

Edgar Filing: SYB Inc. - Form SC 13D

SYB Inc.
Form SC 13D
August 30, 2010

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

SCHEDULE 13D
Under the Securities Exchange Act of 1934

Golden Enterprises, Inc.

(Name of Issuer)

Common Stock, .66 2/3 par value per share

(Title of Class of Securities)

381010107

(CUSIP Number)

Patty R. Townsend, Chief Financial Officer
One Golden Flake Drive
Birmingham, AL 35205
(205) 323-6161

(Name, Address and Telephone Number of Person Authorized to
Receive Notices and Communications)

August 9, 2010

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of Sec. Sec. 240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. []

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Sec. 240.13d-7 for other parties to whom copies are to be sent.

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

CUSIP No. 381010107
Explanatory Note

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Sloan Y. Bashinsky, Sr. beneficially owned 6,698,172 shares of the Issuer, which represented 56.6% of the issued and outstanding shares of the Issuer. Mr. Bashinsky died on August 2, 2005. Upon Mr. Bashinsky's death, pursuant to terms in his Last Will and Testament and the SYB, Inc. Common Stock Trust created by Mr. Bashinsky, the Board of Directors of the Issuer (other than Audit Committee members) were designated to vote shares of stock of the Issuer (the "Voting Committee") beneficially owned by his Estate, Testamentary Trust and SYB, Inc. Common Stock Trust, which, prior to Estate distribution, represented 53.67% of the Issuer's common stock. Mr. Bashinsky's death and the Voting Committee were previously disclosed and reported on Form 8-K filed with the Commission on August 18, 2005 and in Golden Enterprises' annual proxy statement dated September 1, 2005. SYB, Inc. reported its ownership on Form 3 filed on August 5, 2005. A Schedule 13D was filed with the SEC in December 2005. The Estate is now distributing property to the Testamentary Trust and Mrs. Joann F. Bashinsky, spouse of Mr. Bashinsky. In the distribution, Mrs. Bashinsky will receive 414,221 shares and the Testamentary Trust will receive 600,279 shares. SYB, Inc., the Testamentary Trust, the Voting Committee and Mrs. Bashinsky agree they are a voting control group for all purposes. Mrs. Joann F. Bashinsky is the sole income beneficiary of the Testamentary Trust and is a member of the Voting Committee. The control group owns 53.78% of Issuer's outstanding stock.

1. Names of Reporting Persons.

I.R.S. Identification Nos. of above persons (entities only).
Testamentary Trust of Sloan Y. Bashinsky, Sr.

2. Check the Appropriate Box if a Member of a Group

(a) X

(b) _____

3. SEC Use Only

4. Source of Funds N/A

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization
Alabama

7. Sole Voting Power

Number of
Shares Bene-
ficially by
Owned by
Each

8. Shared Voting Power 5,883,477 shares

9. Sole Dispositive Power

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Reporting Person With

10. Shared Dispositive Power 5,883,477 shares

11. Aggregate Amount Beneficially Owned by Each Reporting Person 6,310,332

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares

13. Percent of Class Represented by Amount in Row (11) 53.78

14. Type of Reporting Person 00

CUSIP No. 381010107 Explanatory Note

Sloan Y. Bashinsky, Sr. beneficially owned 6,698,172 shares of the Issuer, which represented 56.6% of the issued and outstanding shares of the Issuer. Mr. Bashinsky died on August 2, 2005. Upon Mr. Bashinsky's death, pursuant to terms in his Last Will and Testament and the SYB, Inc. Common Stock Trust created by Mr. Bashinsky, the Board of Directors of the Issuer (other than Audit Committee members) were designated to vote shares of stock of the Issuer (the "Voting Committee") beneficially owned by his Estate, Testamentary Trust and SYB, Inc. Common Stock Trust, which, prior to Estate distribution, represented 53.67% of the Issuer's common stock. Mr. Bashinsky's death and the Voting Committee were previously disclosed and reported on Form 8-K filed with the Commission on August 18, 2005 and in Golden Enterprises' annual proxy statement dated September 1, 2005. SYB, Inc. reported its ownership on Form 3 filed on August 5, 2005. A Schedule 13D was filed with the SEC in December 2005. The Estate is now distributing property to the Testamentary Trust and Mrs. Joann F. Bashinsky, spouse of Mr. Bashinsky. In the distribution, Mrs. Bashinsky will receive 414,221 shares and the Testamentary Trust will receive 600,279 shares. SYB, Inc., the Testamentary Trust, the Voting Committee and Mrs. Bashinsky agree they are a voting control group for all purposes. Mrs. Joann F. Bashinsky is the sole income beneficiary of the Testamentary Trust and is a member of the Voting Committee. The control group owns 53.78% of Issuer's outstanding stock.

