
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 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): September 18, 2024

FIVE BELOW, INC.
(Exact Name of Registrant as Specified in Charter)

Pennsylvania
(State or Other Jurisdiction
of Incorporation)

001-35600
(Commission
File Number)

75-3000378
(IRS Employer
Identification No.)

**701 Market Street
Suite 300
Philadelphia, PA 19106**
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: (215) 546-7909

Not applicable
(Former Name or Former Address, if Changed Since Last Report)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock	FIVE	The Nasdaq Stock Market LLC

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 or Rule 12b-2 of the Securities Exchange Act of 1934.

- 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 September 18, 2024, Five Below, Inc. (the “Company”) and Michael F. Romanko, the Company’s Chief Merchandising Officer, entered into an agreement (the “Cessation Agreement”) providing for Mr. Romanko’s retirement and the cessation of his employment with the Company, effective as of November 17, 2024.

Under the Cessation Agreement, Mr. Romanko will remain available to the Company through May 17, 2025 to assist in the transition of his duties and, in exchange for his execution of a general release of claims, will receive a lump sum payment of \$821,445.53, equal to 12 months of his base salary and the cost of 12 months of COBRA coverage.

After Mr. Romanko’s exit, Andy Kunselman, SVP, General Merchandising Manager and lead executive of the Company’s merchandising organization, will report directly to Kenneth R. Bull, interim President and Chief Executive Officer and Chief Operating Officer. Interim Executive Chairman of the Board, Tom Vellios, will continue advising Mr. Bull and the executive leadership team, including with respect to the Company’s merchandising operations and initiatives.

The foregoing description of the Cessation Agreement is not complete and is subject to, and qualified in its entirety by, the terms of the Cessation Agreement, a form of which is filed herewith as Exhibit 10.1 and incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	Cessation Agreement, dated September 18 2024, by and between Five Below, Inc. and Michael F. Romanko.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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.

Date: September 18, 2024

Five Below, Inc.

By: /s/ Kristy Chipman

Name: Kristy Chipman

Title: Chief Financial Officer & Treasurer



701 market street, suite 300 philadelphia, pa 19106 | p 215-546-7909 f 215-971-8494 www.fivebelow.com

September 18, 2024

Mr. Michael Romanko
11905 East Desert Willow Drive
Scottsdale, AZ 85255

Dear Michael:

We thank you for your years of service to Five Below, Inc. (the "Company"). This letter agreement is intended to memorialize our recent discussions regarding your upcoming retirement and cessation of employment with the Company.

You will remain in your current role until November 17, 2024 (the "Cessation Date"), which will be the last date of your employment with the Company. From the date hereof through the Cessation Date, you agree to devote your reasonable best efforts and full business time to the performance of your duties for the Company, including, but not limited to, making good faith efforts to prepare the Company for an orderly transition of your duties to other Company personnel. By signing this letter agreement, you hereby resign all offices, titles and positions with the Company and with the Five Below Foundation as of the Cessation Date and agree to execute such further documents as the Company may reasonably request to confirm such resignation.

Between now and the Cessation Date, you will continue to be paid your base salary in installments in accordance with the Company's regular payroll practices. Provided that you execute the general release of claims attached to this letter agreement following the Cessation Date, and such release of claims becomes irrevocable no later than 28 days following the Cessation Date, you will receive on or prior to December 31, 2024: (a) a lump sum payment of \$800,000, less withholding taxes, and (b) a lump sum payment of \$21,445.53, less withholding taxes, intended to offset your cost of obtaining 12 months of COBRA continuation coverage under the Company's group health plan.

In consideration for these payments, you will make yourself reasonably available, consistent with your other personal and professional commitments, for six months following the Cessation Date, to advise the Company regarding the transition of your duties. You also agree that, both before and at any time after the Cessation Date, you will cooperate fully with the Company and its counsel with respect to any matter (including, without limitation, litigation, investigations, or governmental proceedings) relating to your tenure with the Company upon reasonable notice by the Company. The Company will limit its need for your assistance as described in this paragraph following the Cessation Date so as not to interfere with your other personal and professional commitments.

