

ARK RESTAURANTS CORP
Form 10-Q
May 14, 2013
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

§ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

£ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES AND EXCHANGE ACT OF 1934

For the quarterly period ended March 30, 2013

Commission file number 1-09453

ARK RESTAURANTS CORP.

(Exact name of registrant as specified in its charter)

New York	13-3156768
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

85 Fifth Avenue, New York, New York	10003
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (212) 206-8800

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") during the preceding 12 months (or for shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes S No

Indicate by check mark whether the Registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit and post such files).

Yes S No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller Reporting Company

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes No

Indicate the number of shares outstanding of each of the issuer’s classes of common stock, as of the latest practicable date:

Class	Outstanding shares at May 6, 2013
(Common stock, \$.01 par value)	3,244,845

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

On one or more occasions, we may make statements in this Quarterly Report on Form 10-Q regarding our assumptions, projections, expectations, targets, intentions or beliefs about future events. All statements, other than statements of historical facts, included or incorporated by reference herein relating to management's current expectations of future financial performance, continued growth and changes in economic conditions or capital markets are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended.

Words or phrases such as "anticipates," "believes," "estimates," "expects," "intends," "plans," "predicts," "projects," "targets," "result," "hopes," "will continue" or similar expressions identify forward-looking statements. Forward-looking statements involve risks and uncertainties which could cause actual results or outcomes to differ materially from those expressed. We caution that while we make such statements in good faith and we believe such statements are based on reasonable assumptions, including without limitation, management's examination of historical operating trends, data contained in records and other data available from third parties, we cannot assure you that our projections will be achieved. Factors that may cause such differences include: economic conditions generally and in each of the markets in which we are located, the amount of sales contributed by new and existing restaurants, labor costs for our personnel, fluctuations in the cost of food products, adverse weather conditions, changes in consumer preferences and the level of competition from existing or new competitors.

We have attempted to identify, in context, certain of the factors that we believe may cause actual future experience and results to differ materially from our current expectation regarding the relevant matter or subject area. In addition to the items specifically discussed above, our business, results of operations and financial position and your investment in our common stock are subject to the risks and uncertainties described in "Item 1A Risk Factors" in Part I of our Annual Report on Form 10-K for the fiscal year ended September 29, 2012 as updated by the information contained under the caption "Item 1A. Risk Factors" in Part II of this Quarterly Report on Form 10-Q.

From time to time, oral or written forward-looking statements are also included in our reports on Forms 10-K, 10-Q and 8-K, our Schedule 14A, our press releases and other materials released to the public. Although we believe that at the time made, the expectations reflected in all of these forward-looking statements are and will be reasonable; any or all of the forward-looking statements may prove to be incorrect. This may occur as a result of inaccurate assumptions or as a consequence of known or unknown risks and uncertainties. Many factors discussed in this Quarterly Report on Form 10-Q, certain of which are beyond our control, will be important in determining our future performance. Consequently, actual results may differ materially from those that might be anticipated from forward-looking statements. In light of these and other uncertainties, you should not regard the inclusion of a forward-looking statement in this Quarterly Report on Form 10-Q or other public communications that we might make as a representation by us that our plans and objectives will be achieved, and you should not place undue reliance on such forward-looking statements.

We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. However, your attention is directed to any further disclosures made on related

subjects in our subsequent periodic reports filed with the Securities and Exchange Commission on Forms 10-K, 10-Q and 8-K and Schedule 14A.

Unless the context requires otherwise, references to “we,” “us,” “our,” “ARKR” and the “Company” refer specifically to Ark Restaurants Corp., and its subsidiaries, partnerships, variable interest entities and predecessor entities.

