

Fresh Market, Inc.  
Form 8-K  
August 31, 2011

**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): August 31, 2011**

**THE FRESH MARKET, INC.**

**(Exact name of Registrant as specified in its Charter)**

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**Delaware**  
(State or other Jurisdiction of  
Incorporation or Organization)

**1-34940**  
(Commission  
File Number)

**56-1311233**  
(I.R.S. Employer  
Identification No.)

**628 Green Valley Road, Suite 500, Greensboro, NC 27408**

(Address of Principal Executive Offices) (Zip Code)

(Registrant's Telephone Number, Including Area Code): **(336) 272-1338**

**Not Applicable**

(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))

**Item 2.02 Results of Operations and Financial Condition.**

The information under this Item 2.02, including the Exhibit attached hereto, is intended to be furnished and shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934 (the Exchange Act ) or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933 or the Exchange Act, except as expressly set forth by specific reference in such filing.

On August 31, 2011, The Fresh Market, Inc. issued a press release regarding its financial results for the quarter ended July 31, 2011. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated into this Item 2.02 by reference.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

The following exhibit is furnished herewith:

Exhibit

No. Description

99.1 Press release of The Fresh Market, Inc. dated August 31, 2011

*This Current Report on Form 8-K contains forward-looking statements that reflect our plans, estimates, and beliefs and involve a number of risks and uncertainties. Any statements contained herein (including, but not limited to, statements to the effect that The Fresh Market or its management anticipates, plans, estimates, expects, believes, and other similar expressions) that are not statements of historical fact should be considered forward-looking statements. The following are some of the factors that could cause or contribute actual results to differ materially from any forward-looking statements: accounting entries and adjustments at the close of our fiscal quarter and year-end; unexpected expenses and risks associated with our business; our ability to remain competitive in the areas of merchandise quality, price, breadth of selection, customer service and convenience; the effective management of our merchandise buying and inventory levels; our ability to anticipate and/or react to changes in customer demand; changes in consumer confidence and spending; unexpected consumer responses to promotional programs; unusual, unpredictable and/or severe weather conditions; the effectiveness of our logistics and supply chain model, including the ability of our third-party logistics providers to meet our product demands and restocking needs on a cost competitive basis; the execution and management of our store growth and the availability of acceptable real estate locations for new store openings; the actions of third parties involved in our store growth activities, including property owners, landlords, property managers, those involved in the construction of our new store locations and current tenants who occupy one or more of our proposed new store locations, all of whom may be impacted by their financial condition, their lenders, their activities outside of those focused on our new store growth and other tenants, customers and business partners of theirs; global economies and credit and financial markets; our ability to maintain the security of electronic and other confidential information; serious disruptions and catastrophic events; competition; personnel recruitment and retention; acquisitions and divestitures including the ability to integrate successfully any such acquisitions; information systems and technology; commodity, energy and fuel cost increases; compliance with laws, regulations and orders; changes in laws and regulations; outcomes of litigation and proceedings; tax matters and other factors as set forth from time to time in our Securities and Exchange Commission filings. We intend these forward-looking statements to speak only as of the time of this Current Report on Form 8-K and do not undertake to update or revise them as more information becomes available.*

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.

THE FRESH MARKET, INC.

Dated: August 31, 2011

By: /s/ Lisa K. Klinger  
Name: Lisa K. Klinger  
Title: Executive Vice President and CFO

**EXHIBIT INDEX**

<b>Exhibit No.</b>	<b>Description</b>
99.1	Press Release of The Fresh Market, Inc. dated August 31, 2011 ="Times New Roman" style="font-size:10.0pt;">Voting Agreements

In connection with the Merger Agreement, certain shareholders of the Company controlling voting power over approximately 24% of the Shares have entered into voting agreements with Parent and Merger Sub (the **Voting Agreements**) pursuant to which those shareholders have agreed to vote in favor of the transactions contemplated by the Merger Agreement and not to transfer their shares except under certain circumstances. The Voting Agreements will terminate upon any termination of the Merger Agreement.

The foregoing description of the Voting Agreements is not complete and is qualified in its entirety by reference to the Form of Voting Agreement, which is filed hereto as Exhibit 10.1 and is incorporated herein by reference.

Confidentiality and Non-Solicitation Agreement

On May 10, 2006, in connection with executing the Merger Agreement, the Company entered into a Confidentiality and Non-Solicitation Agreement (the **Confidentiality Agreement**) with Greg D. Palmer, the Company's President and Chief Executive Officer. Pursuant to the Confidentiality Agreement, effective as of consummation of the Merger, Mr. Palmer agreed to various restrictions on disclosure of the Company's trade secrets and confidential information and solicitation of the Company's employees and customers. In consideration of these covenants, provided Mr. Palmer is not in breach of his obligations under the Agreement, he will be entitled to receive a lump-sum payment of \$400,000 at the closing of the Merger and the aggregate sum of \$600,000 in equal monthly installments over the twelve-month period beginning on the one-month anniversary of the effectiveness of the Confidentiality Agreement.