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only). SYB, Inc. Common Stock Trust

2. Check the Appropriate Box if a Member of a Group

(a) X

(b)

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3. SEC Use Only

4. Source of Funds N/A

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items
2(d) or 2(e)

6. Citizenship or Place of Organization
Delaware

7. Sole Voting Power

Number of
Shares Bene-
ficially by
Owned by
Each
Reporting
Person With

8. Shared Voting Power 5,883,407 shares

9. Sole Dispositive Power

10. Shared Dispositive Power 5,883,407 shares

11. Aggregate Amount Beneficially Owned by Each Reporting Person
6,310,332

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares

13. Percent of Class Represented by Amount in Row (11)
53.78

14. Type of Reporting Person
00

CUSIP No. 381010107
Explanatory Note

Sloan Y. Bashinsky, Sr. beneficially owned 6,698,172 shares of the Issuer, which represented 56.6% of the issued and outstanding shares of the Issuer. Mr. Bashinsky died on August 2, 2005. Upon Mr. Bashinsky's death, pursuant to terms in his Last Will and Testament and the SYB, Inc. Common Stock Trust created by Mr. Bashinsky, the Board of Directors of the Issuer (other than Audit Committee members) were designated to vote shares of stock of the Issuer (the "Voting Committee") beneficially owned by his Estate, Testamentary Trust and SYB, Inc. Common Stock Trust, which, prior to Estate distribution, represented 53.67% of the Issuer's common stock. Mr. Bashinsky's death and the Voting Committee were

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previously disclosed and reported on Form 8-K filed with the Commission on August 18, 2005 and in Golden Enterprises' annual proxy statement dated September 1, 2005. SYB, Inc. reported its ownership on Form 3 filed on August 5, 2005. A Schedule 13D was filed with the SEC in December 2005. The Estate is now distributing property to the Testamentary Trust and Mrs. Joann F. Bashinsky, spouse of Mr. Bashinsky. In the distribution, Mrs. Bashinsky will receive 414,221 shares and the Testamentary Trust will receive 600,279 shares. SYB, Inc., the Testamentary Trust, the Voting Committee and Mrs. Bashinsky agree they are a voting control group for all purposes. Mrs. Joann F. Bashinsky is the sole income beneficiary of the Testamentary Trust and is a member of the Voting Committee. The control group owns 53.78% of Issuer's outstanding stock.

1. Names of Reporting Persons.

I.R.S. Identification Nos. of above persons (entities only).
Voting Committee created under the Last Will and Testament of Sloan Y. Bashinsky, Sr. and the SYB, Inc. Common Stock Trust. The Voting Committee consists of the following individuals: Joann F. Bashinsky, Mark W. McCutcheon, John P. McKleroy, Jr., J. Wallace Nall, Jr., F. Wayne Pate, Patty Townsend, Paul R. Bates and David A. Jones

2. Check the Appropriate Box if a Member of a Group

(a) X

(b)

3. SEC Use Only

4. Source of Funds N/A

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization
Alabama

7. Sole Voting Power

Number of
Shares Bene-
ficially by
Owned by
Each
Reporting
Person With

8. Shared Voting Power 5,883,407 shares

9. Sole Dispositive Power

10. Shared Dispositive Power 5,883,407 shares

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11. Aggregate Amount Beneficially Owned by Each Reporting Person
6,310,332

