
Section 1: 8-K

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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) January 2, 2019

MONMOUTH REAL ESTATE INVESTMENT CORPORATION

(Exact name of registrant as specified in its charter)

MARYLAND

(State or other jurisdiction
of incorporation)

001-33177

(Commission
File Number)

22-1897375

(IRS Employer
Identification No.)

3499 Route 9N, Suite 3D, Freehold, NJ

(Address of principal executive offices)

07728

(Zip Code)

Registrant's telephone number, including area code **(732) 577-9996**

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instructions A.2. below):

- Written communications pursuant to Rule 425 under Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 142-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 5.02: Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On January 2, 2019, Kevin Miller, the Chief Financial Officer of Monmouth Real Estate Investment Corporation (the “Company”), entered into an Employment Agreement, effective January 1, 2019, with the Company, specifying the terms and conditions of Mr. Miller’s employment. The Employment Agreement has an initial term expiring on December 31, 2021, unless otherwise terminated, and will be automatically renewed and extended for successive one-year periods, provided that neither Mr. Miller nor the Company provides written notice to the other party electing not to renew or extend the Employment Agreement at least ninety (90) days prior to the expiration of the initial term or any anniversary thereof. The Employment Agreement provides for a minimum annual base salary of \$520,000 for the first year, \$546,000 for the second year and \$573,300 for the third year. Mr. Miller will be eligible for annual cash bonuses based on the Company’s achievement of certain performance objectives specified in the Employment Agreement as determined by the Compensation Committee. Mr. Miller will also be entitled to equity awards of up to 12,500 shares of restricted stock each year based on achievement of performance objectives as determined by the Compensation Committee.

Under the Employment Agreement, if Mr. Miller’s employment is terminated by the Company for any reason, either involuntary or voluntary, including the death of Mr. Miller, other than a termination for cause (as defined in the Employment Agreement), Mr. Miller shall be entitled to the greater of the base salary due under the remaining term of the Employment Agreement or one year’s compensation at the date of termination, paid monthly over the remaining term of the Employment Agreement. A termination in connection with a change of control of the Company shall not be considered to be a termination for cause.

The Employment Agreement provides that, upon a change of control of the Company, Mr. Miller has the right to extend and renew the Employment Agreement for three years from the date of the change of control, or, alternatively, to terminate the Employment Agreement and receive one year’s base salary. In addition, provided that Mr. Miller is actively employed by the Company as of the consummation of a change of control, Mr. Miller shall be entitled to a transaction bonus consistent with the terms of the Company’s Executive Management Transaction Bonus Plan, which shall be approved by the Compensation Committee.

The Employment Agreement entitles Mr. Miller to customary fringe benefits, including vacation, health benefits and the right to participate in the Company’s 401(k) plan.

The above summary of the Employment Agreement is qualified in its entirety by reference to the text of the Employment Agreement, which is filed herewith as Exhibit 10.1, and incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
10.1	Employment Agreement, dated January 2, 2019, between Monmouth Real Estate Investment Corporation and Kevin Miller

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 hereunto duly authorized.

MONMOUTH REAL ESTATE INVESTMENT CORPORATION

/s/ Kevin S. Miller

KEVIN S. MILLER

Chief Financial and Accounting Officer

Date January 2, 2019

EXHIBIT INDEX

Exhibit No.	Description
10.1	<u>Employment Agreement, dated January 2, 2019, between Monmouth Real Estate Investment Corporation and Kevin Miller</u>

Section 2: EX-10.1

MONMOUTH REAL ESTATE INVESTMENT CORPORATION

Employment Agreement of Kevin Miller
Chief Financial Officer
AGREEMENT EFFECTIVE JANUARY 1, 2019

By and between: MONMOUTH REAL ESTATE INVESTMENT CORPORATION,
A Maryland Corporation (“Corporation”)

And: Kevin Miller (“Employee”)

Corporation desires to employ Employee to the business of the Corporation and Employee desires to be so employed. The parties agree as follows:

1. Term of Employment.
 - a. Corporation agrees to employ Employee and Employee agrees to be employed in the capacity of Chief Financial Officer for a term of three (3) years effective January 1, 2019 and terminating December 31, 2021. Thereafter, the term of this Employment Agreement shall be automatically renewed and extended for successive one-year periods except that either party may, at least ninety (90) days prior to such expiration date or any anniversary thereof, give written notice to the other party electing that this Employment Agreement not be renewed or extended, in which event this Employment Agreement shall expire as of the expiration date or anniversary date, respectively.
 - b. In the event of a merger of the Corporation, sale or change of control, defined as voting control (under any such circumstance referred to as a “Change of Control”), Employee shall have the right to extend and renew this Employment Agreement so that the expiration date will be three years from the date of the Change of Control. Alternatively, Employee shall have the right to terminate this Agreement and shall be entitled to receive one year’s base salary in accordance with paragraph 1c below. Any combination of MONMOUTH REAL ESTATE INVESTMENT CORPORATION and UMH PROPERTIES, INC. shall not be considered a Change of Control.
 - c. If there is a termination of employment by the Corporation for any reason, either involuntary or voluntary, including the death of the Employee, other than a termination for cause as defined herein, Employee shall be entitled to the greater of the base salary due under the remaining term of this Agreement or one year’s base salary at the date of termination, paid monthly over the remaining term or life of this Agreement. Provided, however, that in the event of a termination in connection with a Change of Control, said termination shall not be considered for cause.
 - d. If employment is terminated or not renewed by the Corporation, and Employee is a Director of the Corporation, Employee will be presumed to have resigned the directorship. Provided, however, that the terms of this paragraph shall not apply in the event of a termination in connection with a Change of Control.
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- e. In addition to any other compensation afforded herein, provided that Employee is actively employed by the Corporation as of the consummation of a Change of Control, Employee shall be entitled to a transaction bonus consistent with the terms of the Corporation's Executive Management Transaction Bonus Plan, which Plan shall be approved by the Corporation's Compensation Committee.

2. Time and Efforts.

Employee shall diligently and conscientiously devote his time and attention and use his best efforts in the discharge of his duties as Chief Financial Officer of the Corporation.

3. Board of Directors.

Employee should at all times discharge his duties in consultation with and under the supervision of the Board of Directors of the Corporation.

4. Compensation.

Corporation shall pay to Employee as compensation for his services a base salary, which shall be paid in such intervals as salaries are paid generally to other executive officers of the Corporation, as follows:

- a. For the year beginning January 1, 2019 and ending on December 31, 2019, the base salary shall be \$520,000.00 annually;
- b. For the year beginning January 1, 2020 and ending on December 31, 2020, the base salary shall be \$546,000.00 annually;
- c. For the year beginning January 1, 2021 and ending on December 31, 2021, the base salary shall be \$573,300.00 annually;

The Employee shall be entitled to purchase and/or maintain a disability insurance policy providing up to 60% of his salary and commencing 90 days after the date of disability. During the first 90 days following the date of disability, Employee's salary will continue to be paid by the Corporation. Thereafter, the Employee will receive lost wages from the disability policy. The Corporation will reimburse the Employee for the cost of such insurance. As an alternative to long-term disability, Employee shall have the option to purchase and/or maintain, and be fully reimbursed for, a short-term disability policy on terms to be approved by the Corporation.

5. Bonuses and Stock Options/Restricted Stock.

Bonuses shall be measured from the appropriate fiscal year-end audited financial statements as approved by management.

A. Annual Equity Market Cap Growth:

- 1) 10% growth - \$20,000; 2) 15% growth - \$30,000; 3) 20% growth - \$40,000

Growth must be over the benchmark amount which is based upon the closing share price on the last day of the fiscal year, multiplied by the diluted shares outstanding on that same day versus the closing share price on the last day of the previous fiscal year multiplied by the diluted shares outstanding on that same day.

B. AFFO per Diluted Share Growth: to be paid each year over the 3 year term provided the following growth rates are achieved:

1) 5% growth - \$25,000; 2) 10% growth - \$37,500; 3) 15% growth - \$50,000; 4) 20% growth - \$75,000

Growth must be over the benchmark amount which is the AFFO per diluted share generated by the Company during the current fiscal year versus the prior fiscal year. Additionally, Core FFO must be equal to, or in excess of, the common dividend for AFFO growth bonuses to be paid.

C. Dividend per Share Growth: to be paid each year over the 3 year term provided the following growth rates are achieved: 1) 5% growth - \$75,000; 2) 10% growth - \$100,000; 3) 15% growth - \$125,000.

Growth must be over the benchmark amount which is the per share dividend rate paid by the Company during the current fiscal year versus the prior fiscal year.

D. Restricted Stock.

The restricted stock grants shall be made following fiscal year end, after the compensation committee has had a reasonable amount of time to review the audited fiscal year end financials.

Restricted Stock Grant potential of 12,500 shares per year

<u>Criteria</u>	<u>Amount of shares</u>	<u>Evaluation metric</u>	<u>Approved by BOD</u>
Achievement of any of the individual goals (above)	50% = 6,250 shares	Discretion of Compensation Committee w/BOD Approval	
Discretion of Compensation Committee w/BOD Approval	50% = 6,250 shares	Based on overall performance of the Company (AFFO per share growth, acquisitions, total return performance and any item the compensation committee deems relevant)	

Subject to the exceptions associated a "Change of Control", Employee must be employed on each of the above dates in order for the Stock Grant associated with that date to vest as set forth herein.