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Part I. Financial Information**Item 1. Consolidated Condensed Financial Statements****ARK RESTAURANTS CORP. AND SUBSIDIARIES****CONSOLIDATED CONDENSED BALANCE SHEETS**

(In Thousands, Except Per Share Amounts)

	March 30, 2013 (Unaudited)	September 29, 2012 (Note 1)
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents (includes \$309 at March 30, 2013 and \$714 at September 29, 2012 related to VIEs)	\$ 4,209	\$ 8,705
Short-term investments in available-for-sale securities	—	75
Accounts receivable (includes \$212 at March 30, 2013 and \$1,776 at September 29, 2012 related to VIEs)	2,500	3,790
Employee receivables	321	339
Inventories (includes \$11 at March 30, 2013 and \$28 at September 29, 2012 related to VIEs)	1,460	1,567
Prepaid and refundable income taxes (includes \$164 at March 30, 2013 and \$235 at September 29, 2012 related to VIEs)	1,223	985
Prepaid expenses and other current assets (includes \$7 at March 30, 2013 and \$13 at September 29, 2012 related to VIEs)	957	1,087
Total current assets	10,670	16,548
FIXED ASSETS - Net (includes \$133 at March 30, 2013 and \$3,189 at September 29, 2012 related to VIEs)	25,061	26,194
INTANGIBLE ASSETS - Net	1,017	1,021
GOODWILL	4,813	4,813
TRADEMARKS	721	721
DEFERRED INCOME TAXES	5,985	4,960
OTHER ASSETS (includes \$71 at March 30, 2013 and September 29, 2012 related to VIEs)	5,145	907
TOTAL ASSETS	\$ 53,412	\$ 55,164
LIABILITIES AND EQUITY		
CURRENT LIABILITIES:		
Accounts payable - trade (includes \$57 at March 30, 2013 and \$153 at September 29, 2012 related to VIEs)	\$ 2,151	\$ 2,729
Accrued expenses and other current liabilities (includes \$886 at March 30, 2013 and \$1,950 at September 29, 2012 related VIEs)	9,621	8,873
Current portion of notes payable	2,063	885
Total current liabilities	13,835	12,487

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OPERATING LEASE DEFERRED CREDIT	4,470	4,650
NOTES PAYABLE, LESS CURRENT PORTION	2,625	1,240
TOTAL LIABILITIES	20,930	18,377
COMMITMENTS AND CONTINGENCIES		
EQUITY:		
Common stock, par value \$.01 per share - authorized, 10,000 shares; issued, 4,601 shares at March 30, 2013 and September 29, 2012, respectively; outstanding, 3,245 shares at March 30, 2013 and September 29, 2012, respectively	46	46
Additional paid-in capital	21,904	23,410
Retained earnings	20,493	22,372
	42,443	45,828
Less treasury stock, at cost, of 1,356 shares at March 30, 2013 and September 29, 2012, respectively	(13,220)	(13,220)
Total Ark Restaurants Corp. shareholders' equity	29,223	32,608
NON-CONTROLLING INTERESTS	3,259	4,179
TOTAL EQUITY	32,482	36,787
TOTAL LIABILITIES AND EQUITY	\$ 53,412	\$ 55,164

See notes to consolidated condensed financial statements.

ARK RESTAURANTS CORP. AND SUBSIDIARIES**CONSOLIDATED CONDENSED STATEMENTS OF OPERATIONS (Unaudited)**

(In Thousands, Except Per Share Amounts)

