

# SECURITIES AND EXCHANGE COMMISSION

## FORM 8-K

Current report filing

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### FILER

#### PROVIDENCE SERVICE CORP

CIK: **1220754** | IRS No.: **860845127** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **8-K** | Act: **34** | File No.: **001-34221** | Film No.: **09546115**  
SIC: **8300** Social services

Mailing Address  
5524 E. FOURTH ST.  
TUSCON AZ 85711

Business Address  
5524 E. FOURTH ST.  
TUSCON AZ 85711  
5207487108

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

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**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 26, 2009**

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**The Providence Service Corporation**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**001-34221**  
(Commission File  
Number)

**86-0845127**  
(IRS Employer  
Identification No.)

**5524 East Fourth Street, Tucson, Arizona**  
(Address of principal executive offices)

**85711**  
(Zip Code)

**Registrant's telephone number, including area code: (520) 747-6600**

**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))
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## Item 8.01 Other Events.

On January 26, 2009, The Providence Service Corporation (the “Company”) responded to the two demand letters for access to the Company’s shareholder list and other books and records that it had received on January 21, 2009 from an affiliate of Avalon Correctional Services, Inc. (“Avalon”) pursuant to Section 220 of the Delaware General Corporation Law, as amended (the “DGCL”). Avalon and three of its principals recently accumulated approximately 19% of the Company’s common stock and last week filed an amended Schedule 13D with the U.S. Securities and Exchange Commission indicating that Avalon may solicit proxies for the Company’s next annual meeting and/or solicit consents. The first demand letter delivered by Avalon to the Company seeks access to the Company’s shareholder list and certain related records (the “Demand for Shareholder List”) and includes, in its litany of stated purposes for the Demand for Shareholder List, the use of the information in connection with a possible proxy contest against the Company. The second demand letter is extremely broad in scope, and seeks access to various confidential information contained in the Company’s books and records and encompasses over 20 separate categories (the “Demand for Books and Records”). In addition to alluding to a possible proxy contest to be brought by Avalon against the Company and, again, including such proxy contest as one of the purposes for the demands made in the Demand for Books and Records, Avalon also includes a wide-ranging list of other purposes for requesting the information. The Demand for Books and Records provides no credible justification for the extraordinarily overbroad nature of the information being demanded and neither demand contains any additional information regarding Avalon’s plans or intentions or its timing for bringing a proxy contest or other contested solicitation against the Company. Copies of the Company’s responses to each of the Demand for Shareholder List and the Demand for Books and Records are attached hereto as Exhibits 99.1 and 99.2, respectively, and are incorporated herein by reference in their entirety. Any description contained herein of either document is qualified in its entirety by reference to the complete text of such documents attached hereto.

On January 26, 2009, the Company issued a press release (the “Press Release”) commenting on the demand letters that it had received on January 21, 2009 from Avalon. A copy of the Press Release is attached hereto as Exhibit 99.3 and is incorporated herein by reference in its entirety. Any description contained herein of the Press Release is qualified in its entirety by reference to the complete text of such document attached hereto.

## Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

### Exhibit

### Description

99.1	Response of The Providence Service Corporation delivered on January 26, 2009 to an affiliate of Avalon Correctional Services, Inc. responding to its demand made on January 21, 2009 to inspect and copy the Company’s shareholder list and various related records.
99.2	Response of The Providence Service Corporation delivered on January 26, 2009 to an affiliate of Avalon Correctional Services, Inc. responding to its demand made on January 21, 2009 to inspect and copy various books and records of the Company.
99.3	Press Release issued by The Providence Service Corporation on January 26, 2009.

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**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.

**THE PROVIDENCE SERVICE CORPORATION**

Dated: January 26, 2009

By: /s/ Michael N. Deitch

Name: Michael N. Deitch

Title: Chief Financial Officer

**EXHIBIT INDEX**

<u>Exhibit</u>	<u>Description</u>
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99.2	Response of The Providence Service Corporation delivered on January 26, 2009 to an affiliate of Avalon Correctional Services, Inc. responding to its demand made on January 21, 2009 to inspect and copy various books and records of the Company.
99.3	Press Release issued by The Providence Service Corporation on January 26, 2009.



