of Transmittal.*
- (a) (1) (C) Form Notice of Guaranteed Delivery.*
- (a) (1) (D) Form of Letter to Brokers, Dealers, Banks, Trust Companies and Other Nominees.*
- (a) (1) (E) Form of Letter to Clients for use by Brokers, Dealers, Banks, Trust Companies and Other Nominees.*
- (a) (1) (F) Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9.*

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- (a) (5) (A) Press Release issued by the Company on March 13, 2003.*
- (b) Not applicable.
- (d) (1) The Company's Definitive Proxy Statement for the Annual Meeting of Stockholders held on August 19, 1999, filed with the SEC on July 12, 1999, is hereby incorporated herein by reference (SEC File No. 0-13865).
- (d) (2) Amended and Restated Securities Purchase Agreement, dated as of June 4, 1999, among Rare Medium Group, Inc., Apollo Investment Fund IV, L.P., Apollo Overseas Partners IV, L.P. and AIF/RRRR LLC, which was filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on June 21, 1999, is hereby incorporated herein by reference.
- (d) (3) Restated Certificate of Incorporation of Rare Medium Group, Inc., which was filed as Exhibit 3.1.1 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2002, is hereby incorporated herein by reference.
- (d) (4) Certificate of Amendment to the Restated Certificate of Incorporation of Rare Medium Group, Inc., which was filed as Exhibit 3.1.2 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2002, is hereby incorporated herein by reference.
- (d) (5) Form of Series 1-A Warrant which was filed as Appendix C to the Company's Definitive Proxy Statement for the Annual Meeting of Stockholders held on August 19, 1999, filed with the SEC on July 12, 1999, is hereby incorporated herein by reference.
- (d) (6) Form of Series 2-A Warrant which was filed as Appendix D to the Company's Definitive Proxy Statement for the Annual Meeting of Stockholders held on August 19, 1999, filed with the SEC on July 12, 1999, is hereby incorporated herein by reference.
- (d) (7) The Company's Solicitation/Recommendation Statement on Schedule 14D-9 which was filed with the SEC on April 9, 2002, is hereby incorporated herein by reference (SEC File No. 0-13865).
- (d) (8) Investment Agreement among Rare Medium and the signatories thereto, dated as of April 2, 2002 which was filed as Exhibit

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99.2 to the Company's Current Report on Form 8-K, filed with the SEC on April 4, 2002, is hereby incorporated herein by reference.

- (d) (9) Stipulation of Settlement in the matter of In Re Rare Medium Group, Inc. Shareholders Litigation, Consolidated C.A. No. 18879 NC which was filed as Exhibit 99.3 to the Company's Current Report on Form 8-K, filed with the SEC on April 4, 2002, is hereby incorporated herein by reference.
- (g) Not applicable.
- (h) Not applicable.

* Filed herewith.

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SIGNATURES

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

RARE MEDIUM GROUP, INC.

By: /s/ Robert C. Lewis

Name: Robert C. Lewis
Title: Senior Vice President,
General Counsel and Secretary

Date: March 13, 2003

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INDEX TO EXHIBITS

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(h) Not applicable.

* Filed herewith.