

NEW RELIC, INC.
Form 8-K
August 02, 2016

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

August 2, 2016

Date of Report (Date of earliest event reported)

New Relic, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction

of incorporation)

001-36766
(Commission

File Number)

26-2017431
(I.R.S. Employer

Identification Number)

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188 Spear Street, Suite 1200

San Francisco, California 94105

(Address of principal executive offices, including zip code)

(650) 777-7600

(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions:

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 2.02 Results of Operations and Financial Condition.

On August 2, 2016, New Relic, Inc. (the Company) issued a press release announcing its financial results for the first fiscal quarter ended June 30, 2016. A copy of the press release is attached as Exhibit 99.1 to this Current Report and is incorporated herein by reference.

The information in this Item 2.02, including the press release attached as Exhibit 99.1 hereto, is furnished pursuant to Item 2.02 but shall not be deemed filed for any purpose, including for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the Exchange Act), or otherwise subject to the liabilities of that Section, nor shall it be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit

Number Description

99.1 Press release, dated August 2, 2016, issued by New Relic, Inc.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

New Relic, Inc.

Date: August 2, 2016

By: /s/ Mark Sachleben
Mark Sachleben
Chief Financial Officer

INDEX TO EXHIBITS

Exhibit

Number Description

99.1 Press release, dated August 2, 2016, issued by New Relic, Inc.

**REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)**

The Company currently relies on a single contract packer for a majority of its production and bottling of beverage products. The Company has different packers for their non-beverage products. Although there are other packers and the Company is in the process of outfitting their own brewery and bottling plant, a change in packers may cause a delay in the production process, which could ultimately affect operating results.

G) Fair Value of Financial Instruments

The carrying amount of the Company's financial instruments including cash, accounts and other receivables, due from director, accounts payable, and accrued expenses approximate their fair value as of December 31, 2004 and March 31, 2005 (Unaudited) due to their short maturities. The carrying amount of lines of credit, notes payable, and long term debt approximate fair value because the related effective interest rates on these instruments approximate the rates currently available to the Company.

H) Cost of sales

The Company, with one exception, classifies shipping and handling costs of the sale of its products as a component of cost of sales. The one exception regards shipping and handling costs associated with local sales and local distribution. Since these activities are integrated, those costs are combined and are included as general and administrative expenses. For the years ended December 31, 2004 and 2003 those costs were approximately \$63,000 and 7,000 respectively. For the three months ended March 31, 2005 and March 31, 2004 those costs were approximately \$ -0- and \$ 5,200, respectively, (Unaudited). During the three months ended March 31, 2005, the costs associated with local sales and local distribution were charged to selling expenses instead of general and administrative expenses. Accordingly, local sales and distribution costs for the three months ended March 31, 2005, included in selling expenses were approximately \$19,000 (Unaudited).

In addition, the Company classifies purchasing and receiving costs, inspection costs, warehousing costs, freight costs, internal transfer costs and other costs associated with product distribution as costs of sales. Certain of these costs become a component of the inventory cost and are expensed to costs of sales when the product to which the cost has been allocated is sold.

Expenses not related to the production of our products are classified as operating expenses.

I) Income Taxes

Current income tax expense is the amount of income taxes expected to be payable for the current year. A deferred income tax asset or liability is established for the expected future consequences of temporary differences in the

financial reporting and tax bases of assets and liabilities. The Company considers future taxable income and ongoing, prudent and feasible tax planning strategies, in assessing the value of its deferred tax assets. If the Company determines that it is more likely than not that these assets will not be realized, the Company will reduce the value of these assets to their expected realizable value, thereby decreasing net income. Evaluating the value of these assets is necessarily based on the Company's judgment. If the Company subsequently determined that the deferred tax assets, which had been written down, would be realized in the future, the value of the deferred tax assets would be increased, thereby increasing net income in the period when that determination was made.

J) Deferred Stock Offering Costs

The Company capitalizes costs incurred related to an initial public offering and future issuance of common stock until such time as the stock is issued, or the stock offering is abandoned by the Company (usually within six months of when the cost was incurred). These costs include attorney's fees, accountant's fees, SEC filing fees, state filing fees, and other consulting fees all related to the initial public offering and future issuance of common stock. In 2003, an offering was abandoned and \$426,682 of such costs were expensed. Deferred offering costs of \$219,955 and \$283,017 (Unaudited) are included in the balance sheet as of December 31, 2004 and March 31, 2005, respectively in connection with the Company's public offering anticipated to commence in 2005.

REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

K) Stock Options

Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation" (SFAS No. 123), establishes a fair value method of accounting for stock-based compensation plans and for transactions in which an entity acquires goods or services from non-employees in exchange for equity instruments. SFAS No. 123 also encourages, but does not require companies to record compensation cost for stock-based employee compensation. SFAS No. 123 was amended by SFAS No. 148, which now requires companies to disclose in interim financial statements the pro forma effect on net income (loss) and net income (loss) per common share of the estimated fair market value of stock options or warrants issued to employees. The Company has chosen to continue to account for stock-based compensation issued to employees utilizing the intrinsic value method prescribed in Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees", with pro forma disclosures of net income (loss) as if the fair value method had been applied. Accordingly, compensation cost for stock options is measured as the excess, if any, of the fair market price of the Company's stock at the date of grant over the amount an employee must pay to acquire the stock.

For the years ended December 31, 2004 and 2003 and the three months ended March 31, 2005 and 2004 (Unaudited) no stock options were granted. Therefore, pro forma disclosure of the fair value method is not applicable and is not presented.

L) Revenue Recognition

Revenue is recognized on the sale of product when the product is shipped, which is when the risk of loss transfers to our customers, and collection of the receivable is reasonably assured. Product is not shipped without an order from the customer and credit acceptance procedures being performed. The allowance for returns is regularly reviewed and adjusted by management based on historical trends of returned items. Amounts paid by customers for shipping and handling costs are included in sales.

M) Net Loss Per Share

Loss per share calculations are made in accordance with SFAS No. 128, "Earnings Per Share." Basic loss per share is calculated by dividing net loss by weighted average number of common shares outstanding for the year. Diluted loss per share is computed by dividing net loss by the weighted average number of common shares outstanding plus the dilutive effect of outstanding common stock warrants and convertible debentures.