Phone:

(212) 885-5544

Fax:

(212) 885-5001

Email:

EAdams@BlankRome.com

January 26, 2009

**VIA TELECOPY TO (405) 752-8852  
AND OVERNIGHT COURIER**

Mr. Donald E. Smith  
President and Chief Executive Officer  
73114 Investments, L.L.C.  
13401 Railway Drive  
Oklahoma City, Oklahoma 73114

Re: Request for Stockholder List

Dear Mr. Smith:

This firm represents The Providence Service Corporation (the "Company"). As such, we have been asked to respond to the demand letter dated January 21, 2009 (the "Demand Letter") that you sent to the attention of the Corporate Secretary of the Company on behalf of 73114 Investments, L.L.C. and its controlling shareholder, Avalon Correctional Services, Inc. (collectively, the "Avalon Group"), requesting that a stockholder list and certain other records relating to the ownership of the Company's capital stock (collectively the "Stockholder Ownership Records") be made available for inspection and copying pursuant to Section 220 ("Section 220") of the Delaware General Corporation Law, as amended (the "DGCL").

Subject to receiving the payment referred to in the following paragraph and your agreement to the other conditions listed below and without conceding that the Demand Letter complies with Section 220 or states a proper purpose, please be advised that the Company will make available to the Avalon Group the Stockholder Ownership Records that are currently available to the Company and that a stockholder is entitled to inspect pursuant to Section 220(b) of the DGCL. You may pick up a copy of the Stockholder Ownership Records at the offices of Innisfree M&A Incorporated ("Innisfree"), located at 501 Madison Avenue, 19<sup>th</sup> Floor, New York, New York 10022, beginning on Thursday, January 29, 2009, after 4:00 p.m., New York City time. The contact person at Innisfree is Mr. Scott Winter whose direct telephone number is (212) 750-7271. Additional Stockholder Ownership Records shall be made available from time to time after such records come into the possession of the Company.

The Company's willingness to make available to you the Stockholder Ownership Records is subject to the following conditions:

1. That the Avalon Group reimburse the Company in advance for its expenses incurred in obtaining and furnishing the Stockholder Ownership Records requested and supplied in accordance with Section 220 which amount is currently estimated to be \$1,500. Such payment should be made by delivery to the undersigned, prior to 4:00 p.m., New York City time, on Thursday, January 29, 2009, of a certified check made payable to The Providence Service Corporation in the amount of \$1,500. Please be advised that as additional Stockholder Ownership Records are made available to you, your counsel or other representatives, the Company shall expect the Avalon Group to reimburse the Company for its reasonable expenses on an ongoing basis, as represented in the Demand Letter;
2. That the Avalon Group agrees, consistent with the representation made in the Demand Letter, that the Stockholder Ownership Records will be utilized solely for the purposes set forth in the Demand Letter;
3. That the Avalon Group agrees that such information shall be accorded confidential treatment and will not be shared with any person or entity, except as is necessary to pursue the purposes stated in the Demand Letter; and
4. That the Avalon Group agrees that all such information, including all copies, extracts, notes or other materials derived from the information produced, shall be returned to the Company promptly following the time such information is no longer needed to pursue the purposes set forth in the Demand Letter.

By accepting access to the Stockholder Ownership Records, we shall understand that to mean that the Avalon Group has agreed to the foregoing conditions.

This response to the Demand Letter is without prejudice to the Company's right to challenge at any time whether the Demand Letter states a proper purpose or otherwise complies with Section 220 and any other applicable requirements of the DGCL.

Please also be advised that this letter responds only to the Demand Letter. The Company has also received your other letter dated January 21, 2009 requesting that certain other books and records be made available pursuant to Section 220 for inspection and copying. As you saw fit to bifurcate your requests into two separate letters, we will likewise respond separately to your other letter and this response letter shall not in any way be deemed to be a response to such other letter.

Mr. Donald E. Smith  
73114 Investments, L.L.C.  
January 26, 2009  
Page 3

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If have any questions regarding any of the above or wish to discuss this matter further, please feel free to contact me at (212) 885-5544 or by email at EAdams@Blankrome.com. In my absence you can also contact my colleague, Keith E. Gottfried, at (202) 772-5887 or by e-mail at Gottfried@Blankrome.com. You may fax both of us at (212) 885-5001.

