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PITTSTON CO  
Form 11-K  
March 29, 2002

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

FORM 11-K

ANNUAL REPORT PURSUANT TO SECTION 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

For the year ended December 31, 2001

OR

TRANSITION REPORT PURSUANT TO SECTION 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 1-9148

1994 EMPLOYEE STOCK PURCHASE PLAN OF THE PITTSTON COMPANY  
(Full title of the Plan)

THE PITTSTON COMPANY  
(Name of the issuer of securities held pursuant to the Plan)

P.O. BOX 18100  
1801 BAYBERRY COURT  
RICHMOND, VIRGINIA 23226-8100  
(Address of issuer's principal executive offices) (Zip Code)

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The Participants of the 1994 Employee Stock  
Purchase Plan of The Pittston Company:

We have audited the accompanying statements of financial condition of the 1994 Employee Stock Purchase Plan of The Pittston Company (the "Plan") as of December 31, 2001 and 2000, and the related statements of income and changes in plan equity for each of the years in the three-year period ended December 31, 2001. These financial statements are the responsibility of the Plan's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the 1994 Employee Stock Purchase Plan of The Pittston Company as of December 31, 2001 and 2000, and the income and changes in plan equity for each of the years in the three-year period ended December 31, 2001, in conformity with accounting principles generally accepted in the United States of America.

KPMG LLP  
Richmond, Virginia

March 22, 2002

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1994 EMPLOYEE STOCK PURCHASE PLAN OF THE PITTSTON COMPANY

STATEMENTS OF FINANCIAL CONDITION

DECEMBER 31, 2001 AND 2000

2001 2000

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Assets:

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Contributions receivable from The Pittston Company	\$ 901,433	710,872
-----		
Total assets	\$ 901,433	710,872
-----		
Liabilities:		
Share purchase obligations	\$ 901,433	710,872
-----		
Total liabilities	\$ 901,433	710,872
-----		

See accompanying notes to financial statements.

1994 EMPLOYEE STOCK PURCHASE PLAN OF THE PITTSTON COMPANY  
 STATEMENTS OF INCOME AND CHANGES IN PLAN EQUITY  
 Years Ended December 31, 2001, 2000 and 1999

	2001
-----	
Income:	
Participant contributions	\$ 1,651,519
-----	
	1,651,519
-----	
Withdrawals:	
Contributions transferred or owed to participants' accounts	1,651,519
-----	
Increase (decrease) in Plan equity	-
Plan equity-beginning of year	-
-----	
Plan equity-end of year	\$ -
-----	

See accompanying notes to financial statements.

1994 EMPLOYEE STOCK PURCHASE PLAN OF THE PITTSTON COMPANY

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STATEMENTS OF INCOME AND CHANGES IN PLAN EQUITY  
(continued)

Years Ended December 31, 2001, 2000 and 1999

	Other	Pittston Common Stock	Pittston BAX Group Common Stock	Pittston Minerals Group Common Stock	200
Income:					
Participant contributions	\$ 710,872	786,024	-	-	1,496,89
Dividend income	-	10,292	-	-	10,29
Unrealized appreciation on common stock	-	644,455	-	-	644,45
Realized loss on distributions	-	(2,570,749)	-	-	(2,570,74
	710,872	(1,129,978)	-	-	(419,10
Withdrawals and Other:					
Exchange of stock	-	(1,822,924)	1,384,239	438,685	
Distribution to Plan participants, at market value	-	3,293,515	-	-	3,293,51
Contributions owed to participants' accounts	710,872	-	-	-	710,87
Decrease in Plan equity	-	(2,600,569)	(1,384,239)	(438,685)	(4,423,49
Plan equity-beginning of year	-	2,600,569	1,384,239	438,685	4,423,49
Plan equity-end of year	\$ -	-	-	-	

See accompanying notes to financial statements.

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1994 EMPLOYEE STOCK PURCHASE PLAN OF THE PITTSTON COMPANY

STATEMENTS OF INCOME AND CHANGES IN PLAN EQUITY  
(continued)

Years Ended December 31, 2001, 2000 and 1999

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	Pittston Brink's Group Common Stock	Pittston BAX Group Common Stock	Pittston Minerals Group Common Stock	1999
Income:				
Participant contributions	\$ 967,713	611,808	223,130	1,802,651
Dividend income	10,562	23,440	4,229	38,231
Unrealized appreciation (depreciation) on common stock	(978,878)	179,347	133,241	(666,290)
Realized gain (loss) on distributions	71,462	(113,679)	(192,230)	(234,447)
	70,859	700,916	168,370	940,145
Withdrawals:				
Distribution to Plan participants, at market value	934,725	319,737	105,098	1,359,560
(Decrease) increase in Plan equity	(863,866)	381,179	63,272	(419,415)
Plan equity-beginning of year	3,464,435	1,003,060	375,413	4,842,908
Plan equity-end of year	\$ 2,600,569	1,384,239	438,685	4,423,493

See accompanying notes to financial statements.

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1994 EMPLOYEE STOCK PURCHASE PLAN OF THE PITTSTON COMPANY

NOTES TO FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF PLAN AND SIGNIFICANT ACCOUNTING POLICIES

The following description of the 1994 Employee Stock Purchase Plan of The Pittston Company (the "Plan") provides only general information. Participants should refer to the Plan document for a more complete description of the Plan's provisions. The Plan is an "employee stock purchase plan" within the meaning of Section 423 of the Internal Revenue Code of 1986, as amended, (the "Code") covering all eligible employees of The Pittston Company and its subsidiaries. The Plan years begin on January 1 and end on December 31.

Amendment of the Plan

The Plan was amended on July 1, 2000 so that shares of Pittston Common Stock purchased by participants pursuant to the Plan are directly transferred from the The Pittston Company Employee Benefits Trust to accounts maintained for each of the Plan participants by a recordkeeper selected by The Pittston Company. Transferred shares are not deemed to be assets of the Plan.

Purchase Price and Transfers of Common Stock The purchase price (the "Purchase

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Price") for each share of common stock to be purchased under the Plan is 85% of the Fair Market Value (as defined in the Plan) of such share on either (a) the first day of each six-month period commencing on July 1 or January 1 (the "Offering Date") or (b) the last day of each six-month period from an Offering Date (the "Purchase Date"), whichever is less. The Fair Market Value with respect to shares of common stock is generally defined as the average of the high and low quoted sales price of a share of such stock on the applicable date as reported on the New York Stock Exchange Composite Transactions Tape.

As of the Purchase Date, with respect to each six-month period from an Offering Date to and including the Purchase Date (the "Offering Period"), the amount then in a participant's account is applied to the purchase of the number of whole shares of common stock determined by dividing such amount by the applicable Purchase Price. Any amounts remaining at the end of an offering period are accumulated and used to purchase shares during the next offering period.

The maximum number of shares of Pittston Common Stock which may be issued or allocated pursuant to the Plan is 984,905 of which 628,911 shares had been issued as of December 31, 2001.

### Eligibility

Generally, any employee of The Pittston Company or a designated subsidiary (a "Subsidiary") is eligible to participate in the Plan if he or she is customarily employed for at least 20 hours per week; provided, however, that in the case of an employee who is covered by a collective bargaining agreement, he or she shall not be considered an eligible employee unless and until the labor organization representing such individual has accepted the Plan on behalf of the employees in the collective bargaining unit. Any such employee shall continue to be an eligible employee during an approved leave of absence provided such employee's right to continue employment with The Pittston Company or a Subsidiary upon expiration of such employee's leave of absence is guaranteed either by statute or by contract with or a policy of The Pittston Company or a Subsidiary. At December 31, 2001 and 2000, the Plan had a total of 952 and 685 participants, respectively.

### Participant Contributions

Participants can elect to contribute any whole percentage from 1% up to and including 10% of their annual base rate of pay, including commissions, but generally excluding overtime or premium pay ("Compensation"), up to a maximum of \$12,750 per calendar year, provided that the amount withheld by a participant during the Offering Period does not exceed 50% of such participant's Compensation

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determined on the Offering Date. A participant may reduce (but not increase) the rate of payroll withholding during an Offering Period at any time prior to the end of such Offering Period for which such reduction is to be effective. Not more than one reduction may be made in any Offering Period unless otherwise determined by nondiscriminatory rules. A participant may elect to cease active participation in the Plan at any time up to the end of an Offering Period by filing the appropriate form with the committee that administers the Plan. A participant who elects to cease participation in the Plan may not resume participation in the Plan until after the expiration of the then current Offering Period.

No participant shall have a right to purchase shares of common stock if (a) such participant, immediately after electing to purchase such shares, would own common stock possessing 5% or more of the total combined voting power or value of the stock of The Pittston Company or of any Subsidiary, or (b) the rights of

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such participant to purchase common stock under the Plan would accrue at a rate that exceeds \$25,000 of Fair Market Value of such common stock (determined at the time or times such rights are granted) for each calendar year for which such rights are outstanding at any time.

### Refund to Participants if Terminated

In the event of the termination of a participant's employment for any reason, including retirement or death, or the failure of a participant to remain eligible under the terms of the Plan, any amounts credited to such participant's account will be refunded, without interest, to such individual or, in the event of his or her death, to his or her legal representative.

### Termination or Amendment of the Plan

The Plan will remain in effect until June 30, 2007, unless extended pursuant to shareholder approval.

The Board of Directors of The Pittston Company may, at any time and from time to time, amend (including, but not limited to, amendments to the Plan to increase the Purchase Price), modify or terminate the Plan, but no such amendment or modification without the approval of the shareholders shall: (a) increase the maximum number of shares of common stock which may be issued pursuant to the Plan; (b) permit the issuance of any shares of common stock at a purchase price less than that provided in the Plan as approved by the shareholders; (c) extend the term of the Plan; or (d) cause the Plan to fail to meet the requirements of an "employee stock purchase plan" under the Code.

### Basis of Accounting

The accompanying financial statements are prepared on the accrual basis of accounting.

### Use of Estimates

The preparation of the financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, and changes therein, and disclosure of contingent assets and liabilities. Actual results could differ materially from those estimates.

### Investment Valuation and Income Recognition

Prior to July 1, 2000, the investments in Pittston Common Stock, Brink's Stock, BAX Stock and Minerals Stock were valued at their quoted market price. Purchases and sales of stock until July 1, 2000 were recorded on a trade-date basis. Dividends were recorded on the ex-dividend date.

### Distributions

Prior to July 2000, distributions were recognized when payable and were recorded at the fair market value of shares dispersed.

### Income Taxes

The Plan, and the rights of participants to make purchases thereunder, is intended to qualify as an "employee stock purchase plan" under Section 423 of the Code. The Plan is not qualified under Section 401(a) of the Code. Pursuant to Section 423 of the Code, no income (other than dividends) will be taxable to a participant until disposition of the shares purchased under the Plan. Upon the disposition of the shares, the participant will generally be subject to tax and the amount and character of the tax will depend upon the holding period. Dividends received on shares held by the Plan on behalf of a participant are

taxable to the participant as ordinary income. Therefore, the Plan does not

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provide for income taxes.

### Administrative Costs

All administrative costs incurred by the Plan are paid by The Pittston Company.

### NOTE 2. COMMON STOCK

After the July 1, 2000 amendment of the Plan, shares of Pittston Common Stock purchased by participants pursuant to the Plan are directly transferred from the Pittston Employee Benefits Trust of The Pittston Company to accounts maintained for each of the Plan participants and are not deemed to be assets of the Plan.

The cost values of investments under the Plan are calculated using an average cost methodology.

### NOTE 3. UNREALIZED APPRECIATION (DEPRECIATION) ON COMMON STOCK

After the July 1, 2000 amendment of the Plan, shares of Pittston Common Stock are not deemed to be assets of the Plan.

Changes in unrealized appreciation and depreciation during 2000 (through June 30, 2000) and 1999 on common stock of the Plan were as follows:

2000				
	Pittston Common Stock	BAX Stock	Minerals Stock	Total
Unrealized appreciation (depreciation):				
Beginning of year	\$ (119,103)	(115,014)	(410,338)	(644,455)
Converted in the Exchange:				
BAX Stock	(115,014)	115,014	-	-
Minerals Stock	(410,338)	-	410,338	-
End of year	-	-	-	-
Change in unrealized appreciation (depreciation)	\$ 644,455	-	-	644,455

1999				
	Brink's Stock	BAX Stock	Minerals Stock	Total
Unrealized appreciation (depreciation):				
Beginning of year	\$ 859,775	(294,361)	(543,579)	21,835
End of year	(119,103)	(115,014)	(410,338)	(644,455)
Change in unrealized appreciation (depreciation)	\$ (978,878)	179,347	133,241	(666,290)



NOTE 4. REALIZED GAIN (LOSS) ON DISTRIBUTIONS

The realized gain (loss) on distributions of common stock during 2000 (through June 30, 2000) and 1999 as a result of distributions to Plan participants was as follows:

2000		Pittston Common Stock
Value of shares distributed:		
Market value		\$ 3,381,726
Cost basis		5,952,475
Realized loss on distribution of shares to participants		
		\$ (2,570,749)

1999				
	Brink's Stock	BAX Stock	Minerals Stock	Total
Value of shares distributed:				
Market value	\$ 918,279	315,219	97,869	1,331,367
Cost basis	846,817	428,898	290,099	1,565,814
Realized gain (loss) on distribution of shares to participants				
	\$ 71,462	(113,679)	(192,230)	(234,447)

Participant withdrawals for the year ended December 31, 2000 consisted of 283,285 shares of Pittston Common Stock recorded at full market value on the day distributed.