For the years ended December 31, 2004 and 2003 and the three months ended March 31, 2005 and 2004 (Unaudited) the calculations of basic and diluted loss per share are the same because potential dilutive securities would have an anti-dilutive effect.

The potentially dilutive securities consisted of the following as of December 31, 2004 and March 31, 2005 (Unaudited)

Warrants	848,876
Convertible notes	126,485
Preferred Stock	235,760
Options	72,500
Total	1,283,621

REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

N) Advertising Costs

The Company accounts for advertising production costs by expensing such production costs the first time the related advertising is run.

Advertising costs are expensed as incurred and are included in selling expense in the amount of \$42,828 and \$29,234 for the years ended December 31, 2004 and 2003, respectively and \$14,533 (Unaudited) and \$8,914 (Unaudited) for the three months ended March 31, 2005 and March 31, 2004.

The Company accounts for certain sales incentives, including slotting fees, as a reduction of gross sales, in accordance with Emerging Issues Task Force on Issue 01-9 "Accounting for Consideration Given by a Vendor to a Customer or Reseller of the Vendor's Products." These sales incentives for the years ended December 31, 2004 and 2003 approximated \$400,000 and \$240,000, respectively, and approximately \$92,000, and approximately \$68,000 for the three months ended March 31, 2005 and 2004 (Unaudited) respectively.

O) Reporting Segment of the Company

Statement of Financial Accounting Standards No. 131, "Disclosures about Segments of an Enterprise and Related Information" (SFAS No. 131) requires certain disclosures of operating segments, as defined in SFAS No. 131. Management has determined that the Company has only one operating segment and therefore is not required to disclose operating segment information. The Company does not account for the net sales of its various products separately, and the disclosure required by SFAS No. 131 of product revenue is not presented because it would be impracticable to do so.

P) Comprehensive Income

A statement of comprehensive income is not presented in our financial statements since we did not have any of the items of other comprehensive income in any period presented.

Q) Recent Accounting Pronouncements

In November 2004, the FASB issued SFAS No. 151, "Inventory Costs, an amendment of ARB No. 43, Chapter 4." The amendments made by Statement 151 clarify that abnormal amounts of idle facility expense, freight, handling costs, and wasted materials (spoilage) should be recognized as current period charges and require the allocation of fixed production overheads to inventory based on the normal capacity of the production facilities. The guidance is effective for inventory costs incurred during fiscal years beginning after June 15, 2005. Earlier application is permitted for inventory costs incurred during fiscal years beginning after November 23, 2004. The Company has evaluated the impact of the adoption of SFAS 151, and does not believe the impact will be significant to the Company's overall results of operations or financial position.

In December 2004, the FASB issued SFAS No. 153, "Exchanges of Nonmonetary Assets, an amendment of APB Opinion No. 29, Accounting for Nonmonetary Transactions." The amendments made by Statement 153 are based on the principle that exchanges of nonmonetary assets should be measured based on the fair value of the assets exchanged. Further, the amendments eliminate the narrow exception for nonmonetary exchanges of similar productive assets and replace it with a broader exception for exchanges of nonmonetary assets that do not have commercial substance. Previously, Opinion 29 required that the accounting for an exchange of a productive asset for a similar productive asset or an equivalent interest in the same or similar productive asset should be based on the recorded

amount of the asset relinquished. Opinion 29 provided an exception to its basic measurement principle (fair value) for exchanges of similar productive assets. The Board believes that exception required that some nonmonetary exchanges, although commercially substantive, be recorded on a carryover basis. By focusing the exception on exchanges that lack commercial substance, the Board believes this Statement produces financial reporting that more faithfully represents the economics of the transactions. The Statement is effective for nonmonetary asset exchanges occurring in fiscal periods beginning after June 15, 2005. Earlier application is permitted for nonmonetary asset exchanges occurring in fiscal periods beginning after the date of issuance. The provisions of this Statement shall be applied prospectively. The Company has evaluated the impact of the adoption of SFAS 152, and does not believe the impact will be significant to the Company's overall results of operations or financial position.

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REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

In December 2004, the FASB issued SFAS No.123 (revised 2004), "Share-Based Payment." Statement 123(R) will provide investors and other users of financial statements with more complete and neutral financial information by requiring that the compensation cost relating to share-based payment transactions be recognized in financial statements. That cost will be measured based on the fair value of the equity or liability instruments issued. Statement 123(R) covers a wide range of share-based compensation arrangements including share options, restricted share plans, performance-based awards, share appreciation rights, and employee share purchase plans. Statement 123(R) replaces FASB Statement No. 123, Accounting for Stock-Based Compensation, and supersedes APB Opinion No. 25, Accounting for Stock Issued to Employees. Statement 123, as originally issued in 1995, established as preferable a fair-value-based method of accounting for share-based payment transactions with employees. However, that Statement permitted entities the option of continuing to apply the guidance in Opinion 25, as long as the footnotes to financial statements disclosed what net income would have been had the preferable fair-value-based method been used. Public entities (other than those filing as small business issuers) will be required to apply Statement 123(R) as of the first interim or annual reporting period that begins after June 15, 2005 and small business issuers will be required to adopt for reporting periods beginning after December 15, 2005. The Company has evaluated the impact of the adoption of SFAS 123(R), and does not believe the impact will be significant to the Company's overall results of operations or financial position.

The Company does not believe that the adoption of the above recent pronouncements will have a material effect on the Company's consolidated financial position or results of operations.

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REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

(2) Inventory

Inventory is valued at the lower of cost (first-in, first-out) or market, and is comprised of the following as of December 31, 2004 and March 31, 2005:

	March 31, 2005 (Unaudited)	December 31, 2004
Raw Materials	\$ 578,382	\$ 655,693
Finished Goods	716,059	645,332
	\$ 1,294,441	\$ 1,301,025

(3) Fixed Assets

Fixed assets are comprised of the following as of December 31, 2004 and March 31, 2005 (Unaudited):

	March 31, 2005 (Unaudited)	December 31, 2004
Land	\$ 409,546	\$ 409,546
Building	906,038	906,038
Vehicles	183,588	184,983
Machinery and equipment	637,915	612,332
Office equipment	98,937	98,937
	2,236,024	2,211,836
Accumulated depreciation	(411,606)	(390,363)
	\$ 1,824,418	\$ 1,821,473

Depreciation expense for the years ended December 31, 2004 and 2003 was \$96,585 and \$92,051, respectively, and \$ 21,243 (Unaudited) and \$12,324 (Unaudited) for the three months ended March 31, 2005 and 2004, respectively.

