

SONA MOBILE HOLDINGS CORP

Form S-8

April 19, 2007

As filed with the Securities and Exchange Commission on April 19, 2007

Registration No. 333-

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

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FORM S-8

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

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SONA MOBILE HOLDINGS CORP.  
(Exact name of issuer as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

95-3087593  
(I.R.S. Employer  
Identification No.)

245 Park Avenue, New York, NY  
(Address of Principal Executive Offices)

10167  
(Zip Code)

2006 Incentive Plan  
Amended and Restated Stock Option Plan of 2000  
(Full title of the plan)

Shawn Kreloff  
Chief Executive Officer  
245 Park Avenue

New York, NY 10167  
(212) 486-8887  
(Name, address and telephone number of agent for service)

Copies to:  
Eric I. Cohen, Esq.  
Heather R. Badami, Esq.  
Bryan Cave LLP  
1290 Avenue of the Americas  
New York, New York 10104

(212) 541-2000

## CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share(1)	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee
Common Stock, par value \$0.01 per share	9,191,777(2 )	\$ 0.305	\$ 2,803,492	\$ 86.07

(1) Computed solely for purposes of calculating the registration fee pursuant to Rules 457(c) and (h) on the basis of the average of the high and low prices for such security on April 16, 2007, as reported on the OTC Bulletin Board.

(2) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended, this Registration Statement shall also cover any additional shares of the Registrant's common stock that become issuable hereby by reason of any stock dividend, stock split, recapitalization or other similar transaction.

## PART I

## INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

## Item 1. Plan Information.

All information required by Part I to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act of 1933, as amended (the "Securities Act"), and the Note to Part I of Form S-8.

## Item 2. Registrant Information and Employee Plan Annual Information.

All information required by Part I to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act and the Note to Part I of Form S-8.

## PART II

## INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

## Item 3. Incorporation of Documents by Reference.

The following documents filed by Sona Mobile Holdings Corp. (the "Company"), with the Securities and Exchange Commission (the "Commission") are hereby incorporated by reference and made a part hereof:

1. Annual Report on Form 10-KSB for the fiscal year ended December 31, 2006.
- 2.

The description of the Company's common stock, contained in the Company's registration statement on Form 8-A which became effective on November 12, 1984, and any amendment or report filed for the purpose of updating any such description.

All documents filed subsequent to the filing date of this Registration Statement with the Commission by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), prior to the filing of a post-effective amendment which indicates that all securities offered hereunder have been sold or which de-registers all such securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of the filing of such documents. For purposes of this Registration Statement, any statement contained herein or in a document incorporated or deemed to be incorporated herein by reference shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequent filed document which also is, or is deemed to be, incorporated by reference herein modifies or supersedes such document or such statement in such document. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement, except as indicated herein.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law grants the Registrant the power to indemnify its directors and officers against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement in connection with specified actions, suits or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation — a "derivative action"), if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, and with respect to any criminal action or

1

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proceeding, had no reasonable cause to believe their conduct was unlawful. A similar standard is applicable in the case of derivative actions, except that indemnification only extends to expenses (including attorneys' fees) incurred in connection with the defense or settlement of such actions, and the statute requires court approval before there can be any indemnification in which the person seeking indemnification has been found liable to the corporation. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation's charter, bylaws, disinterested director vote, stockholder vote, agreement or otherwise.

The Registrant's Certificate of Incorporation also provides that a director will not be personally liable to us or to the Registrant stockholders for monetary damages for breach of the fiduciary duty of care as a director. This provision does not eliminate or limit the liability of a director:

- for breach of his or her duty of loyalty to the Registrant or to its stockholders;

- for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- under Section 174 of the Delaware General Corporation Law (relating to unlawful payments or dividends or unlawful stock repurchases or redemptions); or
- for any improper benefit.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons pursuant to the Registrant's Certificate of Incorporation, Bylaws and the Delaware General Corporation Law, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy and is, therefore, unenforceable.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

- 4.1 Specimen Certificate of Common Stock (incorporated by reference to Exhibit 4.1 of Amendment No. 1 to the Company's Form SB-2 (file number 333-130461), filed February 2, 2006).
- 5.1 Opinion of Bryan Cave LLP.
- 23.1 Consent of Horwath Orenstein, LLP.
- 23.2 Consent of Bryan Cave LLP (included as part of Exhibit 5.1).
- 24.1 Power of Attorney (included on signature page).

Item 9. Undertakings.

1. The undersigned registrant hereby undertakes:

(a) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment hereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement; and

2

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(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

provided, however, that paragraphs (1)(a)(i) and (1)(a)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(b) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

2. The undersigned registrant hereby further undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

3. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

3

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## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York, on the 19th day of April, 2007.

SONA MOBILE HOLDINGS CORP.

By: /s/ Shawn Kreloff

Name: Shawn Kreloff

Title: Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below does hereby constitute and appoint Shawn Kreloff and Stephen Fellows, and each or any of them, as his true and lawful attorney-in-fact and

agent, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including, without limitation, post-effective amendments and documents in connection therewith) to this Registration Statement, and to file the same with the Securities and Exchange Commission, granting unto each said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent or either of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Name	Title	Date
/s/ Shawn Kreloff Shawn Kreloff	Chief Executive Officer, Chairman and Director (Principal Executive Officer)	April 19, 2007
/s/ Stephen Fellows Stephen Fellows	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	April 19, 2007
/s/ Paul C. Meyer Paul C. Meyer	Director	April 19, 2007
/s/ M. Jeffrey Branman M. Jeffrey Branman	Director	April 19, 2007
/s/ Michael Fields Michael Fields	Director	April 19, 2007

4

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EXHIBIT INDEX

No.	Document
5.1	Opinion of Bryan Cave LLP.
23.1	Consent of Horwath Orenstein, LLP.

5