Participant withdrawals for the year ended December 31, 1999 consisted of 36,466 shares of Brink's Stock, 33,263 shares of BAX Stock and 63,320 shares of Minerals Stock.

NOTE 5. THE 2000 EXCHANGE

On December 6, 1999, The Pittston Company announced that its Board of Directors

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approved the elimination of the tracking stock capital structure by an exchange (the "Exchange") of all outstanding shares of BAX Group Common Stock ("BAX Stock") and Minerals Group Common Stock ("Minerals Stock") for Brink's Group Common Stock ("Brink's Stock"). The Exchange took place on January 14, 2000 (the "Exchange Date"). On the Exchange Date, holders of BAX Stock received 0.4848 shares of Brink's Stock for each share of their BAX Stock; and holders of Minerals Stock received 0.0817 shares of Brink's Stock for each share of their Minerals Stock. The exchange ratios for the BAX Stock and the Minerals Stock were calculated pursuant to the formula fixed and approved by shareholders of The Pittston Company at the time of the creation of the three classes of tracking stock in 1993 and 1996. The formula provides that shareholders of BAX Stock and Minerals Stock are entitled to receive Brink's Stock with a Fair Market Value equal to 115% of the Fair Market Value of BAX Stock and Minerals Stock, as applicable. The "Fair Market Value" of each class of common stock was determined by taking the average of the closing prices of that class of common stock on the New York Stock Exchange for the 10 trading days beginning 30 business days prior to the first public announcement of the exchange proposal, which occurred on December 6, 1999. From and after the Exchange Date, Brink's Stock is the only outstanding class of common stock of The Pittston Company and continues to trade under the symbol "PZB". Shares of Brink's Stock after the Exchange are referred to as "Pittston Common Stock."

Pursuant to the Exchange, the Plan was amended to provide that all future issues or allocations to the Plan would be made solely in Pittston Common Stock and that all stock held in the Plan would be converted to shares of Pittston Common Stock. On the Exchange Date, a total of 102,479 shares of BAX

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Stock and a total of 211,409 shares of Minerals Stock, were converted to 49,681 and 17,272, shares, respectively, of Pittston Common Stock.

### NOTE 6. SUBSEQUENT EVENTS

In February 2002, 48,210 shares of Pittston Common Stock were transferred from the The Pittston Company Employee Benefits Trust to participants' accounts, reflecting a price of \$18.60. The transfer was for whole shares purchased with participant contributions made during the last six months of the Plan year ended December 31, 2001.

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Signature

Pursuant to the requirements of the Securities Exchange Act of 1934, the trustees (or other persons who administer the employee benefit plan) have duly caused this annual report to be signed on its behalf by the undersigned hereunto duly authorized.

1994 Employee Stock Purchase Plan  
of The Pittston Company

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-----  
(Name of Plan)

/s/ Frank T. Lennon

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(Frank T. Lennon  
Vice President - Human Resources  
and Administration)

March 27, 2002

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Consent of Independent Auditors

The Participants of the 1994 Employee Stock  
Purchase Plan of The Pittston Company:

We consent to incorporation by reference in the registration statement (Nos. 333-70758 and 333-78631) on Form S-8 of The Pittston Company of our report dated March 22, 2002, relating to the statements of financial condition of the 1994 Employee Stock Purchase Plan of The Pittston Company as of December 31, 2001 and 2000, and the related statements of income and changes in plan equity for each of the years in the three-year period ended December 31, 2001, which report appears in the 2001 Annual Report on Form 11-K of the 1994 Employee Stock Purchase Plan of The Pittston Company.

KPMG LLP  
Richmond, Virginia

March 27, 2002

/FONT> 4,673

Notes receivable

609 633

Other assets, net

7,518 7,537

Total assets

\$331,277 \$335,209

**Liabilities and Shareholders' Equity**

Current liabilities:

Accounts payable

\$9,860 \$12,688

Accrued expenses

36,579 42,648

Total current liabilities

46,439 55,336

Deferred income taxes

12,302 11,803

Long-term debt

8,000 9,500

Other liabilities

28,060 26,293

Total liabilities

94,801 102,932

Commitments and contingencies

Shareholders' equity:

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Preferred stock, 5,000 shares authorized, none issued or outstanding

Common stock, no par value, 60,000 shares authorized and 26,734 and 26,718 shares issued and outstanding as of March 31, 2009 and December 30, 2008, respectively

166,653 166,649

Capital surplus

18,064 17,108

Accumulated other comprehensive income (loss)

(4,903) (4,383)

Retained earnings

56,662 52,903

Total shareholders' equity

236,476 232,277

Total liabilities and shareholders' equity

\$331,277 \$335,209

See accompanying notes to unaudited consolidated financial statements.

**Table of Contents****BJ'S RESTAURANTS, INC.****UNAUDITED CONSOLIDATED STATEMENTS OF INCOME****(In thousands, except per share data)**

	<b>For The Thirteen Weeks Ended</b>	
	<b>March 31, 2009</b>	<b>April 1, 2008</b>
Revenues	\$102,425	\$86,822
Costs and expenses:		
Cost of sales	25,441	21,897
Labor and benefits	36,295	30,671
Occupancy and operating	21,715	17,746
General and administrative	7,135	7,396
Depreciation and amortization	5,710	4,268
Restaurant opening	984	1,127
Loss on disposal of assets		52
Total costs and expenses	97,280	83,157
Income from operations	5,145	3,665
Other income:		
Interest income, net	76	651
Other income, net	149	140
Total other income	225	791
Income before income taxes	5,370	4,456
Income tax expense	1,611	1,336
Net income	\$3,759	\$3,120
Net income per share:		
Basic	\$0.14	\$0.12
Diluted	\$0.14	\$0.12
Weighted average number of shares outstanding:		
Basic	26,732	26,359
Diluted	26,904	26,736

See accompanying notes to unaudited consolidated financial statements.

**Table of Contents****BJ'S RESTAURANTS, INC.****UNAUDITED CONSOLIDATED STATEMENTS OF CASH FLOWS****(In thousands)**

	<b>For The Thirteen Weeks Ended</b>	
	<b>March 31, 2009</b>	<b>April 1, 2008</b>
<b>Cash flows from operating activities:</b>		
Net income	\$3,759	\$3,120
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Depreciation and amortization	5,710	4,268
Deferred income taxes	1,375	480
Stock-based compensation expense	879	816
Loss on disposal of assets		52
Changes in assets and liabilities:		
Accounts and other receivables	180	(2,223)
Inventories	24	(284)
Prepays and other current assets	1,828	63
Other assets, net	(25)	(119)
Accounts payable	(2,828)	(6,166)
Accrued expenses	(6,069)	(3,928)
Other liabilities	2,598	566
Landlord contribution for tenant improvements, net	(831)	4,860
<b>Net cash provided by operating activities</b>	<b>6,600</b>	<b>1,505</b>
<b>Cash flows from investing activities:</b>		
Purchases of property and equipment	(8,301)	(11,951)
Proceeds from investments sold	600	10,500
Purchases of investments		(6,500)
Collection of notes receivable	24	19
<b>Net cash used in investing activities</b>	<b>(7,677)</b>	<b>(7,932)</b>
<b>Cash flows from financing activities:</b>		
Payments on line of credit	(1,500)	
Excess tax benefit from stock-based compensation	20	(11)
Proceeds from exercise of stock options	4	31
<b>Net cash (used in) provided by financing activities</b>	<b>(1,476)</b>	<b>20</b>
<b>Net decrease in cash and cash equivalents</b>	<b>(2,553)</b>	<b>(6,407)</b>
Cash and cash equivalents, beginning of period	8,852	11,617
Cash and cash equivalents, end of period	\$6,299	\$5,210
<b>Supplemental disclosure of cash flow information:</b>		
Cash paid for interest, net of capitalized interest	\$	\$9
Cash paid for income taxes	\$75	\$322

**Supplemental disclosure of non-cash financing activity:**

Stock-based compensation capitalized	\$57	\$80
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See accompanying notes to unaudited consolidated financial statements.



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**Table of Contents****BJ'S RESTAURANTS, INC.****NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS****1. BASIS OF PRESENTATION**

The accompanying unaudited consolidated financial statements include the accounts of BJ's Restaurants, Inc. (referred to herein as the Company or in the first person notations we, us and our) and our wholly owned subsidiaries. The financial statements presented herein include all material adjustments (consisting of normal recurring adjustments) which are, in the opinion of management, necessary for a fair statement of the financial condition, results of operations and cash flows for the period. Our consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles for interim financial information, and with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. The preparation of financial statements in accordance with U.S. generally accepted accounting principles requires us to make certain estimates and assumptions for the reporting periods covered by the financial statements. These estimates and assumptions affect the reported amounts of assets, liabilities, revenues and expenses. Actual amounts could differ from these estimates.

Certain information and footnote disclosures normally included in consolidated financial statements in accordance with U.S. generally accepted accounting principles have been omitted pursuant to requirements of the Securities and Exchange Commission (SEC). A description of our accounting policies and other financial information is included in our audited consolidated financial statements as filed with the SEC on Form 10-K for the year ended December 30, 2008. We believe that the disclosures included in our accompanying interim financial statements and footnotes are adequate to make the information not misleading, but should be read in conjunction with our consolidated financial statements and notes thereto included in the Annual Report on Form 10-K. The accompanying consolidated balance sheet as of December 30, 2008 has been derived from our audited consolidated financial statements.

***Reclassifications***

Certain reclassifications have been made to prior year's balances to conform to the current year's presentation.

***Recent Accounting Pronouncements***

In September 2006, the Financial Accounting Standards Board (FASB) issued Statement No. 157, *Fair Value Measurements* (FAS 157), which defines fair value, establishes a framework for using fair value to measure assets and liabilities, and expands disclosures about fair value measurements. This Statement applies whenever other statements require or permit assets or liabilities to be measured at fair value. This Statement is effective for fiscal years beginning after November 15, 2007, except for non-financial assets and liabilities that are recognized or disclosed at fair value in the financial statements on a non-recurring basis, for which application has been deferred for one year. We adopted the provisions of FAS 157 during the first quarter of fiscal 2008.

On February 12, 2008, the FASB issued Statement No. 157-2, *Effective Date of FASB Statement No. 157* (FAS 157-2), which amends FAS 157 to delay the implementation date to November 15, 2008 for nonfinancial assets and nonfinancial liabilities. We adopted the provisions of FAS 157-2 during the first quarter of fiscal 2009.

In February 2007, the FASB issued Statement No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities Including an Amendment of FASB Statement No. 115* (FAS 159). FAS 159 permits entities to choose to measure many financial instruments and certain other items at fair value, with unrealized gains and losses related to these financial instruments reported in earnings at each subsequent reporting date. FAS 159 is effective for fiscal years beginning after November 15, 2007. We did not elect to measure any additional assets or liabilities at fair value that are not already measured at fair value under existing standards. Therefore, the adoption of the standard has no impact on our consolidated financial statements.

In December 2007, the FASB issued Statement No. 141 (Revised), *Business Combinations* (FAS 141R). FAS 141R establishes principals and requirements for how the acquirer of a business recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed (including intangibles), and any non-controlling interest in the acquiree. FAS 141R also provides guidance for recognizing and measuring the goodwill acquired in the business combination and determines what information to disclose to enable users of the financial statements to evaluate the effects of the business combination. FAS 141R is effective for fiscal years beginning December 15, 2008. We will apply the provisions of FAS 141R for any acquisitions after the adopted date.