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares

13. Percent of Class Represented by Amount in Row (11)
53.78

14. Type of Reporting Person
00

CUSIP No. 381010107

Explanatory Note

Sloan Y. Bashinsky, Sr. beneficially owned 6,698,172 shares of the Issuer, which represented 56.6% of the issued and outstanding shares of the Issuer. Mr. Bashinsky died on August 2, 2005. Upon Mr. Bashinsky's death, pursuant to terms in his Last Will and Testament and the SYB, Inc. Common Stock Trust created by Mr. Bashinsky, the Board of Directors of the Issuer (other than Audit Committee members) were designated to vote shares of stock of the Issuer (the "Voting Committee") beneficially owned by his Estate, Testamentary Trust and SYB, Inc. Common Stock Trust, which, prior to Estate distribution, represented 53.67% of the Issuer's common stock. Mr. Bashinsky's death and the Voting Committee were previously disclosed and reported on Form 8-K filed with the Commission on August 18, 2005 and in Golden Enterprises' annual proxy statement dated September 1, 2005. SYB, Inc. reported its ownership on Form 3 filed on August 5, 2005. A Schedule 13D was filed with the SEC in December 2005. The Estate is now distributing property to the Testamentary Trust and Mrs. Joann F. Bashinsky, spouse of Mr. Bashinsky. In the distribution, Mrs. Bashinsky will receive 414,221 shares and the Testamentary Trust will receive 600,279 shares. SYB, Inc., the Testamentary Trust, the Voting Committee and Mrs. Bashinsky agree they are a voting control group for all purposes. Mrs. Joann F. Bashinsky is the sole income beneficiary of the Testamentary Trust and is a member of the Voting Committee. The control group owns 53.78% of Issuer's outstanding stock.

1. Names of Reporting Persons.
I.R.S. Identification Nos. of above persons (entities only).
Joann F. Bashinsky

2. Check the Appropriate Box if a Member of a Group

(a) X

(b)

3. SEC Use Only

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4. Source of Funds N/A

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization
Alabama

| | | |
|---|------------------------------|------------------|
| Number of Shares Beneficially by Owned by Each Reporting Person With | 7. Sole Voting Power | 426,925 shares |
| | 8. Shared Voting Power | 5,883,407 shares |
| | 9. Sole Dispositive Power | 426,925 shares |
| | 10. Shared Dispositive Power | 5,883,407 shares |

11. Aggregate Amount Beneficially Owned by Each Reporting Person
6,310,332

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares

13. Percent of Class Represented by Amount in Row (11)
53.78

14. Type of Reporting Person
IN

CUSIP No. 381010107

Item 1. Security and Issuer

This statement on Schedule 13D relates to the common stock, par value \$.66 2/3 per share (the Shares), of Golden Enterprises, Inc., a Delaware corporation (the Issuer) and is being filed by the Testamentary Trust of Sloan Y. Bashinsky, Sr., the SYB, Inc. Common Stock Trust, the Voting Committee and Mrs. Joann F. Bashinsky, spouse of Mr. Sloan Y. Bashinsky, Sr. and income beneficiary of the Testamentary Trust and member of the Voting Committee (the Reporting Persons). The Issuers current principal executive offices are located at One Golden Flake Drive, Birmingham, Alabama 35205.

Item 2. Identity and Background

This schedule is filed on behalf of the Testamentary Trust of Sloan Y.

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Bashinsky, Sr., the SYB, Inc. Common Stock Trust and the Voting Committee and Mrs. Joann F. Bashinsky, spouse of Mr. Sloan Y. Bashinsky, Sr. and income beneficiary of the Testamentary Trust and member of the Voting Committee (referred to herein individually as Reporting Person and collectively as Reporting Persons). The names, residences or business addresses and principal occupation of the Reporting Persons are set forth below. None of the Reporting Persons have been convicted in criminal proceedings (excluding traffic violations or similar misdemeanors) in the past five years. In the past five years, none of the Reporting Persons have been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and the result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating final order enjoining future violations of, or prohibiting or mandating activity subject to, federal or state securities laws or finding any violation with respect to such laws. The Reporting Persons are domiciled in the United States.