Sincerely,

/s/ **ELISE M. ADAMS**

Elise M. Adams

cc: Lisa A. Schmidt, Esq. (Richards, Layton & Finger, P.A.)  
Eric S. Gray, Esq. (Avalon Correctional Services, Inc.)  
Fred Furman, Esq., (The Providence Service Corporation)  
Scott Winter (Innisfree M&A Incorporated)



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January 26, 2009

**VIA TELECOPY TO (405) 752-8852**  
**AND OVERNIGHT COURIER**

Mr. Donald E. Smith  
President and Chief Executive Officer  
73114 Investments, L.L.C.  
13401 Railway Drive  
Oklahoma City, Oklahoma 73114

Re: Your Section 220 Demand for Books and Records

Dear Mr. Smith:

This firm represents The Providence Service Corporation (the "Company"). As such, we have been requested to respond to the demand letter dated January 21, 2009 (the "Demand Letter") that you sent to the attention of the Corporate Secretary of the Company on behalf of 73114 Investments, L.L.C. and its controlling shareholder, Avalon Correctional Services, Inc. (collectively, the "Avalon Group"), requesting that various books and records of the Company, as more fully specified in the Demand Letter (collectively, the "Books and Records"), be made available for inspection and copying pursuant to Section 220 ("Section 220") of the Delaware General Corporation Law, as amended (the "DGCL").

Please be advised that, for the reasons set forth herein, the Company hereby declines to comply with the demands made in the Demand Letter. The Company believes that the demands made in the Demand Letter for access to its confidential books and records are extraordinarily overbroad, patently inappropriate, unduly burdensome and devoid of a proper purpose, and, as such, represent an egregious abuse of the Section 220 demand process. Furthermore, the Company believes that the Avalon Group is attempting to use the Section 220 demand process as part of a campaign to harass, intimidate and bully the Company and its Board members into acquiescing to the various other "demands" you have made of the Company, including a request for multiple Board seats and a request that the Company engage in a transaction with the Avalon Group that contemplates, in effect, that the Company directly transfer a significant and unjustifiable amount of shareholder value from all of its other shareholders to the Avalon Group.



As you know, the Company's Board of Directors, in the exercise of its fiduciary duties, determined that such a transaction would be contrary to the best interests of the Company's other shareholders and, accordingly, rejected it. As you further know from the meeting that you and other representatives of the Avalon Group had with the Company's Chief Executive Officer, Fletcher McCusker, at the Company's offices in Tucson, Arizona on November 22, 2008, the Company has gone out of its way in attempting to constructively engage with you and your colleagues. While the Company remains open to having future discussions with you as long as they are constructive and remains interested in listening to and considering any suggestions that you may have for the enhancement of value for ALL of the Company's shareholders, the Company's Board of Directors will not be intimidated, bullied or distracted from its focus on acting in the best interests of, and building shareholder value for, ALL of the Company's shareholders by the threats and intimidation tactics of one shareholder.

It is clear to the Company that the primary purpose of the Demand Letter is something other than to obtain the requested information or to exercise any of your legitimate rights as a shareholder. While you recite a litany of purposes in the Demand Letter to justify the extraordinarily overbroad, patently inappropriate and unduly burdensome requests contained therein, the Company believes that such stated purposes are completely pre-textual and that, more likely, the Avalon Group's purpose is to find a legal mechanism for it to publicly broadcast otherwise confidential information in the context of its contemplated proxy contest against the Company.

In the Demand Letter, you include, in the litany of purposes stated to justify the demands made therein, the need to conduct various "investigations" into the Company's corporate affairs. However, you offer no evidence whatsoever that establishes a credible basis to suggest that there are any legitimate issues of mismanagement or wrongdoing to investigate. As your outside counsel is well aware, the law in the State of Delaware is that a shareholder must show by a preponderance of the evidence that there is a credible basis for believing that there are legitimate issues of wrongdoing to investigate before such issues can form the basis of a "proper purpose." The mere statement of a purpose to investigate possible general mismanagement, without more, is not sufficient to entitle a shareholder to broad Section 220 inspection rights. The demand and inspection right provided by Section 220 is not a license to engage in an indiscriminate fishing expedition like the one you have embarked on with the Demand Letter. We call your attention to, among other cases, the recent decision by the Supreme Court of the State of Delaware in Seinfeld v. Verizon Communications, Inc., 909 A.2d 117 (Del. 2006).