By signing this letter agreement, you agree that no other compensation or other amounts are payable in connection with the cessation of your employment. You specifically acknowledge that, as of the Cessation Date, (i) you will not be eligible to earn a bonus under the Company's annual incentive program for 2024, and (ii) you will forfeit all outstanding equity incentive awards and other cash incentive opportunities, including without limitation, that certain Special Retention Award and Special Performance-Based Restricted Stock Unit Award awarded on August 1, 2024.

You are required to return all Company property no later than the Cessation Date. You acknowledge and agree that certain Non-Solicitation, Non-Disclosure, Non-Compete and Proprietary Information Agreement dated December 14, 2014 (the "Restrictive Covenant Agreement") continues to apply in accordance with its terms and you hereby affirm your obligations thereunder. You also agree that you will not at any time make, publish, or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments, or statements concerning the Company or its businesses, or any of its employees, officers, or directors.

Nothing in this letter agreement, the attached release of claims or the Restrictive Covenant Agreement will (x) prohibit you from making reports (including voluntary reports) of possible violations of federal law or regulation to any governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934, as amended, or Section 806 of the Sarbanes-Oxley Act of 2002, or making other disclosures protected under the whistleblower provisions of federal law or regulation, (y) require prior approval by the Company or notification to the Company of any such report or (z) prevent you from collecting a monetary award in connection with such report.

This letter agreement represents the entire agreement and understanding between the Company and you regarding the cessation of your employment with the Company, and supersedes and replaces any prior discussions or agreements on the topic.

Neither the execution of the letter agreement by any of the parties, nor the terms hereof, constitute or should be construed to constitute any admission or evidence of any wrongdoing, liability or violation of any federal, state or local law or the common law on the part of any of the parties. The letter agreement will be governed by the laws of the Commonwealth of Pennsylvania, without regard for choice of law provisions.

This letter agreement and the release of claims attached hereto are executed voluntarily and with the full intent of releasing all claims, and without any duress or undue influence by any of the parties.

Please countersign below to indicate that you agree to the terms of this letter agreement. I wish you much luck and success in your future endeavors.

Sincerely,

/s/ Molly Gellerman

Molly Gellerman
EVP, Human Resources

Acknowledged and agreed by:

/s/ Michael Romanko

Michael Romanko

Date: September 18, 2024

RELEASE OF CLAIMS

IN CONSIDERATION of the payments, benefits, terms and conditions set forth in the letter agreement entered into by and between Five Below, Inc., a Pennsylvania corporation (the "Company") and Michael Romanko ("Executive"), dated as of September 18, 2024, (the "Agreement"), and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Executive, on behalf of Executive and Executive's heirs, executors, administrators, and assigns, hereby releases and discharges the Company and each of its past, present and future subsidiaries, divisions, affiliates and parents, and each of their respective current and former officers, directors, employees, agents, shareholders, employee benefit plans (and the administrator(s) and fiduciaries of such plans), attorneys, and/or owners, and their respective successors, and assigns, and any other person or entity claimed to be jointly or severally liable with the Company or any of the aforementioned persons or entities (the "Released Parties") from any and all manner of actions and causes of action, suits, debts, dues, accounts, bonds, covenants, contracts, agreements, judgments, charges, claims, attorney's fees, costs, expenses, and demands whatsoever ("Claims") which Executive and Executive's heirs, executors, administrators, and assigns have, had, or may hereafter have against the Released Parties or any of them arising out of or by reason of any cause, matter, or thing whatsoever from the beginning of the world to the date hereof (the "Release"). The Claims covered by this Release include, but are not limited to, all Claims relating to or arising out of Executive's employment by the Company and the cessation thereof. The Claims covered by this Release also include, but are not limited to any and all Claims arising under any employment-related federal, state, or local statute, rule, or regulation, any federal, state or local anti-discrimination law, or any principle of tort, contract law or common law, including but not limited to, 29 U.S.C. §§ 2601 et seq., Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000 et seq., the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621 et seq. (the "ADEA"), the Older Workers Benefit Protection Act, the Equal Pay Act of 1963, as amended, § 29 U.S.C. 206(d); the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 et seq., 42 U.S.C. § 1981, the Worker Adjustment and Retraining Notification Act of 1988, as amended, 29 U.S.C. §§2101 et seq., the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001 et seq., the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. §§ 200ff et seq., the Pennsylvania Human Relations Act, the Pennsylvania Wage Payment Collection Law, and any other federal, state, or local statute; provided, however, that Executive does not release or discharge the Released Parties from any of the obligations of the Company to Executive under or pursuant to (i) the Company's employee welfare benefit plans and employee benefit pension plans (other than severance benefit plans) applicable to Executive, subject to the terms and conditions of those plans, or (ii) claims for indemnification under the by-laws or policies of insurance of the Company. It is understood that nothing in this Release is to be construed as an admission on behalf of the Released Parties of any wrongdoing with respect to Executive, any such wrongdoing being expressly denied.