**Table of Contents****2. INVESTMENTS**

Investments consist of the following (in thousands):

	Cost or Par Value	Fair Value
<b>Non-current assets:</b>		
Investments available-for-sale	\$41,100	\$41,100
Purchases, issuances and settlements	(6,100)	(6,100)
Gross unrealized gains		631
Gross unrealized losses		(5,014)
<b>December 30, 2008</b>	<b>\$35,000</b>	<b>\$30,617</b>
Purchases, issuances and settlements	(600)	(600)
Gross unrealized gains		
Gross unrealized losses		(520)
<b>March 31, 2009</b>	<b>\$34,400</b>	<b>\$29,497</b>

Our investment portfolio consists of auction rate securities ( ARS ), AAA-rated when purchased, which are long-term debt obligations secured by student loans and 97% guaranteed by the U.S. Government under the Federal Family Education Loan Program ( FFELP). In addition to the U.S. Government guarantee on such student loans, many of the securities also have separate insurance policies guaranteeing both the principal and accrued interest. While the final maturity dates of these ARS investments are between 2020 and 2047, the liquidity for these securities had historically been provided by an auction process that resets the applicable interest rate at pre-determined intervals up to 35 days. The value of these investments is determined by not only the credit rating of these investments, but also by the liquidity of the markets in which they trade.

Beginning February 2008, the general illiquidity conditions in the credit markets have affected the marketability of our holdings in ARS investments, since auctions for these securities have failed to settle on their respective settlement dates. While we continue to earn interest on our ARS investments, these investments are not actively trading or trading on a consistent basis and, therefore, do not currently have a readily determinable market value. Accordingly, these ARS investments were classified as available-for-sale and reported at their fair value with unrealized gains and losses excluded from net income and reported as a separate component of shareholders' equity (net of related tax effect) until realized in accordance with FASB Statement No. 115, *Accounting for Certain Investments in Debt and Equity Securities* ( FAS 115 ).

In accordance with FAS 157, we estimated the fair value of our auction rate securities investments using valuation models and methodologies provided by a third party. These types of pricing inputs may generally be considered Level 2, as defined by FAS 157. However, since there are no currently active markets for our ARS investments, these pricing inputs are currently deemed Level 3 in accordance with FAS 157. Based on these valuation models and methodologies, during the first quarter of fiscal year 2009 we recognized an incremental estimated temporary unrealized loss in the fair value of our ARS investments of approximately \$0.5 million, bringing our net estimated unrealized loss to approximately \$4.9 million as of March 31, 2009. During the first quarter of fiscal 2009, \$0.6 million of our ARS investments were redeemed at par.

Due to the continued illiquidity of these investments and the continued uncertainty regarding the auction rate securities market, we have classified these investments as non-current investments for the current reporting period at fair value. Absent a more favorable remedy in our current arbitration proceedings relating to our ARS investments, we currently anticipate holding these ARS investments until either a recovery of the auction process; a recovery of a substantial portion of their par value; or, until their maturity. Any future fluctuation in estimated fair value related to these investments that we consider temporary, including any recoveries of previous write-downs, would be recorded to accumulated other comprehensive income (loss). If we determine that any future valuation adjustment was other than temporary under applicable accounting rules, we would record a charge to earnings as appropriate. We have also filed an arbitration claim against the broker-dealer relating to investments in auction rate securities made on our behalf.

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**3. FAIR VALUE MEASUREMENT**

In September 2006, the FASB issued Statement No. 157, *Fair Value Measurements*, which defines fair value, establishes a framework for using fair value to measure assets and liabilities, and expands disclosure about fair value measurements. FAS 157 applies whenever other statements require or permit asset or liabilities to be measured at fair value. We adopted the provisions of FAS 157 as of January 2, 2008, for our financial instruments.

FAS 157 establishes a three-tier fair value hierarchy, which prioritizes the inputs used to measure fair value. These tiers include:

Level 1: Defined as observable inputs such as quoted prices in active markets for identical assets or liabilities as of the reporting date. Active markets are those in which transactions for the asset or liability occur in sufficient frequency and volume to provide pricing information on an ongoing basis.

Level 2: Defined as pricing inputs other than quoted prices in active markets included in Level 1, which are either directly or indirectly observable as of the reporting date. Level 2 includes those financial instruments that are valued using models or other valuation methodologies. These models are primarily industry-standard models that consider various assumptions, including quoted forward prices for commodities, time value, volatility factors, and current market and contractual prices for the underlying instruments, as well as other relevant economic measures.

Level 3: Defined as pricing inputs that are generally less observable from objective sources. These inputs may be used with internally developed methodologies that result in management's best estimate of fair value.

As of March 31, 2009, we held auction rate securities investments which are classified as available-for-sale investments and are required to be measured at fair value on a recurring basis. As discussed in Note 2 in this section of our Form 10-Q, the recent uncertainties in the credit markets have affected our holdings in auction rate securities investments, since the auctions for these securities have failed to settle on their respective settlement dates. Therefore, in the absence of an active market, we estimated the fair value of these investments using valuation models and methodologies provided by a third party as of March 31, 2009. The analysis considered, among other items, the collateralization underlying the security investments, the creditworthiness of the counterparty; the timing of the expected future cash flows; the investments interest rate compared to like investments and treasury strips interest rates with comparable maturities, the current illiquidity of the investments; and the expectation of the next time the security is expected to have a successful auction; as well as certain qualitative and quantitative metrics (i.e., structure, collateral and liquidity of the investment and a trinomial discount model, respectively) that an investor would consider when deciding to hold or sell a position based on the certain risk assessments.

Based on these valuation models and methodologies, we recognized an estimated temporary unrealized holding loss in the fair value of our auction rate securities investments of approximately \$0.5 million for the first quarter of fiscal year 2009. We attribute the overall temporary decline in fair value of our auction rate securities investments to date to liquidity issues rather than credit issues. Accordingly, we have recorded an incremental estimated net unrealized holding loss of approximately \$0.5 million to accumulated other comprehensive income (loss), bringing our net estimated unrealized loss to approximately \$4.9 million, as of March 31, 2009. Any future fluctuation in fair value related to these investments that we deem to be temporary, including any recoveries of previous write-downs, would be recorded to accumulated other comprehensive income (loss). If we determine that any future valuation adjustment was other than temporary, we would record a charge to earnings as appropriate.

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The assets measured at fair value on a recurring basis subject to the disclosure requirements of FAS 157 at March 31, 2009, were as follows (in thousands):

	Fair Value Measurement at Reporting Date Using		
	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Auction rate securities investments, par value	\$	\$	\$34,400
Total gains or losses (realized and unrealized):			
Included in net income			
Included in accumulated other			
comprehensive income (loss)			(4,903)
Balance at March 31, 2009	\$	\$	\$29,497

**4. LONG-TERM DEBT****Line of Credit**

On October 17, 2007, we established a \$25 million unsecured revolving line of credit with a major financial institution (the Line of Credit). The Line of Credit expires on September 30, 2012 and may be used for working capital and other general corporate purposes. The Line of Credit was increased to \$45 million during the first quarter of 2008. We expect to utilize the Line of Credit principally for letters of credit that are required to support certain of our self insurance programs and for working capital and construction requirements. As of March 31, 2009, there were funded borrowings of \$8.0 million outstanding under the Line of Credit and there were outstanding letters of credit totaling approximately \$2.8 million. Any borrowings under the Line of Credit will bear interest at the financial institution's prime rate or at LIBOR plus a percentage not to exceed 1.375% based on a Lease Adjusted Leverage Ratio as defined in the Line of Credit agreement. The Line of Credit agreement also requires compliance with a Fixed Charge Coverage Ratio. At March 31, 2009, we were in compliance with these covenants. Any interest on the Line of Credit will be payable quarterly and all related borrowings must be repaid on or before September 30, 2012. At March 31, 2009, interest paid on the funded borrowings under the Line of Credit was approximately \$71,000, of which \$19,000 related to the thirteen weeks ended March, 31, 2009. The weighted average interest rate was approximately 1.4%.

**5. NET INCOME PER SHARE**

Basic net income per share is computed by dividing the net income attributable to common shareholders by the weighted average number of common shares outstanding during the period. Diluted net income per share reflects the potential dilution that could occur if stock options and restricted stock units issued by the Company to sell common stock at set prices were exercised. The consolidated financial statements present basic and diluted net income per share. Common share equivalents included in the diluted computation represent shares to be issued upon assumed exercises of outstanding stock options and restricted stock units using the treasury stock method.

In accordance with the provisions of FASB Statement No. 128, *Earnings Per Share* (FAS 128), basic net income per share is computed by dividing net income available to common shareholders by the weighted average number of common shares outstanding during the period. Diluted net income per share includes the dilutive effect of both outstanding stock options and restricted stock units, calculated using the treasury stock method. Assumed proceeds from in-the-money options, include the windfall tax benefits, net of shortfalls, calculated under the as-if method as prescribed by FASB Statement No. 123(R), *Share-Based Payment* (FAS 123(R)).

The following table presents a reconciliation of basic and diluted net income per share computations and the number of dilutive securities (stock options and restricted stock units) that were included in the dilutive net income per share computation (in thousands).



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	<b>For The Thirteen Weeks Ended</b>	
	<b>March 31, 2009</b>	<b>April 1, 2008</b>
<b>Numerator:</b>		
Net income for basic and diluted net income per share	\$3,759	\$3,120
<b>Denominator:</b>		
Weighted average shares outstanding - basic	26,732	26,359
Effect of dilutive common stock options and restricted stock units	172	377
Weighted average shares outstanding - diluted	26,904	26,736

For the thirteen weeks ended March 31, 2009 and April 1, 2008, there were approximately 1,312,000 and 1,194,000 stock options outstanding, respectively, whereby the exercise price exceeded the average common stock market value, respectively. The effects of the shares which would be issued upon the exercise of these options have been excluded from the calculation of diluted net income per share because they are anti-dilutive.

**6. RELATED PARTY**

As of March 31, 2009, we believe that Jacmar Companies and their affiliates (collectively referred to herein as Jacmar) owned approximately 16.3% of our outstanding common stock. Jacmar, through its specialty wholesale food distributorship, is currently our largest supplier of food, beverage and paper products. Jacmar also owns the Shakey's pizza parlor chain. In July 2006, after an extensive competitive bidding process, we entered into a three-year agreement with a national foodservice distribution system whose shareholders are prominent regional foodservice distributors, of which Jacmar is one. As such, Jacmar services our restaurants in California and Nevada, while other system distributors service our restaurants in all other states. We believe that Jacmar sells products to us at prices comparable to those offered by unrelated third parties. Jacmar supplied us with approximately \$12.9 million and \$11.2 million of food, beverage and paper products for the thirteen weeks ended March 31, 2009 and April 1, 2008, respectively, which represents 50.8% and 51.3% of our total costs for these products, respectively. We had trade payables related to these products of approximately \$2.0 million and \$0.9 million at March 31, 2009 and April 1, 2008, respectively.

**7. STOCK-BASED COMPENSATION**

We have two stock-based compensation plans—the 2005 Equity Incentive Plan and the 1996 Stock Option Plan—under which we may issue shares of our common stock to employees, officers, directors and consultants. Upon effectiveness of the 2005 Equity Incentive Plan, the 1996 Stock Option Plan was closed for purposes of new grants and the remaining available shares for grant, including those shares related to option awards forfeited or terminated without exercise under the 1996 Stock Option Plan accrue to the 2005 Equity Incentive Plan. Both of these plans have been approved by our shareholders. Under the 2005 Equity Incentive Plan, we have granted incentive stock options, non-qualified stock options, and restricted stock units.

Beginning in 2007, substantially all of our restaurant general managers, executive kitchen managers, regional kitchen operations managers, area/regional directors and certain brewery operations positions are eligible to participate in our equity-based incentive program called the BJ's Gold Standard Stock Ownership Program (the GSSOP) under our 2005 Equity Incentive Plan. The GSSOP is a longer-term equity incentive program that utilizes Company restricted stock units (RSUs). The GSSOP is dependent on each participant's extended service with us in their respective positions and their achievement of certain agreed-upon performance objectives during that service period (i.e., five years).

Beginning in 2008, we also began issuing restricted stock units as a component of the annual equity grant award to officers and other employees. Under our 2005 Equity Incentive Plan we have issued 661,000 RSUs as of March 31, 2009.

We account for equity grants under these plans in accordance with the fair value recognition provisions of FAS 123(R), using the modified-prospective-transition method. Compensation expense recognized in the thirteen weeks ended March 31, 2009 and April 1, 2008 include: (a) compensation expense for all share-based payments granted prior to, but not yet vested as of January 4, 2006 (adoption date of FAS 123(R)), based on the grant date fair value estimated

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in accordance with the original provisions of FASB Statement No. 123, *Accounting for Stock-Based Compensation* ( FAS 123 ) and (b) compensation expense for all share-based payments granted subsequent to January 4, 2006, based on the grant date fair value estimated in accordance with the provisions of FAS 123(R).

The following table presents information related to stock-based compensation (in thousands):

	<b>For The Thirteen Weeks Ended</b>	
	<b>March 31, 2009</b>	<b>April 1, 2008</b>
Labor and benefits stock-based compensation	\$273	\$208
General and administrative stock-based compensation	\$606	\$608
Capitalized stock-based compensation (1)	\$57	\$80

(1) Capitalized stock-based compensation is included in Property and equipment, net on the Consolidated Balance Sheets.