| Reporting Persons ----- | Principal Address ----- | Principal Occupation/Business ----- |
|--|--|--|
| Testamentary Trust of Sloan Y. Bashinsky, Sr. | Suite 312 - 21 Office Plaza Building 2101 Magnolia Avenue South Birmingham, Alabama 35205 | N/A |
| SYB, Inc. Common Stock Trust | Suite 312 - 21 Office Plaza Building 2101 Magnolia Avenue South Birmingham, Alabama 35205 | N/A |
| Joann F. Bashinsky | 3432 Briarcliff Road East Birmingham, Alabama 35223 | Chairman and CEO of SYB, Inc. |
| Voting Committee consisting of: | | |
| Joann F. Bashinsky | 3432 Briarcliff Road East Birmingham, Alabama 35223 | Chairman and CEO of SYB, Inc. |
| Mark W. McCutcheon | Golden Flake Snack Foods, Inc. Post Office Box 2447 Birmingham, Alabama 35201 | CEO, Chairman of the Board and President of the Issuer and President of Golden Flake Snack Foods, Inc. |
| John P. McKleroy, Jr. | Spain & Gillon, L.L.C. 2117 Second Avenue North Birmingham, Alabama 35203 | Attorney and member with Spain & Gillon, L.L.C. |
| J. Wallace Nall, Jr. | Nall Development Corporation 119 Euclid Avenue Birmingham, Alabama 35213 | President of Nall Development Corporation and General Partner of Nall Partnership, Ltd. |

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| | | |
|----------------|---|---|
| F. Wayne Pate | 1309 Kingsway Lane Birmingham, Alabama 35243 | Retired President of the Issuer |
| Patty Townsend | Post Office Box 2447 Birmingham, Alabama 35201 | Chief Financial Officer, Vice President and Secretary of Issuer |
| Paul R. Bates | Post Office Box 2447 Birmingham, Alabama 35201 | Executive Vice President of Sales, Marketing and Transportation of Golden Flake Snack Foods, Inc. |
| David A. Jones | Post Office Box 2447 Birmingham, Alabama 35201 | Executive Vice President of Operations, Human Resources and Quality Control of Golden Flake Snack Foods, Inc. |

Item 3. Source and Amount of Funds or Other Consideration

Not applicable.

Item 4. Purpose of Transaction

Sloan Y. Bashinsky, Sr. died on August 2, 2005. At the time of Mr. Bashinsky's death, he beneficially owned 6,698,172 shares of common stock of the Issuer which constituted voting control of the Issuer. The stock beneficially owned by Mr. Bashinsky was registered in and held by the following entities:

| | |
|--|------------------|
| SYB, Inc., a Delaware corporation | 5,283,128 shares |
| SYB, Inc. as Trustee of the Sloan Y. Bashinsky, Sr. Trust Dated February 16, 1982 ("SYB, Inc. Trust") | |
| | 1,000,000 shares |
| Bashinsky Foundation, Inc., an Alabama non-profit corporation | |
| | 400,544 shares |
| Sloan Y. Bashinsky, Sr. | |
| | 14,500 shares |

As a result of Mr. Bashinsky's death and the probate of his Will on August 12, 2005, the 1,000,000 shares held in the SYB, Inc. Trust and the 14,500 shares held in his name passed to his Estate. The Estate has now distributed assets with 600,279 shares to the Testamentary Trust created under Mr. Bashinsky's Will and 414,221 shares to Mrs. Bashinsky. SYB, Inc. continues to own 5,283,128 shares and the Bashinsky Foundation, Inc. continues to own 400,544 shares.

