

**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): May 10, 2018

**SPHERE 3D CORP.**

(Exact name of registrant as specified in its charter)

Ontario, Canada  
(State or other jurisdiction  
of incorporation)

001-36532  
(Commission  
File Number)

98-1220792  
(I.R.S. Employer  
Identification No.)

240 Matheson Blvd. East,  
Mississauga, Ontario  
(Address of principal executive offices)

L4Z 1X1  
(Zip Code)

Registrant's telephone number, including area code: (858) 571-5555

N/A

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:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)  
 Soliciting material pursuant to Rule 14a-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.

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## Item 8.01 Other Events.

On May 10, 2018, Sphere 3D Corp. (the “Company”) offered and sold to Roth Capital Partners, LLC (“Roth Capital”) an aggregate of 640,800 of its common shares, no par value per share, to satisfy payment obligations incurred by the Company to Roth Capital in the aggregate amount of \$277,755. The Company incurred such obligations to Roth Capital as a result of the provision by Roth Capital to the Special Committee of the Board of Directors of the Company, in its capacity as the financial advisor to such committee pursuant to that certain engagement letter dated February 14, 2018, of an opinion regarding the fairness to the Company, from a financial point of view, of the purchase price to be received by the Company as a result of the proposed sale by the Company to Silicon Valley Technology Partners LLC, a Delaware limited liability company established and controlled by Eric Kelly, the Chief Executive Officer and Chairman of the Board of Directors of the Company (the “Purchaser”), of all of the issued and outstanding shares of the capital stock of Overland Storage, Inc. (“Overland”), pursuant to that certain share purchase agreement that the Company, Overland and the Purchaser entered into on February 20, 2018.

The common shares are being offered and sold by the Company to Roth Capital under the Company’s registration statement on Form F-3 (File No. 333-206357), as supplemented by the prospectus supplement filed with the Securities and Exchange Commission on May 10, 2018.

A copy of the opinion of Stikeman Elliott LLP relating to the legality of the common shares is attached hereto as Exhibit 5.1.

## Item 9.01. Financial Statements and Exhibits.

### Exhibit No.    Description

[5.1](#)                    [Opinion of Stikeman Elliott LLP](#)

[23.1](#)                [Consent of Stikeman Elliott LLP \(included in Exhibit 5.1 hereto\)](#)

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## Forward Looking Statements

*This Current Report on Form 8-K contains forward-looking statements that involve risks, uncertainties, and assumptions that are difficult to predict. Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of risks and uncertainties including, without limitation, the entry into the Purchase Agreement dated February 20, 2018 with Silicon Valley Technology Partners LLC (“Purchaser”), an entity established and controlled by Eric Kelly, chairman and chief executive officer of the Company, pursuant to which Purchaser proposes to acquire Overland Storage, Inc. and the Data Protection and Archive business from the Company; Purchaser’s inability to obtain sufficient financing to fund such acquisition and the Company’s inability to meet the closing conditions and to close such acquisition on a timely basis; the Company’s inability to obtain additional debt or equity financing or to refinance its debt; any increase in the Company’s cash needs; the Company’s ability to maintain listing with the NASDAQ Capital Market; the Company’s ability to successfully integrate the UCX and HVE ConneXions business with the Company’s other businesses; unforeseen changes in the course of the business of the Company or the business of its wholly-owned subsidiaries, including, without limitation, Overland Storage and Tandberg Data; market adoption and performance of the Company’s products; the level of success of the Company’s collaborations and business partnerships; possible actions by customers, partners, suppliers, competitors or regulatory authorities; and other risks detailed from time to time in the Company’s periodic reports contained in the Company’s Annual Information Form and other filings with Canadian securities regulators ([www.sedar.com](http://www.sedar.com)) and in prior periodic reports filed with the United States Securities and Exchange Commission ([www.sec.gov](http://www.sec.gov)). The Company undertakes no obligation to update any forward-looking statement, whether written or oral, that may be made from time to time, whether as a result of new information, future developments or otherwise, except as required by law.*

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## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SPHERE 3D CORP.