During 2004, the Company constructed certain machinery and equipment and capitalized \$7,208 of interest costs. For the three months ended March 31, 2005 no interest was capitalized (Unaudited).

(4) Intangible Assets***Brand Names***

Brand Names consist of two (2) trademarks for natural beverages which the Company acquired in previous years. As long as the Company continues to renew its trademarks, these intangible assets will have an indefinite life.

Accordingly, they are not subject to amortization. The Company determines fair value for Brand Names by reviewing the net sales of the associated beverage and applying industry multiples for which similar beverages are sold. As of December 31, 2004 and March 31, 2005 (Unaudited), the carrying amounts for Brand Names were \$800,201.

REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

Other Intangible Assets

Other Intangible Assets consist of:

December 31, 2004

Asset	Gross Amount	Accumulated Amortization	Current Year Amortization	Useful Life
Building Loan Fees	\$18,613	\$2,978	\$745	300 months

March 31, 2005 (Unaudited)

Asset	Gross Amount	Accumulated Amortization	Current Year Amortization	Useful Life
Building Loan Fees	\$18,613	\$3,164	\$186	300 months

The estimated aggregate amortization as of December 31, 2004 for each of the next five years is:

Year	Amount
2004	\$ 745
2005	745
2006	745
2007	745
2008	745

(5) Lines of Credit

The Company had outstanding borrowings of \$1,128,222 and \$ 1,128,028 as of December 31, 2004 and March 31, 2005 (Unaudited), respectively under the following line of credit agreements:

The Company has an unsecured \$50,000 line of credit with a bank. Interest is payable monthly at the prime rate, as published in the Wall Street Journal, plus 1.5% per annum. The Company's outstanding balance was \$30,901 at December 31, 2004 and \$29,908 at March 31, 2005 (Unaudited). The interest rate in effect at December 31, 2004 was 6.75%. The line expires in December 2009.

The Company has an unsecured \$50,000 line of credit with a bank, guaranteed by the Small Business Administration (SBA) and the Company's President. Interest is payable monthly at a rate of 7.5% per annum. The line of credit expires December 2005. Upon expiration, the loan converts to a term loan providing for principal and interest payments sufficient to amortize the loan by December 2009. The Company's outstanding balance was \$50,000 at December 31, 2004 and March 31, 2005, (Unaudited), respectively.

The Company has a line of credit in the amount of \$287,934 at December 31, 2004 and \$ 292,525 at March 31, 2005 with Merrill Lynch. The loan was co-signed by Robert T. Reed, Jr., the Company's Vice President and National Sales Manager — Mainstream and a brother of the Company's founder and CEO, Christopher J. Reed. Robert Reed also pledged his personal stock account on deposit with Merrill Lynch as collateral. The line of credit bears interest at a

rate of rate of 3.785% per annum plus LIBOR (6.30% as of December 31, 2004). In consideration for Mr. Reed's pledging his stock account at Merrill Lynch as collateral, the Company pays Mr. Reed 5% per annum of the amount the Company borrows from Merrill Lynch as a loan fee.

The Company has a line of credit with a finance company. This line of credit allowed for a maximum borrowing base of \$1,100,000 as of December 31, 2004 and was to expire on June 25, 2005. The amount available for borrowing from time to time under the revolving line of credit is dependent upon the levels of certain eligible accounts receivable and inventory. As of December 31, 2004, the Company had an outstanding balance of \$759,387 under the line of credit based on eligible accounts receivable and inventory at that time. At March 31, 2005 the amount outstanding was \$ 755,595. The eligible accounts receivable were approximately \$744,553 at December 31, 2004 and \$556,000 at March 31, 2005 (Unaudited). Borrowings on inventory are capped at \$250,000. Borrowings under the credit facility bear interest at the prime rate plus 9% and 10% per annum (14.25% for the accounts receivable line and 15.25% for the inventory line as of December 31, 2004). This revolving line of credit is secured by all Company assets, including accounts receivable, inventory, trademarks and other intellectual property, and equipment. The credit facility does not impose any financial covenants. Subsequent to March 31, 2005, the Company entered into a new credit facility with a new lender and settled this facility. (See Note 15.)

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REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

(6) Notes Payable to Related Parties

The Company has three unsecured loans payable to Robert T. Reed, Sr., the father of the Company's founder Christopher J. Reed, in an amount of \$252,358 as of December 31, 2004 and March 31, 2005 (Unaudited).

The first loan bears interest at 10% per annum and matures in October 2006. The outstanding principal balance of the loan as of December 31, 2004 and March 31, 2005 (Unaudited) was \$24,648.

The second loan bears interest at 8% per annum and matures in October 2006. The outstanding principal balance of this loan as of December 31, 2004 and March 31, 2005 (Unaudited) was \$177,710. As long as the debt is outstanding Mr. Reed has the right to convert this loan and interest into shares of our common stock at a rate of one share of common stock for every \$2.00 owed to Mr. Reed, including accrued interest. As of December 31, 2004, the loan was convertible into 118,205 shares of common stock. As of March 31, 2005 the loan was convertible into 119,957 (Unaudited) shares of common stock.

The third loan bears interest at 8% per annum and matures in October 2006. The outstanding principal balance of this loan as of December 31, 2004 and March 31, 2005 (Unaudited) was \$50,000.