In addition, bonuses may be paid at the discretion of the Compensation Committee of the Board of Directors or the President of the Corporation.

Employee shall be entitled to participate in the Corporation's Stock Option Plan, including any grants of restricted stock and/or stock options, upon terms and conditions approved by the Corporation and subject to approval of the Stock Option Committee.

6. Expenses.

Corporation will reimburse Employee for reasonable and necessary expenses incurred by him in carrying out his duties under this Agreement. Employee shall present to the Corporation from time to time an itemized account of such expenses in such form as may be required by the Corporation.

7. Vacation.

Employee shall be entitled to take four (4) paid weeks of vacation per year and the same holidays as provided for the other members of the staff.

8. Pension.

Employee, at his option, may participate in the 401-k plan of the Corporation, according to its terms.

9. Life and Health Insurance Benefits.

Employee shall be entitled during the term of this Agreement to participate in all health and dental insurance and group life insurance benefit plans providing benefits generally applicable to the employees of the Corporation as may be modified from time to time.

10. Termination

This Employment Agreement may be terminated by the Corporation at any time by reason of the death or disability of Employee or for cause, or for any reason other than discrimination or retaliation. A termination "for cause" shall mean a termination of this Employment Agreement by reason of a good faith determination by a majority of the Board of Directors of the Corporation or the President of the Corporation that Employee, by engaging in fraud or willful misconduct, a) failed to substantially perform his duties with the Corporation (if not due to death or disability), or b) has engaged in conduct, the consequences of which are materially adverse to the Corporation, monetarily or otherwise. "Disability" shall mean a physical or mental illness which, in the judgment of the Corporation after consultation with the licensed physician attending the Employee, impairs the Employee's ability to substantially perform his duties under this Employment Agreement as an employee, and as a result of which he shall have been absent from his duties with the Corporation on a full time basis for six (6) consecutive months. The termination provisions shall not, in any way, affect the disability benefits provided for in this Employment Agreement.

11. Arbitration and Damages Limitation

It is expressly agreed by all parties to this Agreement that any dispute between the parties will be determined by binding arbitration performed under the rules of the American Arbitration Association. It is expressly agreed that in no event can the Employee seek damages exceeding one year's base salary. This provision applies to any and all claims arising from Employee's employment, except for matters solely and directly related to Workers Compensation Insurance.

12. Indemnification and Attorneys' Fees.

The Corporation agrees to indemnify the Employee from any and all lawsuits filed directly against the Employee by a third party in his capacity as Employee and/or Director of the Corporation. The Corporation will pay all attorneys' fees and costs to defend the Employee from any such lawsuits.

13. Notices

All notices required or permitted to be given under this Agreement shall be given by certified mail, return receipt requested, to the parties at the following addresses or such other addresses as either may designate in writing to the other party:

Corporation: Monmouth Real Estate Investment Corporation
Juniper Business Plaza
3499 Route 9 North, Suite 3D
Freehold, New Jersey 07728

Employee: Kevin Miller
(address on file)

14. Governing Law.

This Agreement shall be construed and governed in accordance with the laws of the State of New Jersey.

15. Entire Contract.

This Agreement constitutes the entire understanding and agreement between the Corporation and Employee with regard to all matters herein. There are no other agreements, conditions or representations, oral or written, express or implied, with regard thereto. This agreement may be amended only in writing signed by both parties hereto.

16. Modification and Waiver

No provision of this Employment Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by Employee and such officer may be specifically designated by the Board of Directors of the Corporation. No waiver by either party hereto at any time of any breach by the other party hereof, or compliance with, any condition or provision of this Employment Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time.

17. Successors

This Agreement shall be binding on the Corporation and any successor to any of its businesses or assets. This Agreement shall inure to the benefit of and be enforceable by Employee's personal and legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

18. Severability

The invalidity or unenforceability of any provision of this Agreement, whether in whole or in part, shall not in any way affect the validity and/or enforceability of any other provisions herein contained. Any invalid or unenforceable provision shall be deemed severable to the extent of any such invalidity or unenforceability.

19. Headings

Headings used in this Employment Agreement are for convenience only and shall not be used to interpret its provisions.

Signature Page Follows

IN WITNESS WHEREOF, Corporation has by its appropriate officers signed and affixed its seal and Employee has signed and sealed this Agreement.

(SEAL)

MONMOUTH REAL ESTATE INVESTMENT CORPORATION

By: /s/ Brian H. Haimm
BRIAN H. HAIMM
Chairperson, Compensation Committee

By: /s/ Kevin Miller
KEVIN MILLER
Employee

Dated: January 2, 2019



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