*Stock Options*

The exercise price of the stock options under the Company's stock-based compensation plans shall be equal to or exceed 100% of the fair market value of the shares at the date of option grant. Stock options generally vest at 20% per year or cliff vest, either ratably in years three through five or 100% in year five and expire ten years from date of grant. Stock option activity during the thirteen weeks ended March 31, 2009 was as follows:

	<b>Options Outstanding</b>		<b>Options Exercisable</b>	
	<b>Shares</b>	<b>Weighted Average Exercise Price</b>	<b>Shares</b>	<b>Weighted Average Exercise Price</b>
	<b>(in thousands)</b>	<b>Price</b>	<b>(in thousands)</b>	<b>Price</b>
Outstanding options at December 30, 2008	2,023	\$15.82	1,321	\$14.50
Granted	307	10.31		
Exercised	(3)	1.59		
Forfeited	(40)	18.18		
Expired	-	-		
Outstanding options at March 31, 2009	2,287	\$15.06	1,475	\$14.90

The fair value of each stock option grant issued is estimated at the date of grant using the Black-Scholes option-pricing model with the following weighted average assumptions:

	<b>For the Thirteen Weeks Ended</b>	
	<b>March 31, 2009</b>	<b>April 1, 2008</b>
Expected volatility	81.8%	43.6%



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Risk free interest rate	1.54%	3.22%
Expected option life	5 years	5 years
Dividend yield	0%	0%
Fair value of options granted	\$6.74	\$6.16

FAS 123(R) requires us to make certain assumptions and judgments regarding the grant date fair value. These judgments include expected volatility, risk free interest rate, expected option life, dividend yield and vesting percentage. These estimations and judgments are determined by us using many different variables that, in many cases, are outside of our control. The changes in these variables or trends, including stock price volatility and risk free interest rate, may significantly impact the grant date fair value resulting in a significant impact to our financial results. As of March 31, 2009, total unrecognized stock based compensation expense related to non-vested stock options was \$5.0 million, which is expected to be generally recognized over the remaining five years.

**Table of Contents***Restricted Stock Units*

Restricted stock unit activity during the thirteen weeks ended March 31, 2009 was as follows:

	Shares	Weighted
	(in thousands)	Average
		Fair Value
Outstanding RSUs at December 30, 2008	476	\$16.27
Granted	215	10.81
Forfeited	(30)	14.58
Outstanding RSUs at March 31, 2009	661	\$14.57

The fair value of the RSUs is the quoted market value of the Company's common stock on the date of grant. The fair value of each RSU is expensed over the period during which the restrictions are expected to lapse (i.e., five years). The Company recorded stock-based compensation expense related to RSUs of approximately \$431,000 during the thirteen weeks ended March 31, 2009. In addition, total unrecognized stock-based compensation expense related to non-vested RSUs was \$7.3 million, which is expected to be generally recognized over the remaining five years.

**8. INCOME TAXES**

We utilize the liability method of accounting for income taxes as set forth in FASB Statement No. 109, *Accounting for Income Taxes* ( FAS 109 ).

Deferred income taxes are recognized based on the tax consequences in future years of differences between the tax basis of assets and liabilities and their financial reporting amounts at each year-end based on enacted tax laws and statutory tax rates applicable to the periods in which differences are expected to affect taxable income. Valuation allowances are established, when necessary, to reduce deferred tax assets to the amount expected to be realized. The provision for income taxes represents the tax payable for the period and the change during the period in deferred tax assets and liabilities.

We recognize the impact of a tax position in our consolidated financial statements if that position is more likely than not of being sustained on audit, based on the technical merits of the position, in accordance with FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* ( FIN 48 ), an interpretation of FAS 109. Interest and penalties related to uncertain tax positions are included in income tax expense.

As of March 31, 2009, a valuation allowance of approximately \$2.0 million was established for the deferred tax asset generated by the recording of the temporary change in fair value on our auction rate securities investments, since we would only be able to use this deferred tax asset to offset any future capital gains. As of March 31, 2009, we did not have any capital gains, nor do we expect to have any capital gains in the future. The deferred tax asset and corresponding valuation allowance were recorded in the accumulated other comprehensive income (loss) component of shareholders equity. Subsequent release of this valuation allowance will not have an effect on our Consolidated Statements of Operations.

**9. DIVIDEND POLICY AND STOCK REPURCHASES**

We have not paid any cash dividends since our inception and have currently not allocated any funds for the payment of dividends. Rather, it is our current policy to retain earnings, if any, for expansion of our restaurant and brewing operations, remodeling of existing restaurants and other general corporate purposes. We have no plans to pay any cash dividends in the foreseeable future. Should we decide to pay cash dividends in the future, such payments would be at the discretion of the Board of Directors. We did not have any stock repurchases during the thirteen weeks ended March 31, 2009.

**Table of Contents****10. OTHER COMPREHENSIVE INCOME (LOSS)**

Other comprehensive income (loss) consisted of the following (in thousands):

	<b>For The Thirteen Weeks Ended</b>	
	<b>March 31, 2009</b>	<b>April 1, 2008</b>
Net income	\$ 3,759	\$ 3,120
Net unrealized holding loss on investments	(520)	(1,473)
<b>Total other comprehensive income (loss)</b>	<b>\$ 3,239</b>	<b>\$ 1,647</b>

**Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS****STATEMENT REGARDING FORWARD-LOOKING DISCLOSURE**

Certain information included in this Form 10-Q and other materials filed or to be filed by us with the Securities and Exchange Commission (as well as information included in oral or written statements made by us or on our behalf), may contain forward-looking statements about our current and expected performance trends, growth plans, business goals and other matters. These statements may be contained in our filings with the Securities and Exchange Commission, in our press releases, in other written communications, and in oral statements made by or with the approval of one of our authorized officers. Words or phrases such as believe, plan, will likely result, expect, intend, will continue, is an estimate, project, may, could, would, should, and similar expressions are intended to identify forward-looking statements. These statements, along with any other statements that are not historical facts, are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, as codified in Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, as amended from time to time (the "Act"). The cautionary statements made in this Form 10-Q should be read as being applicable to all related forward-looking statements wherever they appear in this Form 10-Q.

The following discussion and analysis should be read in conjunction with our consolidated financial statements and notes thereto included elsewhere in this Form 10-Q. Except for the historical information contained herein, the discussion in this Form 10-Q contains certain forward-looking statements that involve known and unknown risks and uncertainties, such as statements of our plans, objectives, expectations and intentions. The risks described in this Form 10-Q are not the only risks we face. New risks and uncertainties arise from time to time and we cannot predict those events or how they may affect us. There may be other risks and uncertainties that are not currently known, or that are currently deemed by us to be immaterial; however, they may ultimately adversely affect our business, financial condition and/or operating results. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, our actual results may vary materially from forward-looking statements described in this document. These forward-looking statements include, among others, statements concerning:

our restaurant concept, its competitive advantages and our strategies for its continued evolution and expansion;

the rate and scope of our planned future restaurant development;

anticipated dates on which we will commence or complete development of new restaurants;

expectations as to the timing and success of the planned expansion of our contract brewing strategy;

expectations for consumer spending on casual dining restaurant occasions in general;

expectations as to the availability and costs of key commodities used in our restaurants and brewing operations;

expectations as to our menu price increases and their effect, if any, on revenue and results of operations;

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expectations as to our capital requirements, line of credit availability and our ability to liquidate our investments in auction rate securities in an orderly manner;

expectations as to our future revenues, operating costs and expenses, and capital requirements; and,

other statements of expectations, beliefs, future plans and strategies, anticipated developments and other matters that are not historical facts.

These forward-looking statements are subject to risks and uncertainties, including financial, regulatory, consumer behavior, demographic, industry growth and trend projections, that could cause actual events or results to differ materially from those expressed or implied by the statements. Significant factors that could prevent us from achieving our stated goals include, but are not limited to:

Continued deterioration in general economic conditions may affect consumer spending and may adversely affect our revenues, operating results and liquidity.

If we do not successfully expand our restaurant operations, our growth rate and results of operations would be adversely affected.

Our ability to open new restaurants on schedule in accordance with our projected growth rate may be adversely affected by delays or problems associated with securing suitable restaurant locations and leases and by other factors, some of which are beyond our control and the timing of which is difficult to forecast accurately.

Access to sources of capital and our ability to raise capital in the future may be limited, which could adversely affect our business.

Continued deterioration in general economic conditions could have a material adverse impact on our landlords or on businesses neighboring our locations, which could adversely affect our revenues and results of operations.

Any failure of our existing or new restaurants to achieve expected results could have a negative impact on our consolidated sales and financial results, including a potential impairment of the long-lived assets of certain restaurants.

Our growth may strain our infrastructure and resources, which could slow our development of new restaurants and adversely affect our ability to manage our existing restaurants.

Our decision to reduce openings or accelerate the pace of openings may positively or adversely affect our comparative financial performance.

Our future operating results may fluctuate significantly due to our relatively small number of existing restaurants and the expenses required to open new restaurants.

A significant number of our restaurants are concentrated in California and other Western states, which makes us particularly sensitive to economic, regulatory, weather and other conditions in those states.

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Our operations are susceptible to changes in our food and supply costs, which could adversely affect our profitability.

Our increasing dependence on contract brewers could have an adverse effect on our operations if they cease to supply us with our proprietary beer.

Other government laws and regulations affecting the operation of our restaurants, particularly those that apply to the acquisition and maintenance of our brewing and retail liquor licenses, could increase our operating costs and restrict our growth.

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Guest traffic levels in our restaurants, particularly in those restaurants located in the southwestern and western states, may be adversely affected to the extent that the recently reported outbreak of the Swine Flu causes consumers to temporarily reduce the number of meals they eat outside of the home until the outbreak abates.

For a more detailed description of these risk factors and other considerations, see Part II, Item 1A Risk Factors of this Form 10-Q and the risk factors identified in Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 30, 2008.

### **GENERAL**

On May 1, 2009, we owned and operated 84 restaurants located in California, Texas, Arizona, Colorado, Oregon, Nevada, Florida, Ohio, Oklahoma, Kentucky, Indiana, Louisiana and Washington. A licensee also operates one restaurant in Lahaina, Maui. Each of our restaurants is operated either as a BJ's Restaurant & Brewery® which includes a brewery within the restaurant, a BJ's Restaurant & Brewhouse® which receives the beer it sells from one of our breweries or an approved third-party craft brewer of our proprietary recipe beers (contract brewer), or a BJ's Pizza & Grill® which is a smaller format, full service restaurant. Our menu features our BJ's® award-winning, signature deep-dish pizza, our own hand-crafted beers as well as a wide selection of appetizers, entrees, pastas, sandwiches, specialty salads and desserts, including our unique Pizookie® dessert. Several of our BJ's Restaurant & Brewery restaurants feature in-house brewing facilities where BJ's proprietary handcrafted beers are produced for many of our restaurants.

Our revenues are comprised of food and beverage sales at our restaurants. Revenues from restaurant sales are recognized when payment is tendered at the point of sale. Revenues from our gift cards are recognized upon redemption in our restaurants. Effective June 2007, we began recognizing gift card breakage as other income on our Consolidated Statements of Income. Gift card breakage is recorded when the likelihood of the redemption of the gift cards becomes remote, which is typically after 24 months from original gift card issuance.

Cost of sales is comprised of food and beverage supplies. The components of cost of sales are variable and typically fluctuate with sales volumes. Labor and benefit costs include direct hourly and management wages, bonuses and payroll taxes and fringe benefits for restaurant employees.

Occupancy and operating expenses include restaurant supplies, credit card fees, marketing costs, fixed rent, percentage rent, common area maintenance charges, utilities, real estate taxes, repairs and maintenance and other related restaurant costs. Occupancy and operating expenses generally increase with sales volumes, but decline as a percentage of restaurant sales.

General and administrative costs include all corporate, field supervision and administrative functions that support existing operations and provide infrastructure to facilitate our future growth. Components of this category include corporate management, field supervision and corporate hourly staff salaries and related employee benefits (including stock-based compensation expense), travel and relocation costs, information systems, the cost to recruit and train new restaurant management employees, corporate rent and professional and consulting fees.

Depreciation and amortization principally include depreciation on capital expenditures for restaurants. Restaurant opening expenses, which are expensed as incurred, consist of the costs of hiring and training the initial hourly work force for each new restaurant, travel, the cost of food and supplies used in training, grand opening promotional costs, the cost of the initial stocking of operating supplies and other direct costs related to the opening of a restaurant, including rent during the construction and in-restaurant training period.

