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LIQUID AUDIO INC  
Form DFAN14A  
August 02, 2002

SCHEDULE 14A  
(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT  
SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the registrant [ ]

Filed by a party other than the registrant [X]

Check the appropriate box:

- [ ] Preliminary Proxy Statement.
- [ ] Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2)).
- [ ] Definitive Proxy Statement [ ] Definitive Additional Materials
- [X] Soliciting Material Under Rule 14a-12.

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LIQUID AUDIO, INC.  
(Name of Registrant as Specified in Its Charter)  
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MM COMPANIES, INC.,  
JEWELCOR MANAGEMENT, INC., BARINGTON COMPANIES EQUITY PARTNERS, L.P., RAMIUS  
SECURITIES, LLC, DOMROSE SONS PARTNERSHIP,  
JAMES A. MITAROTONDA and SEYMOUR HOLTZMAN  
(Name of Person(s) Filing Proxy Statement if Other Than the Registrant)  
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Payment of Filing Fee (Check the appropriate box):

- [X] No fee required.
- [ ] Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
- (1) Title of each class of securities to which transaction applies:
- (2) Aggregate number of securities to which transaction applies:
- (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
- (4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

- [ ] Fee paid previously with preliminary materials.
- [ ] Check box if any part of the fee is offset as provided by Exchange Act Rule

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0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

- (1) Amount Previously Paid:
- (2) Form, Schedule or Registration Statement No.:
- (3) Filing Party:
- (4) Date Filed:

-2-

On August 2, 2002, MM Companies, Inc. issued the following press release:

FOR IMMEDIATE RELEASE

For Information Contact:  
James Mitarotonda (212) 974-5701

MM COMPANIES, INC. CONTINUES LAWSUIT AGAINST LIQUID AUDIO, INC.

NEW YORK, NY -- August 2, 2002 -- MM Companies, Inc. (formerly known as musicmaker.com, Inc.) confirmed today that it is continuing its lawsuit against Liquid Audio, Inc., the directors of Liquid Audio, Inc. and Alliance Entertainment Corp.

James Mitarotonda, the President and Chief Executive Officer of MM Companies, Inc., said, "We feel compelled to issue this press release as a result of the misleading statements contained in Liquid Audio's August 1, 2002 press release. Liquid Audio's press release could lead its shareholders to believe that MM Companies approves of the proposed merger with Alliance Entertainment, that we dismissed our lawsuit against Liquid Audio, and that we did so based on a letter from Liquid Audio to the Court. Nothing is further from the truth. MM Companies still strongly opposes the proposed merger with Alliance Entertainment. Although we decided to withdraw our motions for expedited proceedings and a preliminary injunction, MM Companies intends to continue the litigation and amend its complaint to allege claims for, among other things, breach of fiduciary duty against the individual members of Liquid Audio's Board of Directors relating to their conduct in connection with the proposed merger. In our opinion, the termination fee and tender offer provisions contained in the merger documents are outrageous." Mr. Mitarotonda also stated, "Contrary to the implication in Liquid Audio's press release, we had not received any opposition papers from Liquid Audio, and could not have been influenced by any of the arguments made by Liquid Audio, when we forwarded our letter to the Court withdrawing these motions."

MM Companies also intends to go forward with its efforts to elect its nominees to the Liquid Audio Board at the September 26, 2002 Annual Meeting.