May 10, 2018

By: /s/ Kurt L. Kalbfleisch

Name: Kurt L. Kalbfleisch

Title: Chief Financial Officer

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## EXHIBIT INDEX

<b>Exhibit No.</b>	<b>Description</b>
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<a href="#">5.1</a>	<a href="#">Opinion of Stikeman Elliott LLP</a>
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<a href="#">23.1</a>	<a href="#">Consent of Stikeman Elliott LLP (included in Exhibit 5.1 hereto)</a>
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May 10, 2018

Sphere 3D Corp.  
240 Matheson Boulevard East  
Mississauga, ON L4Z 1X1  
Canada

**Re: Registration of common shares of Sphere 3D Corp.**

Dear Sirs/Mesdames:

We have acted as Canadian special counsel to Sphere 3D Corp., a corporation incorporated under the *Business Corporations Act* (Ontario) (the "**Company**"), in connection with the proposed issuance of 640,800 common shares (the "**Shares**") of the Company directly to Roth Capital Partners, LLC ("**Roth Capital**") to satisfy payment of obligations incurred by the Company in the aggregate amount of \$277,755.

The Shares will be issued in connection with a registration statement on Form F-3 (File No. 333-206357) (the "**Registration Statement**") filed by the Company with the Securities and Exchange Commission on August 27, 2015, the prospectus dated August 27, 2015 included therein (the "**Base Prospectus**"), and the prospectus supplement thereto dated May 10, 2018 (the "**Prospectus Supplement**"). The Base Prospectus and the Prospectus Supplement are collectively referred to as the "**Prospectus**".

For the purposes of this opinion, we have examined originals or copies, certified or otherwise identified to our satisfaction, of and relied upon the following documents (collectively, the "**Corporate Documents**"):

- (a) the certificate and articles of amendment of the Company;
- (b) the by-laws of the Company;
- (c) certain resolutions of the Company's directors; and
- (d) a certificate of an officer of the Company (the "**Officer's Certificate**").

We also have reviewed such other documents, and have considered such questions of law, as we have deemed relevant and necessary as a basis for the opinion expressed herein. We have relied upon the Corporate Documents without independent investigation of the matters provided for therein for the purpose of providing our opinion expressed herein.

In examining all documents and in providing our opinion expressed herein we have assumed that:

- (a) all individuals had the requisite legal capacity;
  - (b) all signatures are genuine;
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- (c) all documents submitted to us as originals are complete and authentic and all photostatic, certified, telecopied, notarial or other copies conform to the originals;
- (d) all facts set forth in the official public records, certificates and documents supplied by public officials or otherwise conveyed to us by public officials are complete, true and accurate; and
- (e) all facts set forth in the certificates supplied by the respective officers and directors, as applicable, of the Company including, without limitation, the Officer's Certificate, are complete, true and accurate.

Our opinion is expressed only with respect to the laws of the Province of Ontario (the "**Jurisdiction**") and the laws of Canada applicable therein. Any reference to the laws of the Jurisdiction includes the laws of Canada that apply in the Jurisdiction.

Our opinion is expressed with respect to the laws of the Jurisdiction in effect on the date of this opinion. We have no responsibility or obligation to (i) update this opinion, (ii) take into account or inform the addressee or any other person of any changes in law, facts or other developments subsequent to this date that do or may affect the opinions we express, or (iii) advise the addressee or any other person of any other change in any matter addressed in this opinion, nor do we have any responsibility or obligation to consider the applicability or correctness of this opinion to any person other than the addressee.

Where our opinion refers to the Shares as being issued as being "fully-paid and non-assessable", such opinion assumes that all required consideration (in whatever form) has been paid or provided and no opinion is expressed as to the adequacy of any such consideration paid or provided.

Based and relying upon the foregoing, we are of the opinion that the Shares, upon issuance by the Company, will be validly issued as fully paid and non-assessable.

This opinion has been prepared for your use in connection with the Registration Statement and is expressed as of the date hereof. Our opinion is expressly limited to the matters set forth above and we render no opinion, whether by implication or otherwise, as to any other matters relating to the Company, the Registration Statement, the Prospectus or the Shares.

We hereby consent to the filing of this opinion as an exhibit to the Current Report of the Company on Form 8-K dated the date hereof and to the reference to our firm under the caption "Legal Matters" in each of the Base Prospectus and the Prospectus Supplement and in the Current Report on Form 8-K. In giving this consent, we do not admit that we are within the category of persons whose consent is required under the United States Securities Act of 1933, as amended, or the rules and regulations promulgated thereunder. This opinion may not be quoted from or referred to in any documents other than the Registration Statement as provided for herein without our prior written consent.

Yours truly,

(Signed) Stikeman Elliott LLP

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