We currently have one smaller, legacy BJ's Pizza & Grill location and one BJ's Restaurant and Brewhouse location that are operating on month-to-month leases. Additionally, we have one lease that will expire during the next 12 months for another one of our smaller, legacy BJ's Pizza & Grill locations. We believe that the expired and expiring leases can be renewed on satisfactory terms and we are currently communicating with the respective landlords to determine the specific terms of the renewals. However, there is no guarantee that for any of these locations the Company and landlord can mutually agree to a new lease that is satisfactory to both parties.

In calculating comparable company-owned restaurant sales, we include a restaurant in the comparable base once it has been open for 18 months.

### **RESULTS OF OPERATIONS**

The following table sets forth, for the periods indicated, our unaudited Consolidated Statements of Income expressed as percentages of total revenues. The results of operations for the thirteen weeks ended March 31, 2009 and April 1, 2008 are not necessarily indicative of the results to be expected for the full fiscal year.





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	<b>For The Thirteen Weeks Ended</b>	
	<b>March 31, 2009</b>	<b>April 1, 2008</b>
Revenues	100.0%	100.0%
Costs and expenses:		
Cost of sales	24.8	25.2
Labor and benefits	35.4	35.3
Occupancy and operating	21.2	20.4
General and administrative	7.0	8.5
Depreciation and amortization	5.6	4.9
Restaurant opening	1.0	1.3
Loss on disposal of fixed assets	-	-
 Total costs and expenses	 95.0	 95.6
 Income from operations	 5.0	 4.4
Other income:		
Interest income, net	0.1	0.7
Other income, net	0.1	0.1
 Total other income	 0.2	 0.8
 Income before income taxes	 5.2	 5.2
Income tax expense	1.6	1.5
 Net income	 3.6%	 3.7%

*Thirteen Weeks Ended March 31, 2009 Compared to Thirteen Weeks Ended April 1, 2008.*

*Revenues.* Total revenues increased by \$15.6 million, or 18.0%, to \$102.4 million during the thirteen weeks ended March 31, 2009 from \$86.8 million during the comparable thirteen week period of 2008. The \$15.6 million increase in revenues consisted of an increase of approximately \$15.7 million in restaurant sales from new restaurants not in our comparable restaurant sales base for the prior year, partially offset by an approximate \$88,000 or 0.1% decrease in comparable restaurant sales. The decrease in comparable restaurant sales resulted from decreased guest traffic that was nearly offset by an estimated effective menu price increase of approximately 3.6%. The slowing domestic economy, increasing unemployment rates and continued uncertainty in overall consumer confidence continue to negatively impact consumer spending for casual dining restaurant occasions in general. Accordingly, we do not currently expect overall guest traffic in our comparable restaurant base to recover during the remainder of fiscal 2009. In addition, overall guest traffic may continue to decline if the economy further weakens and unemployment rates continue to increase, particularly in California and other Western states where the majority of our restaurants are located.

Our restaurants, like most in casual dining, continue to be impacted by inflationary costs including pressures in certain commodities, labor and other operating expenses. If these inflationary pressures continue, it may be necessary to consider additional menu price increases to help protect our restaurant operating margins during fiscal 2009. However, if our guests do not accept our price increases, either by reducing their visits to our restaurants or by changing their purchasing patterns at our restaurants, the expected benefit of the menu price increase could be negated and our operating margins could be impacted. Additionally, to help protect guest traffic and to respond to the actions of our competitors, we may consider selective menu offerings at reduced price points, in certain markets from time to time, which could have the effect of further reducing the benefit of any menu price increases. We also believe that some of our larger casual dining chain competitors have recently increased their media advertising levels to more effectively communicate a stronger value pricing or reduced/discounted pricing message to consumers. This recent competitive development may also impact general levels of guest traffic in our restaurants.

All potential menu price increases must be carefully considered in light of their ultimate acceptability by our restaurant guests. Additionally, other factors outside of our control, such as inclement weather, shifts in the holiday calendar, competitive restaurant intrusions into our trade areas, general economic and competitive conditions and



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other factors, as described in the Risk Factors section in Part I, Item 1A of our Annual Report on Form 10-K for the year ended December 30, 2008, can impact comparable sales comparisons. Accordingly, there can be no assurance that increases in comparable sales will be achieved as a result of increased menu prices or other factors.

Recently, the United States has experienced an increase in the number of people who have contracted the Swine Flu virus. While this virus has not had a significant impact on overall guest traffic in our restaurants to date, to the extent that this virus results in a greater and more widespread rate of illness, our restaurant guest traffic would likely be adversely affected.

*Cost of Sales.* Cost of sales increased by \$3.5 million, or 16.2%, to \$25.4 million during the thirteen weeks ended March 31, 2009 from \$21.9 million during the comparable thirteen week period of 2008. As a percentage of revenues, cost of sales decreased slightly to 24.8% for the current thirteen week period from 25.2% for the prior year comparable thirteen week period. This decrease is primarily due to increased revenues from our estimated effective menu price increases, coupled with comparatively lower costs for certain cheeses, oils and sauces, partially offset by increased costs related to certain poultry, seafood and pizza dough items.

We do anticipate that cost of sales in our new restaurants will typically be higher during the first several months of operations versus our mature restaurants, as our restaurant management teams become accustomed to optimally predicting, managing and servicing sales volumes at our new restaurants. Accordingly, a comparatively large number of new restaurant openings in any single quarter may significantly impact total cost of sales comparisons for our entire business. Additionally, restaurants opened in new markets may initially experience higher commodity costs than our established restaurants, where we have greater market penetration that generally results in purchasing and distribution economies of scale.

We provide our customers a large variety of menu items and therefore we are not overly dependent on a single group of commodities. We believe the overall cost environment for food commodities in general will remain under significant pressure and volatility during 2009, primarily due to domestic and worldwide agricultural, supply/demand and other macroeconomic factors that are outside of our control. While we continue to work with our suppliers to control food costs and we have taken steps to enter into agreements for some of the commodities used in our restaurant operations, there can be no assurance that future supplies and costs for such commodities will not fluctuate due to weather and other market conditions outside of our control. We are currently unable to contract for many of our fresh commodities such as produce and fluid dairy items for long periods of time.

The cost to produce and distribute our proprietary beer is included in our cost of sales. After several months of operational due diligence, in April 2008, we retained one of the larger commercial brewers of quality craft beer in the United States to begin producing two of our higher-volume proprietary craft beers. We are in the process of engaging additional large-scale contract brewers and expect to utilize three to four during 2009. We currently estimate that as much as 55% of our total requirement for proprietary beer (approximately 30,500 barrels) will be provided by contract brewers during fiscal 2009. Our longer-term objective is to have large contract brewers produce substantially all of our larger-volume beers. We currently expect to continue to create and brew our smaller-volume seasonal and specialty beers. We believe the larger-scale contract brewers have greater economies of scale, stronger quality control systems and more effective, leverageable supply chain relationships than we have as a relatively small restaurant company. As a result, over the next several years, we expect that the production cost of our larger volume proprietary beers can be gradually reduced, while simultaneously providing an improvement in the overall consistency of our beer. However, freight costs from our contract brewing locations will likely absorb a large portion of those production cost savings for a period of time until we can further increase the number of restaurants we operate and therefore obtain increased leverage with our transportation vendors.

*Labor and Benefits.* Labor and benefit costs for our restaurants increased by \$5.6 million, or 18.3%, to \$36.3 million during the thirteen weeks ended March 31, 2009 from \$30.7 million during the comparable thirteen week period of 2008. This increase was primarily due to the opening of 15 new restaurants since the thirteen weeks ended April 1, 2008. As a percentage of revenues, labor and benefit costs slightly increased to 35.4% for the current thirteen week period from 35.3% for the prior year comparable thirteen week period. This percentage increase is primarily due to increased workers compensation costs coupled with higher minimum wages, offset by increased revenues from our estimated effective menu price increases. Included in labor and benefits for the thirteen weeks ended March 31, 2009 and April 1, 2008 is approximately \$259,000 and \$195,000, or 0.3% and 0.2% of revenues, of stock-based compensation expense related to restricted stock units granted in accordance with our Gold Standard Stock Ownership Program, respectively. See Note 7, Stock-Based Compensation, in this Form 10-Q.

Our restaurants can be affected by increases in federal and state minimum wages. Additionally, some states have annual minimum wage increases correlated with either state or federal increases in the consumer price index. In July 2009, the federal minimum wage is expected to increase by \$0.70 to \$7.25 per hour. In the past, we have been able to react to changes in our key operating costs, including minimum wage increases by gradually increasing our menu



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prices and improving our productivity in our restaurants. However, we cannot guarantee that all or any future cost increases can be offset by increased menu prices or that increased menu prices will be accepted by our restaurant guests without any resulting changes in their visit frequencies or purchasing patterns.

For new restaurants, labor expenses will typically be higher than normal during the first several months of operations until our restaurant management team at each new restaurant becomes more accustomed to optimally predicting, managing and servicing the sales volumes expected at our new restaurants. Accordingly, a comparatively large number of new restaurant openings in any single quarter may significantly impact labor cost comparisons for the entire Company.

*Occupancy and Operating.* Occupancy and operating expenses increased by \$4.0 million, or 22.4%, to \$21.7 million during the thirteen weeks ended March 31, 2009 from \$17.7 million during the comparable thirteen week period of 2008. The increase reflects additional operating and occupancy expenses related to 15 new restaurants opened since the thirteen weeks ended April 1, 2008. As a percentage of revenues, occupancy and operating expenses increased to 21.2% for the current thirteen week period from 20.4% for the prior year comparable thirteen week period. This percentage increase is principally a result of increased marketing costs for electronic, print and web-based media in response to the overall competitive environment, coupled with the de-leveraging of the fixed component of rent related expenses as a result of the 0.1% decrease in comparable restaurant sales.

*General and Administrative.* General and administrative expenses decreased by \$0.3 million, or 3.5%, to \$7.1 million during the thirteen weeks ended March 31, 2009 from \$7.4 million during the comparable thirteen week period of 2008. Included in general and administrative costs for the thirteen weeks ended March 31, 2009 and April 1, 2008 is \$606,000 and \$608,000, respectively, of stock-based compensation expense in accordance with FAS 123(R). The decrease in general and administrative costs is primarily due to the departure of our two co-founders on December 30, 2008 and the resulting decrease in salary and related expenses, coupled with reduced restaurant management recruiting, training and travel related costs resulting from fewer planned openings in the first half of the current year as compared to the prior year as well as lower management turnover. As a percentage of revenues, general and administrative expenses decreased to 7.0% for the current thirteen week period from 8.5% for the prior year comparable thirteen week period. This decrease is primarily due to the reasons previously described, coupled with the leverage of the fixed component of these expenses over a higher revenue base.

*Depreciation and Amortization.* Depreciation and amortization increased by \$1.4 million, or 33.8%, to \$5.7 million during the thirteen weeks ended March 31, 2009 from \$4.3 million during the comparable thirteen week period of 2008. As a percentage of revenues, depreciation and amortization increased to 5.6% for the thirteen week period from 4.9% for the prior year comparable thirteen week period. This increase is primarily due to increased construction costs for new restaurants and depreciation on our new operating toolsets, restaurant remodels and initiatives, coupled with approximately flat comparable restaurant sales for the first quarter of 2009.

*Restaurant Opening.* Restaurant opening expense decreased by \$0.1 million, or 12.7%, to \$1.0 million during the thirteen weeks ended March 31, 2009 from \$1.1 million during the comparable thirteen week period of 2008. Our opening costs will fluctuate from period to period, depending upon, but not limited to, the number of restaurant openings, the size and concept of the restaurants being opened, the location of the restaurants and the complexity of the staff hiring and training process. We opened two new restaurants in the first quarter of 2009 in Henderson, Nevada and Gainesville, Florida. As of May 1, 2009, we currently expect to open as many as four to five restaurants during the third quarter and as many as three to four restaurants during the fourth quarter of fiscal 2009. The actual timing of restaurant openings is inherently difficult to precisely predict and is subject to weather conditions and other factors outside of the Company's control, including factors that are under the control of the Company's landlords, municipalities and contractors.

*Loss on Disposal of Assets.* We did not have any significant fixed asset disposals during the first quarter of 2009. For the same quarter of the prior year, the loss on disposal of assets of approximately \$52,000 pertains to normal disposal costs associated with the ordinary course of business, along with asset disposals related to selected restaurant remodeling activities.

*Interest Income, Net.* Net interest income decreased to \$76,000 during the thirteen weeks ended March 31, 2009 from \$651,000 during the comparable thirteen week period of 2008. This decrease is primarily due to the lower interest rates and investment balances compared to the same thirteen week period of 2008.