The Company is very confident that, at the appropriate time and in the appropriate forum, given the facts and the confluence of events that surround the Avalon Group's extraordinarily overbroad, patently inappropriate and unduly burdensome Section 220 demands and the manner in which they have been pursued, including the decision by the Avalon Group to publish the Demand Letter as an exhibit to a Schedule 13D Amendment so as to use the Demand Letter as a rhetorical platform, the Demand Letter will be seen as being driven by ulterior motives and for improper purposes that have little to do with the exercise by a shareholder of its statutory rights.

Mr. Donald E. Smith  
73114 Investments, L.L.C.  
January 26, 2009  
Page 3

Please take note that the potential for shareholders to abuse the Section 220 process and engage in indiscriminate fishing expeditions, as the Company believes you have clearly done in submitting the Demand Letter, has not gone unnoticed by the Delaware Chancery Court which has indicated in recent cases that the potential for abuse is very much alive when the Section 220 demand is made in the contest of an impending or ongoing proxy contest. We call you attention to, among other recent cases, the holding of the Delaware Chancery Court in Highland Select Equity Fund, L.P. v. Motient Corporation (C.A. No. 2092-N, July 6, 2006).

Please also be advised that this letter responds only to the Demand Letter. The Company has also received your other letter dated January 21, 2009 requesting that a shareholder list and certain other records relating to the ownership of the Company' s capital stock be made available pursuant to Section 220 for inspection and copying. As you saw fit to bifurcate your requests into two separate letters, we will likewise respond separately to your other letter.

\* \* \* \* \*

If have any questions regarding any of the above or wish to discuss this matter further, please feel free to contact me at (212) 885-5544 or by e-mail at EAdams@Blankrome.com. In my absence you can also contact my colleague, Keith E. Gottfried, at (202) 772-5887 or by email at Gottfried@Blankrome.com. You may fax both of us at (212) 885-5001.

Sincerely,

/s/ ELISE M. ADAMS

Elise M. Adams

cc: Lisa A. Schmidt, Esq. (Richards, Layton & Finger, P.A.)  
Eric S. Gray, Esq. (Avalon Correctional Services, Inc.)  
Fred Furman, Esq., (The Providence Service Corporation)



## PROVIDENCE SERVICE CORPORATION

### AT THE COMPANY

Fletcher McCusker - Chairman and CEO

Kate Blute - Director of Investor and Public Relations

520/747-6600

### AT CAMERON ASSOCIATES

Alison Ziegler 212-554-5469

### FOR IMMEDIATE RELEASE

#### **Providence Service Corporation Comments on Section 220 Demands Received From Avalon Correctional Services, Inc.**

#### **Avalon' s Section 220 Demands Called Extraordinarily Overbroad, Patently Inappropriate, Unduly Burdensome and an Egregious Abuse of the Section 220 Process**

**TUCSON, ARIZONA - January 26, 2009** – The Providence Service Corporation (Nasdaq: PRSC) today commented on the two Section 220 demand letters for access to the Company' s books and records it had received on January 21, 2009 from an affiliate of Avalon Correctional Services, Inc. The Company' s formal responses to each of the Section 220 demand letters were delivered earlier today to Avalon.

Avalon and three of its principals recently accumulated approximately 19% of the Company' s common stock at an average price of \$1.34 and last week filed an amended Schedule 13D with the U.S. Securities and Exchange Commission indicating that Avalon may solicit proxies for the Company' s next annual meeting and/or solicit consents. The first demand letter seeks access to the Company' s shareholder list and certain related records and includes, in its litany of stated purposes for the demand, the use of the information in connection with a possible proxy contest against the Company. The second demand letter is extremely broad in scope, and seeks access to confidential Company information encompassing over 20 separate categories. In addition to alluding to a possible proxy contest to be brought by Avalon against the Company and, again, including such proxy contest as one of the purposes for the demands made in the second demand letter, Avalon also includes a wide-ranging list of other purposes for requesting the information. The second demand letter provides no credible justification for the extraordinarily overbroad nature of the information being demanded and neither demand letter contains any additional information regarding Avalon' s plans or intentions or its timing for bringing a proxy contest or other contested solicitation against the Company.