In addition, the Company has a note payable to Judy Reed, the wife of the Company's founder. The note is unsecured, non-interest bearing and due on demand. The amount of this loan as of December 31, 2004 was \$21,000. It was paid-in-full as of March 31, 2005 (Unaudited)

(7) Long-term Debt

Long-term debt consists of the following as of December 31, 2004 and March 31, 2005 (Unaudited)

	December 31, 2004	March 31, 2005 (Unaudited)
Note payable to SBA in the original amount of \$748,000 with interest at the Wall Street Journal prime rate plus 1% per annum, adjusted monthly with no cap or floor. The combined monthly principal and interest payments are \$4,910, subject to annual adjustments. The interest rate in effect at December 31, 2004 was 6%. The note is secured by land and building and guaranteed by the majority stockholder. The note matures November 2025.	\$ 688,514	684,250
Notes payable to various non-related parties, unsecured, with interest at 10% per annum. Principal and accrued interest are payable in full at the end of the note term. These notes were issued with warrants, exercisable at issuance. The warrants have an exercise price of \$3 and a term of 5 years. Principal and any unpaid interest are due in June 2006. (A)	80,000	80,000
The Company obtained a building improvement loan with a maximum draw of \$168,000. The interest rate is at the Wall Street Journal prime rate plus 1%, adjusted monthly with no cap or floor. The combined monthly principal and interest payments are \$1,016; subject to annual adjustments. The rate in effect at December 31, 2004 was 6% per annum. The note is secured by land and building and guaranteed by the majority stockholder and matures November 2025.	145,233	144,354

REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

Notes payable to a non-related individual, due on demand, unsecured, with interest at 10% per annum. The note is convertible to common stock at 60% of the initial public offering price or 100% of a private offering price.

9,000 9,000

Notes payable to GMAC, secured by automobiles, payable in monthly installments of \$758 including interest at 0.0%, with maturity in 2008.

27,301 25,027

Notes payable to Chrysler Financial Corp., secured by automobiles, payable in monthly installments of \$658, including interest at 1.9% per annum, with maturity in 2008.

28,573 26,730

Installment loan secured by certain plant equipment. Payable in monthly installments of \$4,000 plus interest. This loan bears interest at prime plus 10% per annum, (15.25% at December 31, 2004) and matures in November 2007

142,000 130,000

Installment loan secured by certain plant equipment. Payable in monthly installment of \$1,138 plus interest. This loan bears interest at prime plus 12% per annum, (17.25% at December 31, 2004) and matures in January 2007

27,248 24,972

Total 1,147,869 1,124,333

Less current portion 106,113 106,469

\$ 1,041,756 \$ 1,017,864

(A) During 2000 and 2001, the company issued 420,000 warrants in connection with the issuance of \$420,000 of debt. The Company used the Black-Scholes valuation technique and determined that \$247,800 should be allocated to the value of the warrants as of the date of issuance. The Company amortized the discount over the initial expected life of the debt resulting in amortization of \$24,780 for the year ended December 31, 2003. The amount of the discount allocated to the warrants has been fully amortized as of December 31, 2003.

The aggregate maturities of long-term debt for each of the next five years and thereafter are as follows as of December 31, 2004:

December 31,	Amount
2005	\$ 106,113
2006	177,000
2007	81,100
2008	26,000
2009	19,000
Thereafter	738,656
Total	\$ 1,147,869

(8) Stockholders' Equity

Common stock consists of \$.0001 par value, 11,500,000 shares authorized, 4,726,091 issued and outstanding as of December 31, 2004 and March 31, 2005 (Unaudited).

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Preferred stock consists of 500,000 shares authorized to Series A, \$10.00 par value, 5% non-cumulative, participating, preferred stock. As of December 31, 2004 and March 31, 2005 (Unaudited), there were 58,940 shares outstanding.

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REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

These preferred shares have a 5% pro-rata annual non-cumulative dividend. The dividend can be paid in cash or, in the sole and absolute discretion of our board of directors, in shares of common stock based on its then fair market value. We cannot declare or pay any dividend on shares of our securities ranking junior to the preferred stock until the holders of our preferred stock have received the full non-cumulative dividend to which they are entitled. In addition, the holders of our preferred stock are entitled to receive pro rata distributions of dividends on an "as converted" basis with the holders of our common stock.

In the event of any liquidation, dissolution or winding up of the Company, or if there is a change of control event, then, subject to the rights of the holders of our more senior securities, if any, the holders of our Series A preferred stock are entitled to receive, prior to the holders of any of our junior securities, \$10.00 per share plus all accrued and unpaid dividends. Thereafter, all remaining assets shall be distributed pro rata among all of our security holders.

At any time after June 30, 2007, we have the right, but not the obligation, to redeem all or any portion of the Series A preferred stock by paying the holders thereof the sum of the original purchase price per share, which was \$10.00, plus all accrued and unpaid dividends.

The Series A preferred stock may be converted, at the option of the holder, at any time after issuance and prior to the date such stock is redeemed, into four shares of common stock, subject to adjustment in the event of stock splits, reverse stock splits, stock dividends, recapitalization, reclassification and similar transactions. We are obligated to reserve out of our authorized but unissued shares of common stock a sufficient number of such shares to effect the conversion of all outstanding shares of Series A preferred stock.

Except as provided by law, the holders of our Series A preferred stock do not have the right to vote on any matters, including, without limitation, the election of directors. However, so long as any shares of Series A preferred stock are outstanding, we shall not, without first obtaining the approval of at least a majority of the holders of the Series A preferred stock

- amend our Certificate of Incorporation or bylaws in any manner which adversely affects the rights of the Series A preferred stock; or
- authorize or issue any equity security having a preference over the Series A preferred stock with respect to dividends, liquidation, redemption or voting, including any other security convertible into or exercisable for any equity security other than any senior preferred stock.

During 2004, the Company sold its preferred stock in a private placement. 33,440 shares were issued in connection with this offering and \$334,400 of proceeds were received. The Company recorded a beneficial conversion feature (BCF) in accordance with Emerging Issues Task Force (EITF) 98-5. The BCF arises from the conversion price of the preferred stock being less than the fair market value of the common stock at the commitment date of the offering. The fair market value of the stock has been determined to be \$4.00 per share, based on the initial public offering price which is expected to be \$4.00. The excess of the fair market price of the underlying common stock over the conversion price is \$1.50. Since the conversion feature of this offering allows for the conversion of preferred stock into 4 shares of common stock for each share of preferred stock, 133,760 shares of common stock could be issued if fully converted. Accordingly, the BCF recorded was \$200,640.