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*Other Income, Net.* Net other income increased to \$149,000 during the thirteen weeks ended March 31, 2009 from \$140,000 during the comparable thirteen week period of 2008, an increase of \$9,000. This increase is primarily due to income recognized from gift card breakage. Based on an analysis of our gift card program since its inception, we determined that 24 months after issuance date, the likelihood of gift card redemption is remote.

*Income Tax Expense.* Our effective income tax rate for the thirteen weeks ended March 31, 2009 was 30.0%, the same as for the comparable thirteen week period of 2008. The effective income tax rate for the thirteen weeks ended March 31, 2009 differs from the statutory income tax rate primarily due to FICA tip credits, the non-deductibility of incentive stock options and tax free interest on our investments. We currently estimate our effective tax rate to be approximately 30.0% for fiscal 2009. However, the actual effective tax rate for fiscal 2009 may be different than our current estimate due to actual revenues, pre-tax income and tax credits achieved during the year, coupled with the amount of tax-exempt income earned on our investments.

**LIQUIDITY AND CAPITAL RESOURCES**

The following tables set forth, for the periods indicated, a summary of our key liquidity measurements (dollar amounts in thousands):

	<b>March 31, 2009</b>	<b>December 30, 2008</b>
Cash and investments	\$6,299	\$8,852
Net working capital (deficit) (1)	(\$16,138)	\$(19,614)
Current ratio	0.7:1.0	0.7:1.0

(1) The resulting deficit is principally due to our investments in auction rate securities which are classified as non-current assets.

	<b>For The Thirteen Weeks Ended</b>	
	<b>March 31, 2009</b>	<b>April 1, 2008</b>
Cash provided by (used in) operating activities	\$6,600	\$1,505
Capital expenditures	\$8,301	\$11,951

Our capital requirements are principally related to our restaurant expansion plans. While our ability to achieve our growth plans is dependent on a variety of factors, some of which are outside of our control, our primary growth objective is to achieve an approximate 15% increase in total restaurant operating weeks during fiscal 2009 from the development and opening of new restaurants, coupled with the carryover impact of partial-year 2008 openings. Our base of established restaurant operations is not yet large enough to generate enough free cash flow from operations to totally fund our planned expansion at the rate that it is currently contemplated over the longer run. Accordingly, we will continue to actively monitor overall conditions in the capital markets with respect to the potential sources and timing of additional financing for our planned future expansion. However, there can be no assurance that such financing will be available when required or available on terms acceptable to us. If we are unable to secure additional capital resources, we may be required to reduce our longer-term planned rate of expansion.

Similar to many restaurant chains, we typically utilize operating lease arrangements (principally ground leases) for the majority of our restaurant locations. We believe our operating lease arrangements continue to provide appropriate leverage for our capital structure in a financially efficient manner. However, we are not limited to the use of lease arrangements as our only method of opening new restaurants. While our operating lease obligations are not currently required to be reflected as indebtedness on our Consolidated Balance Sheets, the minimum rents and other related lease obligations, such as common area expenses, under our lease agreements must be satisfied by cash flows from our ongoing operations. Accordingly, our lease arrangements reduce, to some extent, our capacity to utilize funded indebtedness in our capital structure. We also require capital resources to maintain our existing base of restaurants and brewery operations and to further expand and strengthen the capabilities of our corporate and information technology infrastructures. Our requirement for working capital is not significant since our restaurant guests pay for their food and beverage purchases in cash or credit cards at the time of the sale. Thus, we are able to sell many of our inventory items before we have to pay our suppliers for such items.

We typically seek to lease our restaurant locations for primary periods of 15 to 20 years under operating lease arrangements. Our rent structures vary from lease to lease, but generally provide for the payment of both minimum and



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contingent (percentage) rent based on sales, as well as other expenses related to the leases (for example, our pro-rata share of common area maintenance, property tax and insurance expenses). In addition, many of our lease arrangements include the opportunity to secure tenant improvement allowances to partially offset the cost of constructing the related restaurants. Generally, landlords recover the cost of such allowances from increased minimum rents. During fiscal 2009, we are currently expecting to obtain approximately \$12 million to \$13 million of committed tenant improvement allowances. However, in light of current conditions in the credit markets, there can be no assurance that such allowances will continue to be available to us. From time to time, we may also decide to purchase the underlying land for a new restaurant if that is the only way to secure a highly desirable site. Currently, we own the land that underlies four of our restaurants, and we may determine at some future point to monetize those assets through a sale-leaseback or other financial transaction, provided that the financial markets for those transactions are functioning normally. We disburse cash for certain site-related work, buildings, leasehold improvements, furnishings, fixtures and equipment to build our leased and owned premises. We own substantially all of the equipment, furniture and trade fixtures in our restaurants and currently plan to do so in the future.

Our cash flows from operating activities, as detailed in the Consolidated Statements of Cash Flows, provided \$6.6 million of net cash during the thirteen weeks ended March 31, 2009, representing a \$5.1 million increase from the \$1.5 million provided by during the comparable thirteen week period of 2008. The increase in cash from operating activities for the thirteen weeks ended March 31, 2009, in comparison to thirteen weeks ended April 1, 2008, is primarily due to increased net income, higher depreciation expense due to more restaurants open, decreases in accounts and other receivables, tenant allowance receivables and prepaid rent due to timing, partially offset by the increase in other liabilities due to additional deferred tenant improvement allowances.

For the thirteen weeks ended March 31, 2009, total capital expenditures were \$8.3 million, of which expenditures for the acquisition of restaurant and brewery equipment and leasehold improvements to construct new restaurants were \$5.9 million. These expenditures were primarily related to the construction of our new restaurants in Henderson, Nevada and Gainesville, Florida, which opened in the first quarter, as well as expenditures related to additional restaurants expected to open in the third and fourth quarters of 2009. In addition, total capital expenditures related to the maintenance of existing restaurants and expenditures for restaurant and corporate systems were \$2.3 million and \$0.1 million, respectively.

On October 17, 2007, we established a \$25 million unsecured revolving line of credit with a major financial institution (the Line of Credit). The Line of Credit expires on September 30, 2012 and may be used for working capital and other general corporate purposes. The Line of Credit was increased to \$45 million during the first quarter of 2008. We expect to utilize the Line of Credit principally for letters of credit that are required to support certain of our self insurance programs and for working capital and construction requirements. As of March 31, 2009, there were funded borrowings of \$8.0 million outstanding under the Line of Credit and there were outstanding letters of credit totaling approximately \$2.8 million. Any borrowings under the Line of Credit will bear interest at the financial institution's prime rate or at LIBOR plus a percentage not to exceed 1.375% based on a Lease Adjusted Leverage Ratio as defined in the Line of Credit agreement. The Line of Credit agreement also requires compliance with a Fixed Charge Coverage Ratio. At March 31, 2009, we were in compliance with these covenants. Any interest on the Line of Credit will be payable quarterly and all related borrowings must be repaid on or before September 30, 2012. While we have the Line of Credit in place and it can be currently drawn upon, in the event that global credit market conditions further deteriorate, it is possible that creditors could place limitations or restrictions on the ability of borrowers in general to draw on existing credit facilities. At this time, however, we have no indication that any such limitations or restrictions are likely to occur.

We currently plan to open 9 to 11 new restaurants during fiscal 2009. As of May 1, 2009, two of those restaurants have already opened, and we have signed five additional leases for potential new restaurants. We have also executed letters of intent for additional restaurant locations. Our capital requirements related to opening additional restaurants will continue to be significant. We currently anticipate our total capital expenditures for 2009, excluding any tenant improvement allowances, to be \$55 million to \$60 million related to the construction of new restaurants, the reinvestment in some of our older restaurants as well as normal maintenance capital expenditures and the investment in toolsets and infrastructure. We expect to fund our future capital expenditures for 2009 with current cash and investment balances, cash provided by operating activities, tenant improvement allowances and our line of credit. During fiscal 2009, we are currently expecting to obtain approximately \$12 million to \$13 million of committed tenant improvement allowances. Our future cash requirements will depend on many factors, including the pace of expansion, real estate markets, construction costs, the specific sites selected for new restaurants, the nature of the lease and associated financing arrangements negotiated with landlords.



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On April 16, 2009, General Growth Properties, Inc. ( GGP ) announced that it was voluntarily seeking relief to reduce and restructure its debts under Chapter 11 of the United States Bankruptcy Code ( Chapter 11 filing ). Included in its bankruptcy filing are approximately 158 regional shopping centers owned by GGP and certain other GGP subsidiaries. GGP stated that it intends to work with its constituencies to emerge from bankruptcy as quickly as possible and that the day-to-day operations and business of all of the Company's shopping centers and other properties will continue as usual. We currently operate five restaurants in GGP properties that were included in their Chapter 11 filing, and we are currently under construction for one more restaurant located at a GGP property which was also included in their filing. As of March 31, 2009, we have outstanding tenant improvement allowances due from GGP totaling approximately \$1.8 million for two of our restaurants. Subsequent to March 31, 2009, we received approximately \$0.6 million, representing payment in full related to one of these restaurants and therefore, we are currently owed \$1.2 million from GGP, which may be impacted from their Chapter 11 filing. Our restaurant leases with GGP allow us to offset or reduce our rent payable to GGP in the event that our tenant improvement allowances cannot be collected, as agreed upon in our leases with GGP. Although we are in the process of determining the financial impact, if any, of these tenant improvement allowances, we do not believe that this matter will have a material impact on our overall liquidity. We may also pursue other legal remedies in this respect. As of May 1, 2009, we have not committed to any additional GGP retail projects for potential future restaurant locations; however, we may decide to do so at some future point. We also have one other delinquent committed tenant improvement allowance due from a different landlord in the amount of \$1.2 million, for a restaurant that was completed in the fourth quarter of 2008; however, we also have a similar right to offset or reduce our rent payable.

As of March 31, 2009, our investments consisted of auction rate securities ( ARS ) with a par or face value of \$34.4 million. These auction rate securities, AAA-rated when purchased, are long-term debt obligations secured by student loans and 97% guaranteed by the U.S. Government under the Federal Family Education Loan Program ( FFELP ). The recent uncertainties in the credit markets have affected our holdings in these ARS investments, since auctions for our investments in these securities have failed to settle on their respective settlement dates. Historically, the fair value of the ARS investments approximated par value due to the frequent resets through the auction process. While we continue to earn interest on our ARS investments, these investments are not currently trading and, therefore, do not currently have a readily determinable market value. In accordance with FASB Statement No. 157, *Fair Value Measurements* ( FAS 157 ), we estimated the fair value of our auction rate securities investments using valuation models and methodologies provided by a third party. Based on these valuation models and methodologies, during the first quarter of fiscal year 2009 we recognized an incremental estimated temporary unrealized loss in the fair value of our ARS investments of approximately \$0.5 million, bringing our net estimated unrealized loss to approximately \$4.9 million as of March 31, 2009. In accordance with FASB Statement No. 115, *Accounting for Certain Investments in Debt and Equity Securities* ( FAS 115 ), a temporary change in fair value results in an unrealized holding gain or loss being recorded in the other comprehensive income (loss) component of shareholders equity. Such an unrealized holding gain or loss does not affect net income for the applicable accounting period. We review several factors to determine whether a loss is other than temporary, such as the length of time an investment is in an unrealized loss position, the extent to which fair value is less than amortized cost, the impact of changing interest rates in the short and long term, the financial condition and near term prospects of the issuer and our ability and intent to hold the investment for a period of time sufficient to allow for any anticipated recovery in fair value. Due to the continued illiquidity of these investments and the uncertainty regarding the auction rate securities market, we have classified these investments as non-current investments for the current reporting period at fair value. Absent a more favorable remedy in our current arbitration proceedings relating to our ARS investments, we currently anticipate holding the remaining ARS investments until a recovery of the auction process, recovery of fair value or until maturity, which is between 2020 and 2047. We currently expect such recoveries to occur prior to maturity. During the first quarter of fiscal year 2009, we continued to receive partial redemptions, at par, of certain ARS investments; however, there is no guarantee we will receive any future redemptions. We will continue to monitor the auction rate securities market and the liquidity and value of the securities we hold. Additional adjustments to the fair value may be required from quarter to quarter to reflect changes in market conditions. We have filed an arbitration claim against the broker-dealer relating to investments in auction rate securities made on our behalf.

We currently believe that our projected cash flow from operations, cash balances on hand, agreed-upon tenant improvement allowances and our \$45 million credit facility, should be sufficient, in the aggregate, to finance our planned capital expenditures and other operating activities through the next 12 months. We currently believe that the current lack of liquidity of our auction rate securities investments will not have a material impact on our ability to fund our operations or continue our expansion through at least the first quarter of 2010. However, if current conditions in the auction rate securities market continue for a prolonged period, our longer-term financial flexibility

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could be impacted until other sources of capital are obtained. Our base of established restaurant operations is not yet large enough to generate enough free cash flow from operations to totally fund our planned expansion at the rate that it is currently contemplated over the longer run. Accordingly, we will continue to actively monitor overall conditions in the capital markets with respect to the potential sources and timing of additional financing for our planned future expansion. However, there can be no assurance that such financing will be available when required or available on terms acceptable to us. If we are unable to secure additional capital resources, we may be required to reduce our longer-term planned rate of expansion.