	13 Weeks Ended		26 Weeks Ended	
	March	March	March	March
	30,	31,	30,	31,
	2013	2012	2013	2012
		(Note 1)		(Note 1)
REVENUES:				
Food and beverage sales	\$28,788	\$29,624	\$59,817	\$62,226
Other revenue	302	268	609	526
Total revenues	29,090	29,892	60,426	62,752
COSTS AND EXPENSES:				
Food and beverage cost of sales	7,434	7,670	15,183	16,028
Payroll expenses	10,118	10,350	20,962	21,057
Occupancy expenses	4,086	4,533	8,621	8,991
Other operating costs and expenses	4,057	4,062	8,397	8,093
General and administrative expenses	2,756	2,250	5,166	5,031
Depreciation and amortization	921	942	2,097	1,880
Total costs and expenses	29,372	29,807	60,426	61,080
OPERATING INCOME (LOSS)	(282)	85	—	1,672
OTHER (INCOME) EXPENSE:				
Interest expense	9	22	9	23
Interest income	—	(3)	—	(4)
Other income, net	(93)	(391)	(172)	(425)
Total other income, net	(84)	(372)	(163)	(406)
INCOME (LOSS) BEFORE PROVISION (BENEFIT) FOR INCOME TAXES	(198)	457	163	2,078
Provision (benefit) for income taxes	(58)	159	56	537
INCOME (LOSS) FROM CONTINUING OPERATIONS	(140)	298	107	1,541
Loss from discontinued operations, net of income tax benefits	—	(309)	—	(436)
CONSOLIDATED NET INCOME (LOSS)	(140)	(11)	107	1,105
Net income attributable to non-controlling interests	(125)	(393)	(364)	(422)
NET INCOME (LOSS) ATTRIBUTABLE TO ARK RESTAURANTS CORP.	\$(265)	\$(404)	\$(257)	\$683
AMOUNTS ATTRIBUTABLE TO ARK RESTAURANTS CORP.:				
Income (loss) from continuing operations	\$(265)	\$(249)	\$(257)	\$899
Loss from discontinued operations, net of tax	—	(155)	—	(216)
Net income (loss)	\$(265)	\$(404)	\$(257)	\$683
NET INCOME (LOSS) PER ARK RESTAURANTS CORP. COMMON SHARE:				
From continuing operations:				
Basic	\$(0.08)	\$(0.08)	\$(0.08)	\$0.26

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Diluted	\$ (0.08)	\$ (0.08)	\$ (0.08)	\$ 0.26
From discontinued operations:				
Basic	\$ —	\$ (0.04)	\$ —	\$ (0.06)
Diluted	\$ —	\$ (0.04)	\$ —	\$ (0.06)
From net income (loss):				
Basic	\$ (0.08)	\$ (0.12)	\$ (0.08)	\$ 0.20
Diluted	\$ (0.08)	\$ (0.12)	\$ (0.08)	\$ 0.20

WEIGHTED AVERAGE NUMBER OF COMMON SHARES
OUTSTANDING:

Basic	3,245	3,245	3,245	3,338
Diluted	3,245	3,245	3,245	3,364

See notes to consolidated condensed financial statements.

ARK RESTAURANTS CORP. AND SUBSIDIARIES
CONSOLIDATED CONDENSED STATEMENTS OF COMPREHENSIVE INCOME (LOSS) (Unaudited)

(In Thousands)

	13 Weeks Ended March 30, 2013		26 Weeks Ended March 31, 2012	
Consolidated net income (loss)	\$(140)	\$(11)	\$107	\$1,105
Other comprehensive loss, net of taxes:				
Unrealized loss on available-for-sale securities	—	(4)	—	(3)
Total other comprehensive loss, net of taxes	—	(4)	—	(3)
Comprehensive income (loss)	(140)	(15)	107	1,102
Comprehensive income attributable to non-controlling interests	(125)	(393)	(364)	(422)
Comprehensive income (loss) attributable to Ark Restaurants Corp.	\$(265)	\$(408)	\$(257)	\$680

See notes to consolidated condensed financial statements.

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ARK RESTAURANTS CORP. AND SUBSIDIARIES
CONSOLIDATED CONDENSED STATEMENTS OF CHANGES IN EQUITY (Unaudited)
FOR THE 13 WEEKS ENDED MARCH 30, 2013 AND MARCH 31, 2012

(In Thousands)

Common Stock		Additional Paid-In	Accumulated Other Comprehensive	Retained	Stock Option	Treasury	Total Ark Restaurants Corp. Shareholders'	Non- controlling	Total
Shares	Amount	Capital	Income	Earnings	Receivable	Stock			