In addition, during 2004, the Company negotiated with certain of its debt holders to convert debt and accrued interest to preferred stock. 25,500 shares were issued in connection with this conversion and \$224,000 of debt principle and \$31,002 of accrued interest were converted in exchange for the 25,500 shares of Series A Convertible Preferred

Stock. Upon conversion the excess of the fair market price of the underlying common stock over the conversion price of \$1.50 per share as described above, resulted in a loss on extinguishment of debt of \$153,000; (see Note 14.) In connection with this transaction, the Company recorded a BCF of \$153,000, since the conversion of all of the preferred stock associated with this transaction could be converted into 102,000 shares of common stock at \$1.50 per share based on the excess of the fair market price of the conversion price as described above.

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REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

(9) Stock Options and Warrants**A) Stock Options**

The Company has granted certain employees and other individuals stock options to purchase the Company's common stock under employment agreements. The options generally vest immediately or when services are performed and have a maximum term of five (5) years.

In 2001, the Company adopted the Original Beverage Corporation 2001 Stock Option Plan. The options shall be granted from time to time by the Compensation Committee. Individuals eligible to receive options include employees of the Company, consultants to the Company and directors of the Company. The options shall have a fixed price, which will not be less than 100% of the fair market value per share on the grant date. Options granted to employees are accounted for according to APB 25. The following table summarizes the stock option activity for the year ended December 31, 2004 and 2003:

	Options	Weighted Average Exercise Price
Balance January 1, 2003	72,500	\$ 3.21
Options granted in 2003	—	N/A
Options exercised in 2003	—	N/A
Balance December 31, 2003	72,500	\$ 3.21
Options granted in 2004	—	N/A
Options exercised in 2004	—	
Exercisable	72,500	\$ 3.21

Exercise Price Range	Weighted Average Remaining Number	Weighted Average Remaining Contractual Life	Weighted Average Exercise Price
\$2.00	37,500	53 months	\$2.00
\$3.00	17,500	53 months	\$3.00
\$6.00	17,500	53 months	\$6.00
Total options	72,500	53 months	\$3.21

All options are vested and exercisable as of December 31, 2004.

B) Warrants

A summary of the warrants outstanding and exercisable at December 31, 2004 is as follows:

Exercise Price Range	Weighted Average Remaining Number	Weighted Average Remaining Contractual Life	Weighted Average Exercise Price
\$0.02	262,500	6 months	\$0.02

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\$2.00	119,876	84 months	\$2.00
\$3.00	466,500	110 months	\$3.00
Total warrants	848,876		

The warrants expire at various dates between 2005 and 2009. In June 2005 (Unaudited), 262,500 of warrants were converted to 262,500 shares of common stock. In lieu of receiving cash, the Company reduced the amount of accrued interest it owed on debt payable to Robert T Reed, Sr. The amount of the exercise price and the corresponding reduction in accrued interest was \$5,250. (See Note 15.)

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REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

(10) Income Taxes

At December 31, 2004, the Company had available Federal and state net operating loss carryforwards to reduce future taxable income. The amounts available were approximately \$1,986,000 for Federal purposes and \$1,040,000 for state purposes. The Federal carryforward expires in 2024 and the state carryforward expires in 2009. Given the Company's history of net operating losses, management has determined that it is more likely than not the Company will not be able to realize the tax benefit of the carryforwards.

Accordingly, the Company has not recognized a deferred tax asset for this benefit. Upon the attainment of taxable income by the Company, management will assess the likelihood of realizing the tax benefit associated with the use of the carryforwards will recognize a deferred tax asset at that time.

Significant components of the Company's deferred income tax assets are as follows:

	Three Months Ended March 31, 2005	Year Ended 31-Dec-04
Deferred income tax asset:		
Net operating loss carry forward	\$ 736,174	\$ 736,174
Valuation allowance	(736,174)	(736,174)
Net deferred income tax asset	\$ —	\$ —

Reconciliation of the effective income tax rate to the U.S. statutory rate is as follows:

	Three Months Ended March 31,		Year Ended December 31,	
	2005	2004	2004	2003
Tax expense at the U.S. statutory income tax	(34.00)%	(34.00)%	(34.00)%	(34.00)%
Increase in the valuation allowance	34.00%	34.00%	34.00%	34.00%
Effective tax rate	—	—	—	—

The amounts of deferred income tax assets, the statutory rate and the effective income tax rate as of March 31, 2005 (Unaudited) were unchanged from December 31, 2004.

(11) Commitments and Contingencies***Lease Commitments***

The Company leases machinery under non-cancelable operating leases. Rental expense for the years ended December 31, 2004 and 2003 were \$55,157 and \$21,784, respectively. Rental expense for the three months ended March 31, 2005 and 2004 were, \$17,093 (Unaudited) and \$9,871(Unaudited), respectively.

Future payments under these leases as of December 31, 2004 are as follows:

Year Ending December 31,		
2005	\$	65,249
2006		57,349
2007		19,883
2008		9,819
2009		3,631
Total	\$	155,931

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REED'S, INC.
NOTES TO FINANCIAL STATEMENTS — (Continued)

(12) Legal Proceedings

The Company currently and from time to time is involved in litigation incidental to the conduct of its business. The Company is not currently a party to any lawsuit or proceeding which, in the opinion of its management, is likely to have a material adverse effect on it.

During 2004 the Company incurred \$80,156 of legal costs associated with a lawsuit which the Company has won. The Plaintiff has appealed. The judgment in favor of the Company is to have the Plaintiff reimburse the Company for its legal defense costs. If the Company is successful in the appeals process, it will record income from the judgment if it collects the monies. No such legal costs were incurred in 2003 of the three months ended March 31, 2005 and 2004 (Unaudited).

(13) Related Party Activity

The Company has notes payable to related parties. See Note 6.