### **OFF-BALANCE SHEET ARRANGEMENTS**

We do not participate in transactions that generate relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or variable interest entities ( VIEs ), which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow limited purposes. As of March 31, 2009, we are not involved in any off-balance sheet arrangements.

### **IMPACT OF INFLATION**

Our profitability is dependent, among other things, on our ability to anticipate and react to changes in the costs of key operating resources, including food and other raw materials, labor, energy and other supplies and services. Substantial increases in costs and expenses could impact our operating results to the extent that such increases cannot be passed along to our restaurant guests. While we have taken steps to enter into agreements for some of the commodities used in our restaurant operations, there can be no assurance that future supplies and costs for such commodities will not fluctuate due to weather and other market conditions outside of our control. We are currently unable to contract for many of our fresh commodities such as produce and fluid dairy items for long periods of time. Consequently, such commodities can be subject to unforeseen supply and cost fluctuations. The impact of inflation on food, labor, energy and occupancy costs can significantly affect the profitability of our restaurant operations.

Many of our restaurant employees are paid hourly rates related to the federal minimum wage. In fiscal 2007, Congress enacted an increase in the federal minimum wage implemented in three phases, beginning in fiscal 2007 and concluding in fiscal 2009. In addition, numerous state and local governments increased the minimum wage within their jurisdictions, with further state minimum wage increases going into effect in fiscal 2009. Additionally, a general shortage in the availability of qualified restaurant management and hourly workers in certain geographical areas in which we operate has caused related increases in the costs of recruiting and compensating such employees. Certain operating costs, such as taxes, insurance and other outside services continue to increase with the general level of inflation or higher and may also be subject to other cost and supply fluctuations outside of our control.

While we have been able to partially offset inflation and other changes in the costs of key operating resources by gradually increasing prices for our menu items, coupled with more efficient purchasing practices, productivity improvements and greater economies of scale, there can be no assurance that we will be able to continue to do so in the future. From time to time, competitive conditions could limit our menu pricing flexibility. In addition, macroeconomic conditions that impact consumer discretionary spending for food away from home could make additional menu price increases imprudent. There can be no assurance that all of our future cost increases can be offset by higher menu prices, or that higher menu prices will be accepted by our restaurant guests without any resulting changes in their visit frequencies or purchasing patterns. Many of the leases for our restaurants provide for contingent rent obligations based on a percentage of sales. As a result, rent expense will absorb a proportionate share of any menu price increases in our restaurants. There can be no assurance that we will continue to generate increases in comparable restaurant sales in amounts sufficient to offset inflationary or other cost pressures.

### **SEASONALITY AND ADVERSE WEATHER**

Our business is subject to seasonal fluctuations and adverse weather. Our results of operations have historically been impacted by seasonality, which directly impacts tourism at our coastal California locations. The summer months (June through August) have traditionally been higher sales volume periods than other periods of the year. Over the past 15 months we opened our first restaurants in Kentucky, Louisiana, Indiana and Washington, and accordingly, these restaurants will be impacted by weather and other seasonal factors that typically impact other restaurant operations in those states. Holidays, severe winter weather, hurricanes, thunderstorms and similar conditions may impact restaurant sales volumes seasonally in some of the markets where we operate. Many of our restaurants are located in or near shopping centers and malls that typically experience seasonal fluctuations in sales. Quarterly results have

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been and will continue to be significantly impacted by the timing of new restaurant openings and their associated restaurant opening expenses. As a result of these and other factors, our financial results for any given quarter may not be indicative of the results that may be achieved for a full fiscal year.

**CRITICAL ACCOUNTING POLICIES**

Critical accounting policies require the greatest amount of subjective or complex judgments by management and are important to portraying our financial condition and results of operations. Judgments or uncertainties regarding the application of these policies may result in materially different amounts being reported under different conditions or using different assumptions. We consider the following policies to be the most critical in understanding the judgments that are involved in preparing our consolidated financial statements.

***Fair Value of Investments***

We measure all available-for-sale or non-current investments at fair value in accordance with fair value measurements prescribed by FAS 157. We believe that the valuation models and methodologies provided by a third party, who uses Level 3 inputs as defined by FAS 157, provides us with the appropriate basis to estimate fair value for investments that are not currently trading on the open market. In accordance with FAS 157, we recognize temporary changes in the fair value of our investments as unrealized holding gains or losses recorded in other comprehensive income (loss), which is a component of shareholders' equity and does not affect net income for the applicable accounting period. For declines in fair value that are below our carrying value and deemed to be other than temporary, we would record a charge against net earnings.

***Property and Equipment***

We record all property and equipment at cost. Property and equipment accounting requires estimates of the useful lives for the assets for depreciation purposes and selection of depreciation methods. We believe the useful lives reflect the actual economic life of the underlying assets. We have elected to use the straight-line method of depreciation over the estimated useful life of an asset or the primary lease term of the respective lease, whichever is shorter. Renewals and betterments that materially extend the useful life of an asset are capitalized while maintenance and repair costs are charged to operations as incurred. Judgment is often required in the decision to distinguish between an asset which qualifies for capitalization versus an expenditure which is for maintenance and repairs. When property and equipment are sold or otherwise disposed of, the asset account and related accumulated depreciation and amortization accounts are relieved, and any gain or loss is included in earnings. Additionally, interest capitalized for new restaurant construction is included in Property and equipment, net on the Consolidated Balance Sheets.

***Impairment of Long-Lived Assets***

We assess potential impairments of our long-lived assets whenever events or changes in circumstances indicate that the carrying value of the assets may not be recoverable. Factors considered include, but are not limited to, significant underperformance relative to expected historical or projected future operating results; significant changes in the manner of use of the acquired assets or the strategy for the overall business; and, significant negative industry or economic trends. The recoverability is assessed in most cases by comparing the carrying value of the asset to the undiscounted cash flows expected to be generated by the asset. This assessment process requires the use of estimates and assumptions regarding future cash flows and estimated useful lives, which are subject to a significant degree of judgment. If these assumptions change in the future, we may be required to record impairment charges for these assets. As of March 31, 2009, no other than temporary impairment indicators have been identified.

***Self Insurance Liability***

We are self-insured for a portion of our employee workers' compensation program and general liability insurance. We maintain coverage with a third party insurer to limit our total exposure for these programs. The accrued liability associated with these programs are based on our estimate of the ultimate costs to settle known claims as well as claims incurred but not yet reported to us ( IBNR claims ) as of the balance sheet date. Our estimated liability is not discounted and is based on information provided by our insurance broker and insurer, combined with our judgments regarding a number of assumptions and factors, including the frequency and severity of claims, our claims development history, case jurisdiction, related legislation, and our claims settlement practice. Significant judgment is required to estimate IBNR claims as parties have yet to assert such claims. If actual claims trends, including the severity or frequency of claims, differ from our estimates, our financial results could be significantly impacted.



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### ***Income Taxes***

We provide for income taxes based on our estimate of federal and state tax liabilities. Our estimates include, but are not limited to, effective state and local income tax rates, allowable tax credits for items such as FICA taxes paid on reported tip income and estimates related to depreciation expense allowable for tax purposes. We usually file our income tax returns several months after our fiscal year-end. We file our tax returns with the advice and compilation of tax consultants. All tax returns are subject to audit by federal and state governments, usually years after the returns are filed, and could be subject to differing interpretation of the tax laws.

Deferred tax accounting requires that we evaluate net deferred tax assets to determine if these assets will more likely than not be realized in the foreseeable future. This test requires projection of our taxable income into future years to determine if there will be taxable income sufficient to realize the tax assets (future tax deductions and FICA tax credit carryforwards). The preparation of the projections requires considerable judgment and is subject to change to reflect future events and changes in the tax laws.

FIN 48, which clarifies the accounting for uncertainty in tax positions, requires that we recognize the impact of a tax position in our consolidated financial statements if that position is more likely than not of being sustained on audit, based on the technical merits of the position. We recognize interest and penalties related to uncertain tax positions in income tax expense. As of March 31, 2009, unrecognized tax benefits recorded was approximately \$155,000.

### ***Leases***

We lease the majority of our restaurant locations. We account for our leases under the provisions of FASB Statement No. 13, *Accounting for Leases* ( Statement 13 ), which require that our leases be evaluated and classified as operating or capital leases for financial reporting purposes. The term used for this evaluation includes renewal option periods only in instances in which the exercise of the renewal option can be reasonably assured and failure to exercise such option would result in an economic penalty. All of our restaurant leases are classified as operating leases pursuant to the requirements of FASB Statement 13. We disburse cash for leasehold improvements, furniture and fixtures and equipment to build out and equip our leased premises. Tenant improvement allowance incentives may be available to partially offset the cost of developing and opening the related restaurants, pursuant to agreed-upon terms in our leases. Tenant improvement allowances can take the form of cash payments upon the opening of the related restaurants, full or partial credits against minimum or percentage rents otherwise payable by us or a combination thereof. In accordance with FASB Technical Bulletin No. 88-1, *Issues Relating to Accounting for Leases* ( FTB 88-1 ), all tenant improvement allowances received by us are recorded as a deferred rent obligation and amortized over the term of the lease. The related cash received from the landlord is reflected as Landlord contribution for tenant improvements, net within operating activities of our Consolidated Statements of Cash Flows.

The lease term used for straight-line rent expense is calculated from the date we obtain possession of the leased premises through the lease termination date. In accordance with FASB Staff Position No. 13-1, *Accounting for Rental Costs Incurred During a Construction Period*, we expense rent from possession date through restaurant open date as restaurant opening expense. Once a restaurant opens for business, we record straight-line rent over the lease term plus contingent rent to the extent it exceeded the minimum rent obligation per the lease agreement.

There is potential for variability in the rent holiday period, which begins on the possession date and ends on the restaurant open date, during which no cash rent payments are typically due under the terms of the lease. Factors that may affect the length of the rent holiday period generally relate to construction related delays. Extension of the rent holiday period due to delays in restaurant opening will result in greater restaurant opening rent expense recognized during the rent holiday period and lesser occupancy expense during the rest of the lease term (post-opening).

For leases that contain rent escalations, we record the total rent payable during the lease term, as determined above, on the straight-line basis over the term of the lease (including the rent holiday period beginning upon our possession of the premises), and record the difference between the minimum rents paid and the straight-line rent as a lease obligation. Certain leases contain provisions that require additional rental payments based upon restaurant sales volume ( contingent rentals ). Contingent rentals are accrued each period as the liabilities are incurred, in addition to the straight-line rent expense noted above. This results in some variability in occupancy expense as a percentage of revenues over the term of the lease in restaurants where we pay contingent rent.

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Management makes judgments regarding the probable term for each restaurant property lease, which can impact the classification and accounting for a lease as capital or operating, the rent holiday and/or escalations in payments that are taken into consideration when calculating straight-line rent and the term over which leasehold improvements for each restaurant are amortized. These judgments may produce materially different amounts of depreciation, amortization and rent expense than would be reported if different assumed lease terms were used.

### ***Stock-based Compensation***

We have two stock-based compensation plans – the 2005 Equity Incentive Plan and the 1996 Stock Option Plan – under which we may issue shares of our common stock to employees, officers, directors and consultants. Upon effectiveness of the 2005 Equity Incentive Plan, the 1996 Stock Option Plan was closed for purposes of new grants. Both of these plans have been approved by our shareholders. Under the 2005 Equity Incentive Plan, we have granted incentive stock options, non-qualified stock options, and restricted stock units. Stock options generally vest at 20% per year or cliff vest, either ratably in years three through five or 100% in year five and expire ten years from date of grant.

Beginning in 2007, substantially all of our restaurant general managers, executive kitchen managers, culinary training managers and our area and regional restaurant directors are eligible to participate in our equity-based incentive program called the BJ's Gold Standard Stock Ownership Program (the GSSOP) under our 2005 Equity Incentive Plan. In November 2007, we expanded our GSSOP eligibility to also include certain brewery personnel. The GSSOP is a longer-term equity incentive program that utilizes Company restricted stock units (RSUs). The GSSOP is dependent on each participant's extended service with us in their respective positions (five years) and their achievement of certain agreed-upon performance objectives during that service period.

Beginning in 2008, we also began issuing RSUs as a component of the annual equity grant award to officers and other employees. These grants are non-GSSOP grants. Under our 2005 Equity Incentive Plan we have issued approximately 661,000 RSUs as of March 31, 2009, including both GSSOP and non-GSSOP grants. The fair value of the RSUs is the quoted market value of our common stock on the date of grant. The fair value of each RSU is expensed over the period during which its related restrictions are expected to lapse (i.e., generally five years). RSUs generally cliff vest 100% after five years for GSSOP participants, and generally vest at 20% per year for other RSU grantees.