“We believe that the Section 220 demands we have received from Avalon for access to our confidential books and records are extraordinarily broad, patently inappropriate, unduly burdensome and represent an egregious abuse of the Section 220 process,” commented Fletcher McCusker, Providence' s CEO. “Avalon seems to believe that a Section 220 demand right provides them the license to engage in an indiscriminate fishing expedition without the need to provide any credible justification for doing so. While Avalon recites a litany of purposes to justify its outrageous demand, we believe that its stated purposes are completely pre-textual. Clearly, Avalon' s Section 220 demands for access to our books and records are designed for purposes other than to obtain the requested information or the exercise of its legitimate rights as a shareholder. We have no doubt that the primary purpose of Avalon' s Section 220 demand for access to our books and records is to further a campaign to harass, intimidate and bully Providence and its Board members into acquiescing to the various other “demands” Avalon has recently made of Providence, including a request for multiple Board seats and a request that we engage in a transaction with Avalon that would have us, in effect, directly transfer a significant and unjustifiable amount of shareholder value from all of Providence' s other shareholders to Avalon., a transaction that our Board, in the exercise of its fiduciary duties, rejected. While we remain open to listening to and considering any constructive ideas and suggestions Avalon may have to enhance value for ALL Providence shareholders, the Board of Directors of Providence will not be intimidated, bullied or distracted

–more–



from its focus on acting in the best interests of, and enhancing shareholder value for, ALL Providence shareholders. As we announced late last year, our Board of Directors is actively focused on several strategic options to enhance shareholder value including, among other things, delevering our debt, growing our core social services business and selling certain non-strategic assets. We are very confident that, at the appropriate time and in the appropriate forum, given the facts and the confluence of events that surround Avalon's extraordinarily overbroad, patently inappropriate and unduly burdensome Section 220 demands and the manner in which they have been pursued, including Avalon's decision to publish its demand letters so as to use them as a rhetorical platform, Avalon's demand letters will be seen as driven by ulterior motives and for improper purposes that have little to do with the exercise by a shareholder of its statutory rights."

Section 220 is a provision of the General Corporation Law of the State of Delaware, the State of Providence's incorporation, that allows shareholders holding as few as one share in a company to make a demand for access to various books and records of the company, provided that such demand is made for a proper purpose. This provision is often used for improper purposes by dissident shareholders in connection with an impending or ongoing proxy contest to gain access to confidential information for use in its proxy materials, at a great cost to a company's other shareholders. Among other improper purposes, dissident shareholders have used the Section 220 demand as a vehicle to intimidate and harass a company and its management in preparation for a proxy contest, with little regard for whether it receives any information or not. As the Delaware courts have noted in the past, "the potential for abuse is very much alive when the Section 220 demand is made in the context of an impending or ongoing proxy contest."

### **About Providence**

Providence Service Corporation, through its owned and managed entities, provides home and community based social services and non-emergency transportation services management to government sponsored clients under programs such as welfare, juvenile justice, Medicaid and corrections. Providence does not own or operate beds, treatment facilities, hospitals or group homes, preferring to provide services in the client's own home or other community setting. The Company provides a range of services through its direct and managed entities to over 74,000 clients through 870 contracts at September 30, 2008, with an estimated six million individuals eligible to receive the Company's non-emergency transportation services related to its LogistiCare operations. Combined, the Company has a nearly \$1 billion book of business including managed entities.

### **Forward-Looking Statements**

This press release contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Words such as "believe," "demonstrate," "expect," "estimate," "anticipate," "should" and "likely" and similar expressions identify forward-looking statements. In addition, statements that are not historical should also be considered forward-looking statements. Readers are cautioned not to place undue reliance on those forward-looking statements, which speak only as of the date the statement was made. Such forward-looking statements are based on current expectations that involve a number of known and unknown risks, uncertainties and other factors which may cause actual events to be materially different from those expressed or implied by such forward-looking statements. These factors include, but are not limited to the global credit crisis, capital market conditions, and other risks detailed in Providence's filings with the Securities and Exchange Commission, including its Annual Report on Form 10-K for the fiscal year ended December 31, 2007. Providence is under no obligation to (and expressly disclaims any such obligation to) update any of the information in this press release if any forward-looking statement later turns out to be inaccurate whether as a result of new information, future events or otherwise.

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