The foregoing description of the Confidentiality Agreement is not complete and is qualified in its entirety by reference to the Confidentiality Agreement, which is filed hereto as Exhibit 10.2 and is incorporated herein by reference.

Rights Agreement Amendment

See Item 3.03 below for a description of the amendment to the Company's Rights Agreement.

**Item 3.03. Material Modification to Rights of Security Holders**

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On May 10, 2006, prior to executing the Merger Agreement, the Company and American Stock Transfer & Trust Company, as the Rights Agent, entered into an amendment (the **Amendment**) to the Rights Agreement dated as of July 10, 1996. The Amendment provides that: (i) none of Parent, Merger Sub, nor any of their affiliates or associates will be deemed for purposes of the Rights Agreement an Acquiring Person (as defined) and (ii) neither a Stock Acquisition Date nor a Distribution Date (each as defined) will be deemed to occur, and the Rights, as defined in the recitals to the Rights Agreement, will not separate from the common stock of the Company, in each case as a result of the execution, delivery or performance of the Merger Agreement, or the consummation of the transactions contemplated by the Merger Agreement. In addition, the Amendment provides that the Rights Agreement will terminate immediately before, and contingent upon, the effective time of the Merger.

The foregoing description of the Amendment is not complete and is qualified in its entirety by reference to the Amendment, which is filed hereto as Exhibit 4.1 and is incorporated herein by reference.

**Important Additional Information Will be Filed with the SEC**

RemedyTemp has agreed to file a proxy statement in connection with the Merger. The proxy statement will be mailed to the shareholders of the Company. RemedyTemp's shareholders are urged to read the proxy statement and other relevant materials when they become available because they will contain important information about the Merger and RemedyTemp.

Shareholders will be able to obtain free copies of the proxy statement and other documents filed with the SEC by the Company, when they are available, through the web site maintained by the SEC at [www.sec.gov](http://www.sec.gov).

In addition, shareholders will be able to obtain free copies of the proxy statement from the Company by contacting Investor Relations, RemedyTemp, Inc., 101 Enterprise, Aliso Viejo, California 92656, telephone (949) 425-7600, or by going to RemedyTemp's Investor Relations page on its corporate website at [www.remedytemp.com](http://www.remedytemp.com).

The Company and its directors and executive officers may be deemed to be participants in the solicitation of proxies in respect of the transactions contemplated by the Merger Agreement. Information regarding the Company's directors and executive officers is contained in the Company's proxy statement filed with the SEC in connection with the Company's 2006 Annual Meeting of Shareholders, which was filed with the SEC on January 13, 2006. Investors and security holders may obtain more detailed information regarding the direct and indirect interests of RemedyTemp and its executive officers and directors in the Merger by reading the preliminary and definitive proxy statements regarding the merger, which will be filed with the SEC.

**Item 8.01. Other Events**

On May 11, 2006, the Company issued a press release announcing the execution of the Merger Agreement, a copy of which is filed as Exhibit 99.1 and incorporated herein by reference.

**Item 9.01. Financial Statements and Exhibits**

(c) Exhibits

Exhibit No.	Exhibit Description
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- 2.1 Agreement and Plan of Merger, dated as of May 10, 2006, by and among RemedyTemp, Inc., Koosharem Corporation and RT Acquisition Corp.
- 4.1 Amendment to Rights Agreement, dated as of May 10, 2006, between RemedyTemp, Inc. and American Stock Transfer & Trust Company.
- 10.1 Form of Voting Agreement.
- 10.2 Confidentiality and Non-Solicitation Agreement, dated as of May 10, 2006, by and between RemedyTemp, Inc. and Greg Palmer.
- 99.1 Press Release dated May 11, 2006.



**SIGNATURE**

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.

**REMEDYTEMP, INC.**

Date: May 11, 2006

By: */s/ Greg D. Palmer*  
Greg D. Palmer  
President and Chief Executive Officer

EXHIBIT INDEX

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4.1	Amendment to Rights Agreement, dated as of May 10, 2006, between RemedyTemp, Inc. and American Stock Transfer & Trust Company.
10.1	Form of Voting Agreement.
10.2	Confidentiality and Non-Solicitation Agreement, dated as of May 10, 2006, by and between RemedyTemp, Inc. and Greg Palmer.
99.1	Press Release dated May 11, 2006.