We account for these plans under the fair value recognition provisions of FAS 123(R) using the modified-prospective-transition method. Compensation expense recognized in the thirteen weeks ended March 31, 2009 and April 1, 2008 include: (a) compensation expense for all share-based payments granted prior to, but not yet vested as of January 4, 2006 (adoption date of FAS 123(R)), based on the grant date fair value estimated in accordance with the original provisions of FAS 123 and (b) compensation expense for all share-based payments granted subsequent to January 4, 2006, based on the grant date fair value estimated in accordance with the provisions of FAS 123(R). FAS 123(R) requires us to make certain assumptions and judgments regarding the grant date fair value. These judgments include expected volatility, risk free interest rate, expected option life, dividend yield and vesting percentage. These estimations and judgments are determined by us using many different variables that, in many cases, are outside of our control. The changes in these variables or trends, including stock price volatility and risk free interest rate, may significantly impact the grant date fair value resulting in a significant impact to our financial results. FAS 123(R) requires the cash flow tax benefits resulting from tax deductions in excess of the compensation cost recognized for those options (excess tax benefits) to be classified as financing cash flows.

### **Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

The following discussion of market risks contains forward-looking statements. Actual results may differ materially from the following discussion based on general conditions in the financial and commodity markets.

Our market risk exposures are related to cash and cash equivalents and investments. We invest our excess cash in highly liquid short-term investments with maturities of less than twelve months as of the date of purchase. These investments are not held for trading or other speculative purposes. Changes in interest rates affect the investment income we earn on our investments and, therefore, impact our cash flows and results of operations. For the thirteen weeks ended March 31, 2009, the average interest rate earned on cash and cash equivalents and investments was approximately 1.1%. As of March 31, 2009, our investment portfolio consisted of auction rate securities with a par or face value of approximately

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\$34.4 million currently classified as non-current investments. These auction rate securities, AAA rated when purchased, are long-term debt obligations secured by student loans, which are generally 97% guaranteed by the U.S. Government under the Federal Family Education Loan Program ( FFELP ). In addition to the U.S. Government guarantee on such student loans, many of the securities also have separate insurance policies guaranteeing both the principal and accrued interest. Liquidity for these securities has historically been provided by an auction process that resets the applicable interest rate at pre-determined intervals up to 35 days. The final maturity dates of these auction rate securities are between 2020 and 2047. The general illiquidity in the credit markets have affected our holdings in auction rate securities investments, since auctions for these securities have failed to settle on their respective settlement dates. While we continue to earn interest on our auction rate securities investments, these investments are not currently trading and, therefore, do not currently have a readily determinable market value. Accordingly, the estimated fair value of these auction rate securities investments no longer approximates par or face value and in accordance with applicable accounting rules, we recognized an incremental estimated temporary decline in the fair value of our auction rate securities investments of approximately \$0.5 million during the current quarter, bringing our net estimated unrealized loss to \$4.9 million as of March 31, 2009.

The fair market value of these securities is subject to further interest rate risk and could decline in value if market interest rates increased. If market interest rates were to increase immediately and uniformly by 10% from the levels existing as of March 31, 2009, the decline in the fair value of the portfolio would not be material to our financial position, results of operations and cash flows. However, if interest rates decreased and securities within our portfolio matured and were re-invested in securities with lower interest rates, interest income would decrease in the future. Additionally, the continued illiquidity of our investments in auction rate securities and the continued uncertainty regarding the auction rate securities market has caused us to classify our investments in these securities as non-current assets, and there can be no guarantee that the markets supporting these investments will recover in the near future. If current conditions in the auction rate securities market continue for a prolonged period, our longer-term financial flexibility could be impacted until other sources of capital can be obtained. While we have a \$45 million credit facility in place, in the event that global credit market or general economic conditions further deteriorate, it is possible that creditors could place limitations or restrictions on the ability of borrowers in general to draw on existing credit facilities. At this time, however, we have no indication that any such limitations or restrictions are likely to occur.

We purchase food and other commodities for use in our operations based upon market prices established with our suppliers. Many of the commodities purchased by us can be subject to volatility due to market supply and demand factors outside of our control, whether contracted for or not. To manage this risk in part, we attempt to enter into fixed price purchase commitments, with terms typically up to one year, for many of our commodity requirements. During 2009, it may not be possible for us to enter into as many fixed-price contracts for the entire year for many of our food commodity requirements due to the recent volatility in the worldwide markets for such commodities. Dairy costs can also fluctuate due to government regulation. We believe that substantially all of our food and supplies are available from several sources, which helps to diversify our overall commodity cost risk. We also believe that we have some flexibility and ability to increase certain menu prices, or vary certain menu items offered, in response to food commodity price increases. Some of our commodity purchase arrangements may contain contractual features that limit the price paid by establishing certain price floors or caps. We do not use financial instruments to hedge commodity prices, since our purchase arrangements with suppliers, to the extent that we can enter into such arrangements, help control the ultimate cost that we pay.

Our distribution agreement expires in June 2009 and we are currently negotiating a new distribution agreement with our current distribution consortium, as well as other potential providers of this service. Based on our negotiations to date, we believe that a new agreement can be obtained with terms and conditions substantially similar to our existing distribution agreement; however, there can be no assurances that we will be successful in this respect.

**Item 4. CONTROLS AND PROCEDURES*****Evaluation of Disclosure Controls and Procedures***

Under the supervision and with the participation of our management, including the Chief Executive Officer and Chief Financial Officer, we have evaluated the effectiveness of our disclosure controls and procedures pursuant to Rules 13a-15 and 15d-15 promulgated under the Securities Exchange Act of 1934 as amended, as of the end of the period covered by this report. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer have concluded that these disclosure controls and procedures are effective.

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***Changes in Internal Control Over Financial Reporting***

There has not been any change in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during our first fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**PART II. OTHER INFORMATION**

**Item 1. LEGAL PROCEEDINGS**

We are subject to a number of private lawsuits, administrative proceedings and claims that arise in the ordinary course of our business. These claims typically involve claims from guests, employees and others related to operational issues common to the foodservice industry. A number of these claims may exist at any given time. We believe that most of our guest claims will be covered by our general liability insurance, subject to certain deductibles and coverage limits. Punitive damages awards and employee unfair practice claims, however, are not covered by our general liability insurance. To date, we have not paid punitive damages with respect to any claims, but there can be no assurance that punitive damages will not be awarded with respect to any future claims, employee unfair practice claims or any other actions. We could be affected by adverse publicity resulting from allegations in lawsuits, claims and proceedings, regardless of whether these allegations are valid or whether we are ultimately determined to be liable. We currently believe that the final disposition of these types of lawsuits, proceedings and claims will not have a material adverse effect on our financial position, results of operations or liquidity. It is possible, however, that our future results of operations for a particular quarter or fiscal year could be impacted by changes in circumstances relating to lawsuits, proceedings or claims.

The following paragraphs describe certain legal actions recently settled or pending:

***Labor Related Matters***

On February 5, 2004, a former employee of ours, on behalf of herself, and allegedly other employees, filed a class action complaint in Los Angeles County, California Superior Court, Case Number BC310146, and on March 16, 2004, filed an amended complaint, alleging causes of action for: (1) failure to pay reporting time minimum pay; (2) failure to allow meal breaks; (3) failure to allow rest breaks; (4) waiting time penalties; (5) civil penalties; (6) reimbursement for fraud and deceit; (7) punitive damages for fraud and deceit; and, (8) disgorgement of illicit profits. On June 28, 2004, the plaintiff stipulated to dismiss her second, third, fourth and fifth causes of action. During September 2004, the plaintiff stipulated to binding arbitration of the action. On March 2, 2008, and on March 19, 2008, one of Plaintiff's attorneys filed a notice with the California Labor and Workforce Development Agency, alleging failure to keep adequate pay records and to pay Plaintiff minimum wage. To our knowledge, the Agency has not responded to either of these notices. The parties met for mediation on a non-binding basis. In November 2008, the parties agreed to settle this matter subject to approval from the arbitrator and/or the court. The terms of this proposed settlement are not considered by us to be material to our consolidated financial position.

On February 16, 2006, a former employee filed a lawsuit in Orange County, California, Superior Court, Case Number 06CC00030, on behalf of herself and allegedly other employees, for alleged failure to provide rest periods and meal periods and violation of California Business and Professions Code Section 17200. We have answered the complaint, denying the allegations and raising various additional defenses. The parties met for mediation on a non-binding basis. In May 2008, the parties agreed to settle this matter subject to final approval from the court. The terms of this proposed settlement are not considered by us to be material to our consolidated financial position.

On April 6, 2009, an employee filed a class action complaint in Orange County, California, Superior Court, Case Number 30-2009, 00259460, on behalf of himself and allegedly other employees. The complaint alleges causes of action for failure to pay plaintiff and other alleged class members regular wages and overtime pay, failure to maintain the designated wage scale and secret payment of lower wages, the greater of actual damages or penalties for failure to provide accurate wage statements, and restitution of wages and injunction for violation of California Business and Professions Code Section 17200. The complaint also seeks plaintiff's attorneys' fees and costs. We have not yet responded to the complaint, but we intend to vigorously defend the suit.



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On June 12, 2008, we filed an arbitration claim with the Financial Industry Regulatory Authority (FINRA) against Citigroup Global Investments, Inc. ( Citigroup ) asserting claims for breach of contract, breach of the implied covenant of good faith and fair dealing, fraud, breach of fiduciary duty, a failure to act to the highest standards of good faith and commercial honor, violations of Federal and California securities laws, failure to properly train financial advisers, violation of settlement agreements with regulatory authorities, conspiracy, and violation of its duty to us concerning selection of proper securities arising out of our auction rate securities investments. Citigroup has denied the allegations. The three arbitrators have been selected. The first day for the arbitration hearing has been set for September 29, 2009. The arbitration hearing will be held in Los Angeles, California.

**Item 1A. RISK FACTORS**

A discussion of the significant risks associated with investments in our securities are set forth in Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 30, 2008. There have been no material changes in the risks related to us from those disclosed in such Annual Report. These cautionary statements are to be used as a reference in connection with any forward-looking statements. The factors, risks and uncertainties identified in these cautionary statements are in addition to those contained in any other cautionary statements, written or oral, which may be made or otherwise addressed in connection with a forward-looking statement or contained in any of our subsequent filings with the SEC. The risks described in this Form 10-Q are not the only risks we face. New risks and uncertainties arise from time to time and we cannot predict those events or how they may affect us. There may be other risks and uncertainties that are not currently known, or that are currently deemed by us to be immaterial; however, they may ultimately adversely affect our business, financial condition and/or operating results.

**Item 6. EXHIBITS****Exhibit**

<b>Number</b>	<b>Description</b>
3.1	Amended and Restated Articles of Incorporation of the Company, as amended, incorporated by reference to Exhibit 3.1 to the Registration Statement on Form SB-2 filed with the Securities and Exchange Commission on June 28, 1996, as amended by the Company's Registration Statement on Form SB-2/A filed with the Commission on August 1, 1996 and the Company's Registration Statement on Form SB-2A filed with the Commission on August 22, 1996 (File No. 3335182-LA) (as amended, the Registration Statement ).
3.2	Amended and Restated Bylaws of the Company, incorporated by reference to Exhibits 3.1 of the Form 8-K filed on June 4, 2007.
3.3	Certificate of Amendment of Articles of Incorporation, incorporated by reference to Exhibit 3.3 of the 2004 Annual Report on Form 10-K.
4.1	Specimen Common Stock Certificate of the Company, incorporated by reference to Exhibit 4.1 of the Registration Statement.
10.1	Employment Agreement dated January 19, 2009 between the Company and Wayne L. Jones, employed as Executive Vice President and Chief Restaurant Operations Officer.
10.2	Registration Rights Agreement, incorporated by reference to Exhibit 4.2 of the Form S-3 Registration Statement filed on March 4, 2009.
31	Section 302 Certifications of Chief Executive Officer and Chief Financial Officer.
32	Section 906 Certification of Chief Executive Officer and Chief Financial Officer.

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SIGNATURES

In accordance with 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, thereunto duly authorized.

BJ S RESTAURANTS, INC.  
(Registrant)

May 4, 2009

By: /s/ GERALD W. DEITCHLE  
Gerald W. Deitchle  
Chairman, President and Chief Executive Officer  
(Principal Executive Officer)

By: /s/ GREGORY S. LEVIN  
Gregory S. Levin  
Executive Vice President,  
Chief Financial Officer and Secretary  
(Principal Financial and Accounting Officer)