Mr. Bashinsky's Will and the SYB, Inc. Common Stock Trust provide that shares of the Issuer held by SYB, Inc. and his Estate/Testamentary Trust, along with the voting shares of SYB, Inc., shall be voted by a committee made up of each member of the Board of Directors of Golden Enterprises, Inc. and one member designated by his Estate Personal Representatives/Trustees (Voting Committee). The Board members who serve on the Audit Committee of the Issuer have resigned/renounced from any participation in the Voting Committee. Consequently, the 5,283,128 shares of the Company stock held by SYB, Inc. and the 600,279 of the Company stock held by Mr. Bashinsky's Estate/Testamentary

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Trust, all of which constitute a majority of the voting stock of the Company (50.14%), will be voted by the Voting Committee (the shares of Issuer's stock held by Bashinsky Foundation, Inc. are not voted by the Voting Committee). The decision of the majority of the members of the Voting Committee shall govern how the stock is voted. Mrs. Bashinsky is the sole income beneficiary of the Testamentary Trust and serves on the Voting Committee. Mrs. Bashinsky, the Trustees of the SYB, Inc. Testamentary Trust, Trustees of the SYB, Inc. Common Stock Trust and the Voting Committee agree to be recognized as a voting group under Rule 13D-5. Thus, the Testamentary Trust of Sloan Y. Bashinsky, Sr., the SYB, Inc. Common Stock Trust, Mrs. Joann F. Bashinsky and the Voting Committee constitute a voting group under Rule 13D-5 and will be reported as such and the Issuer will remain a Controlled Corporation for reporting purposes. The control group will own and/or vote 6,310,332 shares, which constitute 53.78% of the Issuer's outstanding stock.

Item 5. Interest in Securities of the Issuer

(a) The contents of the cover page of this statement are incorporated into this Item 5 for each Reporting Person.

(b) Mrs. Joann F. Bashinsky has the sole power to vote and dispose of 426,925 shares (414,221 shares of which were received from the Estate). All other shares set forth hereunder (5,883,407 shares) are under the voting control of the Voting Committee.

(c) Except for the distribution of shares by the Estate, no transaction in the common shares was effected by a Reporting Person since the last filing or within the past 60 days.

(d) Not applicable.

(e) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

See Item 4.

Item 7. Material to Be Filed as Exhibits

1) Excerpts of Last Will and Testament of Sloan Y. Bashinsky, Sr. creating the Voting Committee.

2) Excerpts of SYB, Inc. Common Stock Trust creating the Voting Committee.

Signature

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

TESTAMENTARY TRUST OF SLOAN Y. BASHINSKY, SR.

August 27, 2010

Date

/s/John S. Stein

Signature

John S. Stein, Trustee

Name/Title

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August 27, 2010

Date

/s/M. Owens Sims

Signature

M. Owens Sims, Trustee

Name/Title

August 27, 2010

Date

/s/John P. McKleroy, Jr.

Signature

John P. McKleroy, Jr., Trustee

Name/Title

SYB, INC. COMMON STOCK TRUST

August 27, 2010

Date

/s/John P. McKleroy, Jr.

Signature

John P. McKleroy, Jr., Trustee

Name/Title

August 27, 2010

Date

/s/M. Owens Sims, Trustee

Signature

M. Owens Sims, Trustee

Name/Title

VOTING COMMITTEE CREATED UNDER THE LAST WILL AND TESTAMENT OF SLOAN Y.
BASHINSKY, SR. AND SYB, , INC. COMMON STOCK TRUST

August 27, 2010

Date

/s/Mark W. McCutcheon

Signature

Mark W. McCutcheon, Member

Name/Title

August 27, 2010

Date

/s/John P. McKleroy, Jr.

Signature

John P. McKleroy, Jr., Secretary and Member

Name/Title

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August 27, 2010

Date

/s/Joann F. Bashinsky

Signature

Joann F. Bashinsky, Member
Name/Title

August 27, 2010

Date

/s/J. Wallace Nall, Jr.

Signature

J. Wallace Nall, Jr., Member
Name/Title

August 27, 2010

Date

/s/F. Wayne Pate

Signature

F. Wayne Pate, Chairman and Member
Name/Title

August 27, 2010

Date

/s/ Patty Townsend

Signature

Patty Townsend, Member
Name/Title

August 27, 2010

Date

/s/Paul R. Bates

Signature

Paul R. Bates, Member
Name/Title

August 27, 2010

Date

/s/David A. Jones

Signature

David A. Jones, Member
Name/Title

August 27, 2010

Date

/s/Joann F. Bashinsky

Signature

Joann F. Bashinsky, Individually

Name/Title