Under an agreement that the Company expects will be entered into between Peter Sharma III, a director of the Company and a registered securities broker, and Brookstreet, Mr. Sharma will receive commissions from the proceeds of this offering as per the terms of his agreement with Brookstreet. In addition, Mr. Sharma will receive 50% of the warrants to be issued by the Company to Brookstreet and Brookstreet will pay the exercise price of these warrants for Mr. Sharma.

As of December 31, 2004, the Company advanced \$91,197 to Mr. Sharma which is included in Due from Director on the accompanying balance sheet. The amount advanced as of March 31, 2005 (Unaudited) was \$104,010. The advance is part of a line of credit agreement between the Company and Mr. Sharma. The repayment of the advances are to start July 1, 2005 at a minimum of \$1,000 per month, with the remaining balance due on December 31, 2007. The maximum amount of advances under this agreement is \$200,000. The agreement is non-interest bearing. In June 2005 (Unaudited), Robert T. Reed, Sr. converted 262,500 of warrants to 262,500 shares of common stock. In lieu of receiving cash, the Company reduced the amount of accrued interest it owed on debt payable to Robert T Reed, Sr. The amount of the exercise price and the corresponding reduction in accrued interest was \$5,250.

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(14) Restatement

The Company determined that Packaging Designs Costs previously deferred should not be capitalized. Accordingly, the Company no longer capitalizes these costs and the Company has written off these costs and reversed the amortization associated with these costs, as a correction of an error in the years in which they were initially incurred. For periods prior to 2003, a net adjustment of \$55,211 has been recorded against the accumulated deficit. This restatement did not change the loss per share amount in 2003 or 2004.

The Company has also restated its accounting for the recognition of the beneficial conversion feature discussed in Note 8 that was previously reflected as a charge against paid in capital. This restatement resulted in a charge of \$153,000 to the statement of operations for the year ending December 31, 2004 relating to the recognition of a loss on extinguishment of debt. The accumulated deficit as of December 31, 2004 did not change as a result of this restatement.

The effect of these restatements in 2004 and 2003 is as follows:

Net loss		2004		2003
As previously stated	\$	(326,371)	\$	(774,367)
Recognition of loss on extinguishment of debt		(153,000)		--
Net change from restatement of accounting for packaging design costs		--		2,370
As adjusted	\$	(479,371)	\$	(771,997)
Loss per share				2004
As previously reported			\$	(0.07)
Recognition of loss on extinguishment of debt				(0.03)
As adjusted				(0.10)
Accumulated deficit		2004	2003	2002
As previously stated	\$	(2,403,628)	\$ (1,725,997)	\$ (896,419)
Net change to beginning balance		--	--	(55,211)
Net change during 2003		--	2,370	--
As adjusted	\$	(2,403,628)	\$ (1,723,627)	\$ (951,630)

(15) Subsequent events (Unaudited)

In June 2005, Robert T. Reed, Sr. converted 262,500 of warrants to 262,500 shares of common stock. In lieu of receiving cash, the Company reduced the amount of accrued interest it owed on debt payable to Robert T Reed, Sr. The amount of the exercise price and the corresponding reduction in accrued interest was \$5,250.

On June 25, 2005, we changed our lending facility to a new lender. As a result we have increased our revolving line of credit availability from \$1,100,00 to \$1,910,000. In addition, certain other long term debt financing with our previous lender has been refinanced with the new lender. We were successful in securing these credit facilities at an interest rate of Prime plus 2.75% as opposed to interest rates with our previous lender which ranged from Prime plus 9% to Prime plus 12%. All of our assets, including real estate, accounts receivable, inventory, trademarks and other intellectual property and equipment, secure the new revolving line of credit.

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PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 24. *Indemnification of Directors and Officers*

Section 145 of the Delaware General Corporation Law (the “DGCL”), as the same exists or may hereafter be amended, provides that a Delaware corporation may indemnify any persons who were, or are threatened to be made, parties to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person is or was an officer, director, employee or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation’s best interests and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was illegal. A Delaware corporation may indemnify any persons who are, were or are threatened to be made, a party to any threatened, pending or completed action or suit by or in the right of the corporation by reason of the fact that such person was a director, officer, employee or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys’ fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, provided such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation’s best interests, provided that no indemnification is permitted without judicial approval if the officer, director, employee or agent is adjudged to be liable to the corporation. Where an officer, director, employee, or agent is successful on the merits or otherwise in the defense of any action referred to above, the corporation must indemnify him or her against the expenses which such officer or director has actually and reasonably incurred.

Section 145 of the DGCL further authorizes a corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or enterprise, against any liability asserted against him or her and incurred by him or her in any such capacity, arising out of his or her status as such, whether or not the corporation would otherwise have the power to indemnify him or her under Section 145 of the DGCL.

The Company’s amended certificate of incorporation provides that, to the fullest extent permitted by Delaware law, as it may be amended from time to time, none of the Company’s directors will be personally liable to the Company or the Company’s stockholders for monetary damages resulting from a breach of fiduciary duty as a director.

The Company’s amended certificate of incorporation also provides discretionary indemnification for the benefit of the Company’s directors, officers, and employees, to the fullest extent permitted by Delaware law, as it may be amended from time to time. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to the Company’s directors or officers, or persons controlling us, pursuant to the foregoing provisions, the Company has been informed that in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Pursuant to the Company’s bylaws, the Company is required to indemnify its directors, officers, employees and agents, and the Company has the discretion to advance his or her related expenses, to the fullest extent permitted by law.

The Company does not currently provide liability insurance coverage for its directors and officers.

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Item 25. Other Expenses of Issuance and Distribution

The following is a schedule of the estimated expenses (all of which will be borne by the Company) incurred in connection with the offering of the securities registered hereby, other than underwriter commissions. Advertising expenses we incur in connection with our own selling efforts will vary depending on the success of the offering.

Description	Amount if 200,000 Shares are Sold	Amount if 1,000,000 Shares are Sold	Amount if 2,000,000 Shares are Sold
SEC registration fee	\$ 1,115	\$ 1,115	\$ 1,115
Printing and Engraving Fees	10,000*	10,000*	10,000 *
Postage (mailing share certificates)	500*	500*	500 *
Legal Fees	76,000*	76,000*	76,000 *
Accounting Fees	114,000*	114,000 *	114,000 *
Blue Sky Fees and Expenses	16,000*	16,000 *	16,000 *
Underwriter Expenses	25,000*	25,000 *	25,000 *
Advertising Expenses	25,000*	50,000 *	100,000 *
Miscellaneous Expenses	3,400*	3,400 *	3,400 *
TOTAL	\$ 271,015	\$ 296,015	\$ 346,015

*estimated expenses

Item 26. Recent Sales of Unregistered Securities

There have been no sales of unregistered securities within the last three years, except as set forth below.

In January 2001, the Company issued 14,500 shares of common stock as a year-end bonus to its employees. The Company recognized \$29,000 of compensation expense. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In January 2001, the Company issued 3,200 shares of common stock in exchange for services provided by two vendors. The Company estimates that the value of the services provided in exchange for the shares was approximately \$2.00 per share, so it has recognized \$6,400 of expense. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In February 2001 Robert T. Reed Jr. exercised warrants for 20,000 shares of the common stock at \$1.00 per share. The warrants had been issued in 1992. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In May 2001, the Company sold 500 shares of common stock at \$3.00 per share to an existing stockholder who is not an affiliate of the Company. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In June 2001, the Company issued options to purchase 17,500 shares of common stock to a manager of the Company. The exercise price of the options is \$3.00 per share, and the options expire in June 2009. No compensation cost was recognized because the strike price equaled the fair value of the stock at the date of issuance. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In June 2001, the Company issued warrants to purchase 30,000 shares of common stock to a consultant of the Company in partial consideration for services rendered to the Company. The exercise price of the options is \$3.00 per share, and the options expire in June 2009. The fair value of this warrant grant is estimated on the date of grant using the Black-Scholes options pricing model with the following assumptions used: no expected dividends, 49% volatility, and risk-free interest of 4.81% and expected life of five years. The value was calculated to be \$1.46 per warrant for a total value of \$43,807. The total value has been included in deferred stock offering costs to be offset against the future sale of common stock. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

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In May, June, and July 2001, the Company raised \$420,000 from the issuance of notes to fifteen persons who were existing stockholders or otherwise familiar with the Company. These notes bear interest at 8% per annum. The original maturity date of the notes was in February 2003 and the note holders extended the maturity date until October 2004. The investors also received warrants to purchase an aggregate of 420,000 shares of common stock at an exercise price of \$3.00 per share. The warrants expire in 2010. The investors were:

William Robertson	\$ 159,000
Lucinda Robertson	30,000
David Robinov	50,000
Martin Shepard	20,000
Kapur Payson	30,000
Mark Johnson	30,000
Dan Keays	30,000
Bill Milligan	25,000
Shane Milligan	20,000
Brant Milligan	5,000
Billy Milligan	5,000
Shalee Milligan	5,000
Shannon Milligan	5,000
William Holiman	1,000
Jason Robertson	5,000

A portion of the loan proceeds has been allocated to the value of the underlying warrants, which was calculated to be \$247,800. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In July 2001, Mark Reed converted \$10,000 worth of convertible debt issued in 1991 and accrued interest into 8,889 shares of common stock, or a conversion rate of \$1.125 per share. The Company believes that the conversion was exempt from registration under the Securities Act by reason of Section 3(a)(9), since the issuance was an exchange with existing security holders exclusively and no commission or other remuneration was paid or given directly or indirectly for soliciting such exchange. In addition, the Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In July 2001, the Company issued warrants to purchase 1,500 shares of common stock to a consultant of the Company in partial consideration for services rendered to the Company. The exercise price of the options is \$3.00 per share, and the options expire in July 2009. The fair value of this warrant grant is estimated on the date of grant using the Black-Scholes options pricing model with the following assumptions used: no expected dividends, 49% volatility, and risk-free interest of 4.76% and expected life of five years. The value was calculated to be \$1.46 per warrant for a total value of \$2,187. The total value has been included in deferred stock offering costs to be offset against the future sale of common stock. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In August 2001, \$15,000 was raised in a private sale of a total of 3,750 shares of common stock at \$4.00 per share to two existing stockholders of the Company who are not affiliates of the Company. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In October 2001, B.J. Green converted \$17,815 worth of convertible debt and interest into 11,877 shares of common stock, or a conversion rate of \$1.50 per share. The convertible debt had been issued in 1991. The Company believes that the conversion was exempt from registration under the Securities Act by reason of Section 3(a)(9), since

the issuance was an exchange with existing security holders exclusively and no commission or other remuneration was paid or given directly or indirectly for soliciting such exchange. In addition, the Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In July 2002, the Company issued options to purchase 17,500 shares of common stock to a manager of the Company, in accordance with the terms of the manager's employment agreement. The exercise price of the options is \$6.00 per share and the options expire in July 2007. No compensation cost was recognized because the strike price equaled the fair value of the stock at the date of issuance. The Company believes that the offering was exempt from registration under the Securities Act by reason of Rule 701 thereunder as a sale of securities pursuant to a written compensation contract with an employee of the issuer, and/or Section 4(2) of the Securities Act as a non-public sale of securities.

In January 2003, the Company issued 1,500 shares of common stock as a year-end bonus to its employees. The Company recognized \$4,500 of compensation expense. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

In July 2003, the Company sold 3,000 shares of common stock at \$3.50 per share to an existing stockholder who is not an affiliate of the Company. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof as a non-public sale of securities.

Beginning in the second quarter of 2004, the Company conducted a private offering and raised \$334,400 from the sale of 33,440 shares of Series A convertible preferred stock at a price of \$10.00 per share. This offering was completed in October 2004, after the Company filed the Certificate of Designations creating the Series A convertible preferred stock with the Secretary of State of Delaware. The sales were made to existing stockholders and other persons who were familiar with the Company. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof or Regulation D promulgated thereunder, as a non-public sale of securities.

Also at this time, a number of holders of our debt indicated their willingness to convert a total of \$255,002 of debt into 25,500 shares of Series A convertible preferred stock at a price of \$10.00 per share. This offering was completed in October 2004, after the Company filed the Certificate of Designations creating the Series A convertible preferred stock with the Secretary of State of Delaware. The Company believes that the offering was exempt from registration under the Securities Act by reason of Section 4(2) thereof or Regulation D promulgated thereunder, as a non-public sale of securities.

On May 31, 2005, Robert T. Reed Sr., the CEO's father converted options for 262,500 shares of common stock. The option price was for \$0.02 per share. Mr. Reed has held these options since 1991. The common stock are subject to a lock-in agreement for two years. See –Certain Relationships and Related Transactions section of this document for more information.

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Item 27. Exhibits

Copies of the following documents are filed with this registration statement as exhibits:

- 1.2 Underwriting Agreement
- 1.3 Specimen Subscription Agreement
- 3.1 Certificate of Incorporation
- 3.2 Amendment to Certificate of Incorporation
- 3.3 Certificate of Designations
- 3.4 Certificate of Correction to Certificate of Designations
- 3.5 Bylaws, as amended
- 4.1 Form of common stock certificate
- 4.2 Form of Series A preferred stock certificate
- 4.3 2001 Employee Stock Option Plan
- 4.4 Convertible promissory notes issued to investors
- 4.5 Amendment to Promissory Note
- 5.1 Legal opinion of Horwitz and Cron
- 10.1 Purchase Agreement for Virgil's Root Beer
- 10.2 Brewing Agreement dated as of May 15, 2001 between the Company and The Lion Brewery, Inc.
- 10.3 Loan Agreement with U.S. Bank National Association for purchase of the Brewery
- 10.4 Loan Agreement with U.S. Bank National Association for improvements at the Brewery
- 10.5 Loan Agreement with Bay Business Credit
- 10.6 Credit Agreement with Merrill Lynch
- 10.7 Form of Promotional Share Lock-In Agreement
 - 10.7(a) Promotional Share Lock-In Agreement For Christopher J. Reed
 - 10.7(b) Promotional Share Lock-In Agreement For Robert T. Reed, Jr.
 - 10.7(c) Promotional Share Lock-In Agreement For Robert T. Reed, Sr.
 - 10.7(d) Promotional Share Lock-In Agreement For Peter Sharma III
 - 10.7(e) Promotional Share Lock-In Agreement For Joseph Grace
 - 10.7(f) Promotional Share Lock-In Agreement for Judie Holloway Reed
 - 10.7(g) Promotional Share Lock-In Agreement for Eric Scheffer
- 10.8 Loan Agreement dated September 28, 2004 with Bay Business Credit
- 10.9 Sirius/Pureprophet, Ltd. Vendor's Credit Line Agreement with Original Beverage Corp.
- 10.10 Terms Of Amortization for Peter Sharma III for Sirius/Pureprophet, Ltd. Vendor's Credit Line Agreement with Original Beverage Corp.
- 10.11 Co-Sign Agreement
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- 10.16 Loan Agreement with Robert T. Reed
- 10.17 Amendment to Loan Agreement with Bay Business Credit
- 10.18 Suspension of Loan Payment Agreement with Robert T. Reed, Sr.
- 23.1 Consent of Weinberg & Co., P.A.
- 23.2 Consent of Horwitz and Cron (contained in Exhibit 5.1)
- 23.3 Opinion of Weinberg & Co., P.A.
- 24 Power of Attorney (included in the signature page to the Registration Statement)

Item 28. Undertakings

A. Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended, or 1933 Act, may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the 1933 Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the 1933 Act and will be governed by the final adjudication of such issue.

B. The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the 1933 Act,

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement.

Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) (Section 230.424(b) of Regulation S-B) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement, and

(iii) To include any additional or changed material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement.

(2) That, for the purpose of determining any liability under the 1933 Act, each such post-effective amendment shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

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SIGNATURES

In accordance with the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form SB-2 and authorized this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Los Angeles, California, on this 28th day of July 2005.

REED'S, INC

By: /s/ CHRISTOPHER J. REED

Christopher J. Reed

Chairman, President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS:

That the undersigned officers and directors of Reed's, Inc., Corporation, a Delaware corporation, do hereby constitute and appoint Christopher J. Reed and Peter Sharma III, and either of them, the lawful attorneys-in-fact and agents with full power and authority to do any and all acts and things and to execute any and all instruments which said attorneys and agents, and either one of them, determine may be necessary or advisable or required to enable said corporation to comply with the Securities Act of 1933, as amended, and any rules or regulations or requirements of the Securities and Exchange Commission in connection with this Registration Statement. Without limiting the generality of the foregoing power and authority, the powers granted include the power and authority to sign the names of the undersigned officers and directors in the capacities indicated below to this Registration Statement, to any and all amendments, both pre-effective and post-effective, and supplements to this Registration Statement, and to any and all instruments or documents filed as part of or in conjunction with this Registration Statement or amendments or supplements thereof, and each of the undersigned hereby ratifies and confirms all that said attorneys and agents, or either one of them, shall do or cause to be done by virtue hereof. This Power of Attorney may be signed in several counterparts.

IN WITNESS WHEREOF, each of the undersigned has executed this Power of Attorney as of the date indicated.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed below by the following persons in the capacities and on the dates indicated.

Name	Title	Date
/s/ CHRISTOPHER J. REED Christopher J. Reed	Chief Executive Officer, President, Chief Financial Officer, and Chairman of the Board (Principal Executive Officer, Principal Financial Officer, and Principal Accounting Officer)	July 28, 2005
/s/ JUDIE HOLLOWAY REED Judy Holloway Reed	Director	July 28, 2005
/s/ PETER SHARMA III Peter Sharma III	Director	July 28, 2005

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/s/ MARK HARRIS Mark Harris	Independent Director	July 28, 2005
/s/ DR. DANIEL S.J. MUFFOLETTO, N.D. Dr. Daniel S.J. Muffoletto	Independent Director	July 28, 2005
/s/ MICHAEL FISCHMAN Michael Fischman	Independent Director	July 28, 2005

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EXHIBIT INDEX

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Dealers who solicit prospective investors in the subject offering are required to deliver a copy of this Prospectus commencing upon the effective date of the subject Registration Statement and terminating 40 days thereafter. The effective date of the Registration Statement of which this Prospectus is a part is July 28, 2005.

[OUTSIDE BACK COVER]