If a Claim is not subject to release, to the extent permitted by law, Executive waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceedings based on such a claim in which a Released Party is a party.

Executive represents and warrants that Executive fully understands the terms of this Release, that Executive has been and hereby is encouraged to seek, and has sought, the benefit of advice of legal counsel, and that Executive knowingly and voluntarily, of Executive's own free will, without any duress, being fully informed, and after due deliberation, accepts its terms and signs below as Executive's own free act. Except as otherwise provided herein, Executive understands that, as a result of executing this Release, Executive will not have the right to assert that the Company or any other of the Released Parties unlawfully terminated Executive's employment or violated any of Executive's rights in connection with Executive's employment or otherwise.

Executive further represents and warrants that, other than claims, charges, reports or disclosures protected under the whistleblower provisions of federal law or regulation, which are not covered by the remainder of this sentence, Executive has not filed, and will not file or initiate, or cause to be filed or initiated on Executive's behalf, any lawsuit against any of the Released Parties before any federal, state, or local agency, court, or other body asserting any Claims barred or released in this Release, and will not voluntarily participate in such a proceeding. If Executive breaches this promise, and the action is found to be barred in whole or in part by this Release, Executive agrees to pay the attorneys' fees and costs, or the proportions thereof, incurred by the applicable Released Party in defending against those Claims that are found to be barred by this Release. Notwithstanding the foregoing, nothing in this Release shall preclude or prevent Executive from filing a lawsuit which challenges the validity of this Release. Nothing in this Release shall preclude or prevent Executive from filing a charge with the United States Equal Employment Opportunity Commission, Securities Exchange Commission, Occupational Health & Safety Administration or a similar state or local agency or pursuant to an applicable whistleblower statute. For the avoidance of doubt, notwithstanding anything to the contrary herein, nothing in this Release shall (i) be construed to require Executive to make a representation or disclosure regarding any past reports (including voluntary reports) that Executive may have made that are protected under the whistleblower provisions of federal law or regulation or (ii) (x) prohibit Executive from making reports (including voluntary reports) of possible violations of federal law or regulation to any governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934, as amended, or Section 806 of the Sarbanes-Oxley Act of 2002, or making other disclosures protected under the whistleblower provisions of federal law or regulation, (y) require prior approval by the Company or notification to the Company of any such report or (z) prevent Executive from collecting a monetary award in connection with such report.

Executive may take twenty-one (21) days to consider whether to execute this Release and deliver it to the Company. Upon Executive's execution of the Release, Executive will have seven days during which Executive may revoke such execution. In order for a revocation of the Release to be effective, written notice of such revocation must be received by Ron Masciantonio at 701 Market Street, Suite 300, Philadelphia, PA 19106 within the aforementioned seven (7) day period. If seven (7) days pass without receipt of such notice of revocation, this Release shall become irrevocable.

Executive understands that the benefits provided under the Agreement are conditioned on this Release becoming irrevocable.

IN WITNESS WHEREOF, Executive has executed this Release on the date indicated below, which may be no earlier than November 18, 2024.

EXECUTIVE

Michael Romanko

Date: