

**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 9, 2017**

**Comfort Systems USA, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction  
of incorporation)

**1-13011**

(Commission  
File Number)

**76-0526487**

(IRS Employer  
Identification No.)

**675 Bering, Suite 400**

**Houston, Texas**

(Address of principal executive offices)

**77057**

(Zip Code)

Registrant's telephone number, including area code **(713) 830-9600**

(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 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On January 9, 2017, James Mylett provided notice to Comfort Systems USA, Inc. (the "Company") of his decision to resign from his position as Senior Vice President — Service, effective February 1, 2017 (the "Resignation Date"). In connection with his resignation, he entered into a Resignation and General Release Agreement with the Company on January 10, 2017 (the "Resignation Agreement").

Pursuant to the Resignation Agreement, Mr. Mylett will be entitled to receive severance in the amount of \$1,119,129, payable in four equal installments during 2017, and reimbursement of the employer-portion of COBRA premiums for 12 months.

In exchange for these payments and benefits, Mr. Mylett agreed to: (i) forfeit his rights to receive (a) severance benefits pursuant to the Company's Executive Severance Policy, (b) any short-term incentive bonus payment for fiscal 2016, and (c) any amounts in respect of his outstanding equity awards, (ii) acknowledge and continue to comply with restrictive covenants requiring non-competition, non-solicitation, and non-raiding of the Company's customers and employees for a period of twelve months from the Resignation Date, and (iii) a general release of all claims associated with Mr. Mylett's employment with the Company. Mr. Mylett further agreed to make himself available to reasonable requests for information from the Company regarding his former duties and other related matters until April 1, 2018.

The Resignation Agreement is attached hereto as Exhibit 10.1 and is incorporated herein by reference.

**ITEM 9.01 Financial Statements and Exhibits**

(d) The following Exhibits are included herein:

10.1 Resignation and General Release Agreement between Comfort Systems USA, Inc. and James Mylett, dated as of January 10, 2017.

**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.

COMFORT SYSTEMS USA, INC.

By: /s/ Trent T. McKenna  
Trent T. McKenna, Senior Vice President and General Counsel

Date: January 11, 2017

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**EXHIBIT INDEX**

<b><u>Exhibit Number</u></b>	<b><u>Exhibit Title or Description</u></b>
10.1	Resignation and General Release Agreement between Comfort Systems USA, Inc. and James Mylett, dated as of January 10, 2017.

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## RESIGNATION AND GENERAL RELEASE AGREEMENT

THIS RESIGNATION AND GENERAL RELEASE AGREEMENT (the "Agreement") is entered into as of the 10th day of January, 2017, by and between Comfort Systems USA (Texas), L.P., a Texas limited partnership (the "Company"), and James Mylett (the "Executive"). References to the "Company" in this Agreement shall include, where applicable, Comfort Systems USA, Inc., a Delaware corporation and the Company's parent entity, and each of its subsidiaries.

WHEREAS, Executive has been employed by the Company as its Senior Vice President — Service since October 2013; and

WHEREAS, Executive is subject to certain non-competition, non-solicitation and other restrictive covenants pursuant to those certain Restricted Stock Unit Agreements dated as of March 19, 2014, March 25, 2015, and March 23, 2016 (the "RSU Agreements") and those certain Dollar-Denominated Performance Restricted Stock Unit Agreements dated as of March 19, 2014, March 25, 2015, and March 23, 2016 (the "PSU Agreements" and, collectively with the RSU Agreements, the "Equity Agreements");

WHEREAS, Executive and the Company acknowledge that Executive has been deemed a Section 16 officer of Comfort Systems USA, Inc. for SEC reporting purposes during his employment with the Company, and Executive is therefore subject to Comfort Systems USA, Inc.'s Executive Severance Policy (the "Policy");

WHEREAS, Executive is resigning from his employment with the Company; and

WHEREAS, the Company and Executive desire to memorialize and confirm their mutual agreement with respect to Executive's separation from employment by the Company.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company and the Executive each hereby covenant and agree as follows:

1. *Resignation Date.* The parties agree that Executive's last day of employment with the Company is February 1, 2017 (the "Resignation Date"). Notwithstanding the foregoing, Executive's last day of active employment with the Company will be January 13, 2017. Between January 13, 2017 and the Resignation Date (the "Transition Period"), Executive will not report to the Company's offices and will have no day-to-day duties or responsibilities with respect to the Company, unless otherwise directed by the Company's Chief Executive Officer. Executive acknowledges and agrees that, during the Transition Period and thereafter, he shall not have any authority or power to bind the Company or act on behalf of the Company in any manner. During the Transition Period, Executive agrees that he will continue to comply with all Company policies and procedures and with all reasonable directives of the Company's Chief Executive Officer or his designee.

*Resignation and General Release Agreement (Mylett)*

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2. *Consideration.* As consideration for Executive's execution and non-revocation of and adherence to the commitments set forth in this Agreement and subject to Executive's faithful and continuing compliance with all of Executive's covenants and promises in this Agreement and adherence to the Non-Competition Obligations (as defined and as amended herein), the Company agrees to provide Executive the following payments and benefits, which payments and benefits shall be in lieu of any payments and benefits that Executive might otherwise be entitled to pursuant to the Policy:

2a. The Company will pay to Executive a severance payment in the gross amount of \$1,119,129.00, less applicable tax and related withholdings, payable in four (4) equal installments within ten (10) days following each of February 28, 2017, May 31, 2017, August 31, 2017 and December 15, 2017.

2b. Executive's group insurance coverage will terminate on February 28, 2017. As of March 1, 2017, to the extent provided by the federal COBRA law, or, if applicable, state insurance laws, and by the Company's current group health insurance policies, Executive will be eligible to continue Executive's group health insurance benefits and the Company shall reimburse, subject to the Company's reasonable right to audit, the employer-portion of Executive's COBRA premiums at Executive's pre-separation coverage election for the lesser of: (1) twelve (12) months, or (2) until Executive finds any alternative employment that offers health insurance or otherwise ceases to be eligible for continued coverage under federal COBRA law, or, if applicable, state insurance laws. Notwithstanding the foregoing, in the event that the Company's reimbursement of the COBRA premiums, as described under this Section 2(b), would subject the Company to any tax or penalty under the Patient Protection and Affordable Care Act (as amended from time to time, the "ACA") or Section 105(h) of the Internal Revenue Code of 1986, as amended ("Section 105(h)"), or applicable regulations or guidance issued under the ACA or Section 105(h), Executive and the Company agree to work together in good faith to restructure such benefit.

3. *Other Payments, Benefits, and Acknowledgments.*

3a. The Company will process any unpaid business expense reimbursements within a reasonable time following the effective date of this Agreement; provided, that Executive submits such expenses in accordance with the Company's expense reimbursement policy. Executive agrees that he will not incur any other business expenses following the Resignation Date.

3b. Executive acknowledges that he automatically forfeits the right to any unvested or vested but unsettled portion of his outstanding stock option awards and his outstanding awards under the Equity Agreements that remain unvested or vested but unsettled as of the Resignation Date on such date. Notwithstanding the foregoing, the Company acknowledges that Executive holds certain vested stock options as of the Resignation Date and Executive shall be entitled to exercise such options in accordance with the terms of the applicable stock option notice and the Company's 2012 Equity Incentive Plan (the "Option Agreements"). Executive acknowledges that he will continue to be subject to

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applicable securities laws, including such laws that limit his ability to trade on material non-public information, and agrees to comply in full with such laws.

3c. Executive hereby acknowledges that, except as previously provided in this Agreement, Executive will not receive any additional compensation (including, without limitation, any additional bonus compensation), severance or benefits after the Resignation Date, and that the payments and benefits provided hereunder are in completed satisfaction of any and all compensation, severance or benefits due to him from the Company or any of its affiliates.

4. *Return of Materials, Confidentiality.* Executive hereby agrees to return to the Company on the Resignation Date all documents, files, books, keys, passes, computers, telephones, identification materials and other properties, documents and materials of the Company and will vacate his office and the premises of the Company. Subject to Section 7(c), Executive agrees not to disclose and to affirmatively protect all of the Company's proprietary information, including without limitation his knowledge regarding its customers, plans, agreements, attributes, processes, documents, etc. Executive agrees to make himself available from time to time via telephone or e-mail, at the Company's reasonable request, until April 1, 2018 to answer questions regarding former duties and materials and SEC compliance and reporting matters. The provisions of this Agreement shall be held in strictest confidence by Executive and the Company and shall not be publicized or disclosed in any manner whatsoever; provided, however, that: (a) Executive may disclose this Agreement to Executive's immediate family; (b) Company and Executive may disclose this Agreement in confidence to their respective attorneys, accountants, auditors, tax preparers, and financial advisors (after advising them to maintain confidentiality); (c) the Company may disclose this Agreement as necessary to fulfill standard or legally required corporate reporting or disclosure requirements; and (d) the parties may disclose this Agreement insofar as such disclosure may be necessary to enforce the terms of the Agreement or as otherwise required by law. Executive agrees that this pledge of confidentiality and nondisclosure is essential to this Agreement. In the event that Executive is subject to a subpoena, court order, or otherwise compelled to testify, appear, or provide information regarding the Company, Executive will, within two business days after receipt, provide written notice to the Company to: Office of the General Counsel, Comfort Systems USA, Inc., 675 Bering Drive, Suite 400, Houston, Texas 77057. Executive cannot be held criminally or civilly liable under any federal or state trade secret law for disclosing a trade secret (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law, or (ii) in a complaint or other document filed under seal in a lawsuit or other proceeding. Notwithstanding this immunity from liability, Executive may be held liable if he unlawfully accesses trade secrets by unauthorized means.

5. *Acknowledgement of Restrictive Covenant Obligations.* Executive acknowledges, and agrees to comply with, his non-competition, non-solicitation, non-piracy and non-raiding obligations under Section 9 of the RSU Agreements and Section 10 of the PSU Agreements (collectively, the "Non-Competition Obligations"), which remain in full force and effect in accordance with their terms. The Company agrees that it will consider in good faith, subject to Executive's obligation to provide the Company with any relevant information or documentation the Company reasonably requests, any request by Executive to confirm or clarify the scope of the Non-

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Competition Obligations or to provide a written waiver of the Non-Competition Obligations with respect to a specific business activity that Executive desires to engage in and which is not directly competitive with the business of the Company or its affiliates.

Executive acknowledges that a condition precedent to receiving and retaining the payments described in this Agreement from the Company is the Executive's faithful performance of the obligations of this Agreement and adherence to the Non-Competition Obligations.

6. *Non-Disparagement and No Trespass.* Subject to Section 7(c), the Executive agrees to refrain from disparaging or otherwise seeking to harm the business interests of the Company, its affiliates and subsidiaries, or their management and directors. In addition, the Executive agrees not to trespass on any location or work place of the Company.

7. *General Release of Claims.* This Agreement constitutes the entire agreement between the Executive and the Company, and supersedes any prior communication, written or oral, including without limitation the Policy and the Equity Agreements (except as set forth herein), with respect to all matters relating hereto, excluding only the Option Agreements, the Non-Competition Obligations and the Indemnification Agreement between the Company and Executive, dated as of November 14, 2013, which will all remain in full force and effect in accordance with their terms. The Executive hereby agrees that he has no additional rights to salary, benefits, vacation pay or compensation of any sort or any other thing of economic value from the Company except as explicitly set forth in this Agreement. In exchange for the severance payments and other consideration under this Agreement, to which Executive would not otherwise be entitled, Executive hereby releases, acquits, and forever discharges the Company, its parent, affiliates and subsidiaries, and its and their respective officers, directors, agents, employees, employee benefit plans, attorneys, shareholders, successors, assigns and affiliates, of and from any and all claims, liabilities, demands, causes of action, costs, expenses, attorneys' fees, damages, indemnities and obligations of every kind and nature, in law, equity, or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with Executive's employment or other relationship with the Company or its affiliates or the termination of that employment or other relationship or the Equity Agreements; claims or demands related to salary, bonuses, commissions, stock, stock options, or any other ownership interests in the Company, vacation pay, fringe benefits, expense reimbursements, severance pay, or any other form of compensation; claims pursuant to any federal, state or local law, statute, or cause of action including, but not limited to, the federal Civil Rights Act of 1964, as amended, including without limitation claims for attorneys' fees; the federal Americans with Disabilities Act of 1990, as amended ("ADA"); the federal Age Discrimination in Employment Act of 1967, as amended ("ADEA"); tort law; contract law; wrongful discharge; discrimination; harassment; fraud; defamation; emotional distress; and breach of the implied covenant of good faith and fair dealing. In consideration of the benefits that the Executive will receive under this Agreement, the Executive, personally and on behalf of his heirs, assigns and representatives, hereby releases, waives and forever discharges any and all such causes of action or claims or any other cause of action or claim against the Company, its affiliates or subsidiaries and their respective past, present and future affiliates, directors, trustees, officers, agents, employees, employee benefit plans, successors and assigns, and agrees never to bring any such claim or cause of action. By signing this Agreement, Executive agrees that Executive will not pursue any claim covered by

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this General Release of Claims. If Executive breaks this promise, Executive agrees to pay the Company's costs and expenses (including reasonable attorneys' fees) related to the defense of any claims; provided, however, that Executive will have no obligation to pay any such costs and expenses if he brings a claim challenging the enforceability of this General Release of Claims under ADEA.

7a. *Release of Known and Unknown Claims Waiver.* EXECUTIVE UNDERSTANDS AND EXPRESSLY AGREES THAT THIS AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.

7b. *ADEA Waiver.* Executive acknowledges that Executive knowingly and voluntarily waives and releases any rights Executive may have under the ADEA, as amended. Executive also acknowledges that the consideration given for the waiver and release in the preceding paragraphs hereof is in addition to anything of value to which Executive was already entitled. Executive further acknowledges that: (a) Executive has carefully read and fully understands the provisions of this Agreement; (b) Executive is, through this Agreement, releasing the Company from any and all claims Executive may have against it, its parent, subsidiaries, predecessors, successors, affiliates and related entities and other parties described above; (c) Executive has knowingly and voluntarily agreed to all of the terms set forth in the Agreement; (d) Executive knowingly and voluntarily intends to be legally bound by the Agreement; (e) this Agreement shall not be effective until the date upon which the revocation period has expired, which shall be the eighth day after this Agreement is executed by Executive, provided that the Company has also executed this Agreement by that date ("Effective Date"); (f) Executive's waiver and release do not apply to any rights or claims that may arise after the Effective Date of this Agreement; (g) Executive has been advised and Executive is hereby advised to consult with an attorney prior to executing this Agreement; (h) Executive has twenty-one (21) days to consider this Agreement (although Executive may choose to voluntarily execute this Agreement earlier), but may not sign this Agreement prior to the Resignation Date; and (i) Executive has seven (7) days following the execution of this Agreement to revoke the Agreement.

7c. *Exceptions to Release.* Notwithstanding anything to the contrary herein, nothing in this Agreement shall be a release or waiver by the Executive of claims that cannot be released as a matter of law, including but not limited to, the Executive's right to file a charge with or participate in a charge, investigation or proceeding by the Equal Employment Opportunity Commission, or any other local, state, or federal administrative body or government agency that is authorized to enforce or administer fair employment practices laws, against the Company, except that Executive hereby agrees to waive his right to recover monetary damages or other individual relief in any such charge, investigation or proceeding or any related complaint or lawsuit filed by Executive or by anyone else on his behalf. Nothing in this Agreement limits, restricts or in any other way affects the Executive communicating with any governmental agency or entity, or communicating with any official or staff person of a governmental agency or entity, concerning matters relevant to the governmental agency or entity or requires Executive to provide prior notice to the Company of the same.

8. *Post-Employment Release.* Executive's receipt and retention of the payments and benefits described herein is conditioned on his execution, return and non-revocation, within twenty-one (21) days following the Resignation Date (and in no event prior to the Resignation Date), of the general release of claims attached hereto as Exhibit A.

9. *Revocation Period.* For a period of seven (7) days following the Executive's execution of this Agreement the Executive may revoke this Agreement, and the Agreement shall not be effective or enforceable until this seven (7) day revocation period has expired. After such revocation period, the parties intend that this Agreement shall have the effect of a sealed instrument under the laws of the State of Texas.

Executive may consider this Agreement for a period of twenty-one (21) days, after which this Agreement and offer will expire. In signing this Agreement the Executive acknowledges that he understands its provisions, and that such Agreement is knowing and voluntary, that he has been afforded a full and reasonable opportunity to consider its terms and to consult with or seek advice from any attorney or other person of Executive's choosing, and that Executive has been advised by the Company to consult with an attorney prior to executing this Agreement.

*[Remainder of page intentionally left blank. Signature page follows.]*

EXECUTIVE:

COMFORT SYSTEMS (TEXAS), L.P.

/s/ James Mylett

/s/ Trent McKenna

Name: James Mylett

Name: Trent McKenna

Date Executed: January 10, 2017

Title: Vice President

Exhibit A

*General Release of Claims*

In exchange for the severance payments and other consideration under the Resignation and General Release Agreement (the "Agreement") entered into as of January 10, 2017 by and between Comfort Systems USA (Texas), L.P. (the "Company") and James Mylett (the "Executive"), to which Executive would not otherwise be entitled, Executive hereby releases, acquits, and forever discharges the Company, its parent, affiliates and subsidiaries, and its and their respective officers, directors, agents, servants, employees, employee benefit plans, attorneys, shareholders, successors, assigns and affiliates, of and from any and all claims, liabilities, demands, causes of action, costs, expenses, attorneys' fees, damages, indemnities and obligations of every kind and nature, in law, equity, or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with Executive's employment or other relationship with the Company or its affiliates or the termination of that employment or other relationship or the Equity Agreements (as

defined in the Agreement); claims or demands related to salary, bonuses, commissions, stock, stock options, or any other ownership interests in the Company, vacation pay, fringe benefits, expense reimbursements, severance pay, or any other form of compensation; claims pursuant to any federal, state or local law, statute, or cause of action including, but not limited to, the federal Civil Rights Act of 1964, as amended, including without limitation claims for attorneys' fees; the federal Americans with Disabilities Act of 1990, as amended ("ADA"); the federal Age Discrimination in Employment Act of 1967, as amended ("ADEA"); tort law; contract law; wrongful discharge; discrimination; harassment; fraud; defamation; emotional distress; and breach of the implied covenant of good faith and fair dealing. In consideration of the benefits that the Executive will receive under the Agreement, the Executive, personally and on behalf of his heirs, assigns and representatives, hereby releases, waives and forever discharges any and all such causes of action or claims or any other cause of action or claim against the Company, its affiliates or subsidiaries and their respective past, present and future affiliates, directors, trustees, officers, agents, employees, employee benefit plans, successors and assigns, and agrees never to bring any such claim or cause of action. By signing this General Release of Claims, Executive agrees that Executive will not pursue any claim covered by this General Release of Claims. If Executive breaks this promise, Executive agrees to pay the Company's costs and expenses (including reasonable attorneys' fees) related to the defense of any claims; provided, however, that Executive will have no obligation to pay any such costs and expenses if he brings a claim challenging the enforceability of this General Release of Claims under ADEA.

EXECUTIVE UNDERSTANDS AND EXPRESSLY AGREES THAT THIS AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.

Executive acknowledges that Executive knowingly and voluntarily waives and releases any rights Executive may have under the ADEA, as amended. Executive also acknowledges that the consideration given for the waiver and release in the preceding paragraphs hereof is in addition to anything of value to which Executive was already entitled. Executive further acknowledges that: (a) Executive has carefully read and fully understands the provisions of this General Release of Claims; (b) Executive is, through this General Release of Claims, releasing the Company from any and all claims Executive may have against it, its parent, subsidiaries,

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predecessors, successors, affiliates and related entities and other parties described above; (c) Executive has knowingly and voluntarily agreed to all of the terms set forth in the General Release of Claims; (d) Executive knowingly and voluntarily intends to be legally bound by the General Release of Claims; (e) this General Release of Claims shall not be effective until the date upon which the revocation period has expired, which shall be the eighth day after this General Release of Claims is executed by Executive, ("Effective Date"); (f) Executive's waiver and release do not apply to any rights or claims that may arise after the Effective Date of this General Release of Claims; (g) Executive has been advised and Executive is hereby advised to consult with an attorney prior to executing this General Release of Claims; (h) Executive has twenty-one (21) days from the Resignation Date (as defined in the Agreement) to consider this General Release of Claims (although Executive may choose to voluntarily execute this Agreement earlier), but may not sign this General Release of Claims prior to the Resignation Date; and (i) Executive has seven (7) days following the execution of this General Release of Claims to revoke the General Release of Claims.

Notwithstanding anything to the contrary herein, nothing in this General Release of Claims shall be a release or waiver by the Executive of claims that cannot be released as a matter of law, including but not limited to, the Executive's right to file a charge with or participate in a charge, investigation or proceeding by the Equal Employment Opportunity Commission, or any other local, state, or federal administrative body or government agency that is authorized to enforce or administer fair employment practices laws, against the Company, except that Executive hereby agrees to waive his right to recover monetary damages or other individual relief in any such charge, investigation or proceeding or any related complaint or lawsuit filed by Executive or by anyone else on his behalf.

Accepted and agreed:

/s/ James Mylett

Name: James Mylett

Date Executed: January 10, 2017

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