

FORM 10-Q

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

(Mark One)

- QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended **June 28, 2009**.
- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_.

Commission file number 0-3189

**NATHAN'S FAMOUS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

**11-3166443**

(State or other jurisdiction of  
incorporation or organization)

(I.R.S. Employer  
Identification No.)

**1400 Old Country Road, Westbury, New York 11590**

(Address of principal executive offices)  
(Zip Code)

**(516) 338-8500**

(Registrant's telephone number, including area code)

\_\_\_\_\_  
(Former name, former address and former fiscal year, if changed since last report)

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 during the preceding 12 months (or for such 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  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 the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check One):

- Large accelerated filer
  - Accelerated filer
  - Non-accelerated filer
  - Smaller reporting company
- (Do not check if a 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

At August 5, 2009, an aggregate of 5,373,748 shares of the registrant's common stock, par value of \$.01, were outstanding.

NATHAN'S FAMOUS, INC. AND SUBSIDIARIES

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**Nathan's Famous, Inc. and Subsidiaries**  
**CONSOLIDATED BALANCE SHEETS**  
June 28, 2009 and March 29, 2009  
(in thousands, except share and per share amounts)

**Item 1. Financial Statements**

	<u>June 28, 2009</u> <u>(Unaudited)</u>	<u>March 29, 2009</u>
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 9,011	\$ 8,679
Marketable securities	25,265	25,670
Accounts and other receivables, net	6,941	4,869
Note receivable	296	290
Inventories	1,002	668
Prepaid expenses and other current assets	700	1,326
Deferred income taxes	696	696
Total current assets	<u>43,911</u>	<u>42,198</u>
Note receivable	1,389	1,466
Property and equipment, net	4,110	4,126
Goodwill	95	95
Intangible asset, net	1,353	1,353
Deferred income taxes	431	428
Other assets	158	158
	<u>\$ 51,447</u>	<u>\$ 49,824</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable	\$ 3,200	\$ 2,857
Accrued expenses and other current liabilities	3,485	3,867
Deferred franchise fees	143	171
Total current liabilities	<u>6,828</u>	<u>6,895</u>
Other liabilities	1,039	1,080
Total liabilities	<u>7,867</u>	<u>7,975</u>
<b>COMMITMENTS AND CONTINGENCIES (Note K)</b>		
<b>STOCKHOLDERS' EQUITY</b>		
Common stock, \$.01 par value; 30,000,000 shares authorized; 8,305,683 shares issued; and 5,611,877 shares outstanding at June 28, 2009 and March 29, 2009.	83	83
Additional paid-in capital	49,108	49,001
Retained earnings	12,791	11,228
Accumulated other comprehensive income	396	335
	<u>62,378</u>	<u>60,647</u>
Treasury stock, at cost, 2,693,806 shares at June 28, 2009 and March 29, 2009.	<u>(18,798)</u>	<u>(18,798)</u>
Total stockholders' equity	<u>43,580</u>	<u>41,849</u>
	<u>\$ 51,447</u>	<u>\$ 49,824</u>

The accompanying notes are an integral part of these statements.

Nathan's Famous, Inc. and Subsidiaries

**CONSOLIDATED STATEMENTS OF EARNINGS**

Thirteen weeks ended June 28, 2009 and June 29, 2008

(in thousands, except share and per share amounts)

(Unaudited)

	<u>June 28, 2009</u>	<u>June 29, 2008</u>
<b>REVENUES</b>		
Sales	\$ 11,015	\$ 11,016
Franchise fees and royalties	1,154	1,152
License royalties	1,807	1,615
Interest income	240	247
Other income	16	12
Total revenues	<u>14,232</u>	<u>14,042</u>
<b>COSTS AND EXPENSES</b>		
Cost of sales	8,109	8,332
Restaurant operating expenses	823	912
Depreciation and amortization	199	198
General and administrative expenses	2,628	2,445
Total costs and expenses	<u>11,759</u>	<u>11,887</u>
Income from continuing operations before provision for income taxes	2,473	2,155
Provision for income taxes	910	800
Income from continuing operations	<u>1,563</u>	<u>1,355</u>
Income from discontinued operations, including gains on disposal of discontinued operation before income taxes of \$3,906 in 2008	-	3,914
Provision for income taxes	-	1,447
Income from discontinued operations	<u>-</u>	<u>2,467</u>
Net income	<u>\$ 1,563</u>	<u>\$ 3,822</u>
<b>PER SHARE INFORMATION</b>		
Basic income per share:		
Income from continuing operations	\$ .28	\$ .22
Income from discontinued operations	-	.40
Net income	<u>\$ .28</u>	<u>\$ .62</u>
Diluted income per share:		
Income from continuing operations	\$ .27	\$ .21
Income from discontinued operations	-	.38
Net income	<u>\$ .27</u>	<u>\$ .59</u>
Weighted average shares used in computing income per share		
Basic	<u>5,612,000</u>	<u>6,165,000</u>
Diluted	<u>5,879,000</u>	<u>6,473,000</u>

The accompanying notes are an integral part of these statements.

**Nathan's Famous, Inc. and Subsidiaries**

**CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY**

Thirteen weeks ended June 28, 2009

(in thousands, except share and per share amounts)

(Unaudited)

	Common Shares	Common Stock	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Income	Treasury Stock, at Cost		Total Stockholders' Equity
						Shares	Amount	
Balance, March 29, 2009	8,305,683	\$ 83	\$ 49,001	\$ 11,228	\$ 335	2,693,806	\$ (18,798)	\$ 41,849
Share-based compensation	-	-	107	-	-	-	-	107
Unrealized gains on marketable securities, net of deferred income tax of \$40	-	-	-	-	61	-	-	61
Net income	-	-	-	1,563	-	-	-	1,563
Balance, June 28, 2009	<u>8,305,683</u>	<u>\$ 83</u>	<u>\$ 49,108</u>	<u>\$ 12,791</u>	<u>\$ 396</u>	<u>2,693,806</u>	<u>\$ (18,798)</u>	<u>\$ 43,580</u>

*The accompanying notes are an integral part of this statement.*

Nathan's Famous, Inc. and Subsidiaries

CONSOLIDATED STATEMENTS OF CASH FLOWS

Thirteen weeks ended June 28, 2009 and June 29, 2008

(in thousands, except share and per share amounts)

(Unaudited)

	June 28, 2009	June 29, 2008
<b>Cash flows from operating activities:</b>		
Net income	\$ 1,563	\$ 3,822
Adjustments to reconcile net income to net cash provided by (used in) operating activities		
Depreciation and amortization	199	198
Amortization of intangible assets	-	3
Amortization of bond premium	71	58
Amortization of deferred compensation	-	18
Gains on sales of subsidiaries	-	(3,906)
Share based compensation expense	107	106
Provision for doubtful accounts	121	-
Deferred income taxes	(43)	(43)
Changes in operating assets and liabilities:		
Accounts and other receivables, net	(2,193)	(1,698)
Inventories	(328)	(168)
Prepaid expenses and other current assets	626	624
Accounts payable, accrued expenses and other current liabilities	(39)	880
Deferred franchise fees	(28)	58
Other liabilities	(41)	47
Net cash provided by (used in) operating activities	<u>15</u>	<u>(1)</u>
<b>Cash flows from investing activities:</b>		
Proceeds from sale of available-for-sale securities	435	500
Purchase of property and equipment	(189)	(169)
Payments received on notes receivable	71	147
Proceeds from sale of subsidiary	-	3,961
Net cash provided by investing activities	<u>317</u>	<u>4,439</u>
<b>Cash flows from financing activities:</b>		
Repurchase of treasury stock	-	(1,460)
Proceeds from the exercise of stock options	-	10
Net cash used in financing activities	<u>-</u>	<u>(1,450)</u>
Net increase in cash and cash equivalents	332	2,988
Cash and cash equivalents, beginning of period	<u>8,679</u>	<u>14,381</u>
Cash and cash equivalents, end of period	<u>\$ 9,011</u>	<u>\$ 17,369</u>
Cash paid during the period for:		
Interest	<u>\$ -</u>	<u>\$ -</u>
Income taxes	<u>\$ 155</u>	<u>\$ 123</u>
Noncash Financing Activities:		
Loan made in connection with the sale of subsidiary	<u>\$ -</u>	<u>\$ 250</u>

The accompanying notes are an integral part of these statements.

**NATHAN'S FAMOUS, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

June 28, 2009  
(Unaudited)

**NOTE A - BASIS OF PRESENTATION**

The accompanying consolidated financial statements of Nathan's Famous, Inc. and subsidiaries (collectively "Nathan's", the "Company" or "we") as of and for the thirteen-week periods ended June 28, 2009 and June 29, 2008 have been prepared in accordance with accounting principles generally accepted in the United States of America. The unaudited financial statements include all adjustments (consisting of normal recurring adjustments) which, in the opinion of management, are necessary for a fair presentation of financial condition, results of operations and cash flows for the periods presented. However, these results are not necessarily indicative of results for any other interim period or the full fiscal year.

Certain information and footnote disclosures normally included in financial statements in accordance with accounting principles generally accepted in the United States of America have been omitted pursuant to the requirements of the Securities and Exchange Commission. Management believes that the disclosures included in the accompanying interim financial statements and footnotes are adequate to make the information not misleading, but should be read in conjunction with the consolidated financial statements and notes thereto included in Nathan's Annual Report on Form 10-K for the fiscal year ended March 29, 2009.

A summary of the Company's significant accounting policies is identified in Note B of the Notes to Consolidated Financial Statements included in the Company's 2009 Annual Report on Form 10-K. There have been no changes to the Company's significant accounting policies subsequent to March 29, 2009.

On April 23, 2008, Nathan's completed the sale of its wholly-owned subsidiary, NF Roasters Corp., and on June 7, 2007, completed the sale of its wholly-owned subsidiary, Miami Subs Corporation (See Note E).

We evaluated events or transactions which occurred subsequent to the balance sheet date but prior to August 7, 2009, the issuance date of the financial statements, for recognition or disclosure.

**NOTE B - RECENTLY ISSUED ACCOUNTING STANDARDS –NOT YET ADOPTED**

In June 2009, the Financial Accounting Standards Board ("FASB") issued SFAS No. 168 "The FASB Accounting Standards Codification<sup>TM</sup> and the Hierarchy of Generally Accepted Accounting Principles—a replacement of FASB Statement No. 162" ("SFAS No. 168"), which establishes the *FASB Accounting Standards Codification*<sup>TM</sup> ("Codification") as the source of authoritative U.S. Generally Accepted Accounting Principles (GAAP) recognized by the FASB to be applied by nongovernmental entities. Rules and interpretive releases of the Securities and Exchange Commission ("SEC") under authority of federal securities laws are also sources of authoritative GAAP for SEC registrants. SFAS No. 168 is effective for financial statements issued for interim and annual periods, ending after September 15, 2009, which for us is the second quarter of fiscal 2010. The implementation of SFAS No. 168 will not have any impact on our consolidated financial position and results of operations upon adoption.

**NOTE C – ADOPTION OF ACCOUNTING PRONOUNCEMENTS**

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations" ("SFAS No. 141R"), which establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in an acquiree, including the recognition and measurement of goodwill acquired in a business combination.

In April 2009, the FASB issued FASB Staff Position No.141R-1, "Accounting for Assets Acquired and Liabilities Assumed in a Business Combination That Arises from Contingencies" ("FSP No. 141R-1"), which provides guidelines on the initial recognition and measurement, subsequent measurement and accounting, and disclosure of assets and liabilities arising from contingencies in a business combination. FSP No. 141R-1 provides that an acquirer shall recognize an asset acquired or a liability assumed in a business combination that arises from a contingency at fair value, at the acquisition date, if the acquisition-date fair value of that asset or liability can be determined during the measurement period. FSP No. 141R-1 provides guidance in the event that the fair value of an asset acquired or liability assumed cannot be determined during the measurement period. FSP No. 141R-1 provides that an acquirer shall develop a systematic and rational basis for subsequently measuring and accounting for assets and liabilities arising from contingencies and also provides for the disclosure requirements.

Nathan's adopted the provisions of SFAS No. 141R and FSP No. 141R-1 on March 30, 2009. The adoption of these standards had no impact on our consolidated financial position or results of operations.

In December 2007, the FASB issued SFAS No. 160, “Noncontrolling Interests in Consolidated Financial Statements — an amendment of ARB No. 51” (“SFAS No. 160”). SFAS No. 160 amends ARB No. 51 to establish accounting and reporting standards for the noncontrolling interest in a subsidiary and for the deconsolidation of a subsidiary. It clarifies that a noncontrolling interest in a subsidiary, which is sometimes referred to as minority interest, is an ownership interest in the consolidated entity that should be reported as equity in the consolidated financial statements. Among other requirements, this statement requires consolidated net income to be reported at amounts that include the amounts attributable to both the parent and the noncontrolling interest. It also requires disclosure, on the face of the consolidated income statement, of the amounts of consolidated net income attributable to the parent and to the noncontrolling interest. Nathan’s adopted the provisions of SFAS No. 160 on March 30, 2009. The adoption of this standard had no impact on our consolidated financial position or results of operations.

In April 2008, the FASB issued FASB Staff Position No. 142-3 (“FSP No. 142-3”), “Determination of the Useful Life of Intangible Assets,” which amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS No. 142, “Goodwill and Other Intangible Assets.” Nathan’s adopted the provisions of FSP No. 142-3 on March 30, 2009. The adoption of this standard had no impact on our consolidated financial position or results of operations.

In June 2008, the FASB ratified Emerging Issues Task Force 08-3 (“EITF 08-3”), “Accounting by Lessees for Maintenance Deposits,” which provides guidance for accounting for maintenance deposits paid by a lessee to a lessor. Nathan’s adopted the provisions of EITF 08-3 on March 30, 2009. The adoption of this standard had no impact on our consolidated financial position or results of operations.

In April 2009, the FASB issued FASB Staff Position Nos. FAS 115-2 and FAS 124-2, “Recognition and Presentation of Other-Than-Temporary Impairments,” (“FSP No. 115-2 and FSP No. 124-2”) which segregate credit and noncredit components of impaired debt securities that are not expected to be sold. Impairments will still have to be measured at fair value in other comprehensive income. The FSPs also require some additional disclosures regarding expected cash flows, credit losses, and an aging of securities with unrealized losses. Nathan’s adopted the provisions of FSP No. 115-2 and FSP No. 124-2 on March 30, 2009. The adoption of these standards had no impact on our consolidated financial position or results of operations.

In April 2009, the FASB issued FASB Staff Position Nos. FAS 107-1 and APB 28-1, “Interim Disclosures about Fair Value of Financial Instruments,” which increases the frequency of fair value disclosures to a quarterly basis instead of annually. The guidance relates to fair value disclosures for any financial instruments that are not currently reflected on the balance sheet at fair value. Prior to this FSP, fair values for these assets and liabilities were only disclosed annually. Nathan’s adopted the provisions of FSP No. 107-1 and FSP APB 28-1 on March 30, 2009. The adoption of these standards, which required interim disclosures, which we included in Note D, had no impact on our consolidated financial position or results of operations.

In May 2009, the Financial Accounting Standards Board issued SFAS No. 165, “Subsequent Events” (“SFAS No. 165”), which establishes general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. SFAS No. 165 establishes: 1) The period after the balance sheet date during which management of a reporting entity should evaluate events or transactions that may occur for potential recognition or disclosure in the financial statements; 2) the circumstances under which an entity should recognize events or transactions occurring after the balance sheet date in its financial statements; and 3) the disclosures that an entity should make about events or transactions that occurred after the balance sheet date. SFAS No. 165 also requires disclosure of the date through which an entity has evaluated subsequent events. Nathan’s adopted the provisions of SFAS No. 165 on March 30, 2009. In connection with the adoption of SFAS No. 165, we have included a disclosure to address the date through which we evaluated subsequent events.

#### NOTE D – FAIR VALUE MEASUREMENTS

In September 2006, the FASB issued SFAS No. 157, “Fair Value Measurements” (“SFAS No. 157”), which defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value. SFAS No. 157 eliminates the diversity in practice that exists due to the different definitions of fair value. SFAS No. 157 retains the exchange price notion in earlier definitions of fair value, but clarifies that the exchange price is the price in an orderly transaction between market participants to sell an asset or liability in the principal or most advantageous market for the asset or liability. SFAS No. 157 states that the transaction is hypothetical at the measurement date, considered from the perspective of the market participant who holds the asset or liability. As such, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (an exit price), as opposed to the price that would be paid to acquire the asset or received to assume the liability at the measurement date (an entry price). SFAS No. 157 also establishes a three-level hierarchy, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. In February 2008, the FASB delayed the effective date of the provisions of SFAS No. 157 for certain non-financial assets and non-financial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (i.e., at least annually) for one year. Nathan’s adopted the provisions of SFAS No. 157 for financial assets and liabilities on March 31, 2008 and adopted the remaining provisions for non-financial assets and liabilities on March 30, 2009.

In April 2009, the FASB issued FASB Staff Position No. 157-4, “Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly,” (“FSP No. 157-4”), which provides guidelines for a broad interpretation of when to apply market-based fair value measurements. FSP No. 157-4 reaffirms management’s need to use judgment to determine when a market that was once active has become inactive and in determining fair values in markets that are no longer active. FSP No. 157-4 is effective for interim and annual periods ending after June 15, 2009. Nathan’s adopted the provisions of FSP No. 157-4 on March 30, 2009. The effect on our consolidated financial position and results of operations of adopting these standards was not significant.



The valuation hierarchy established by SFAS No. 157 is based upon the transparency of inputs to the valuation of an asset or liability on the measurement date. The three levels are defined as follows:

- Level 1 - inputs to the valuation methodology are quoted prices (unadjusted) for an identical asset or liability in an active market
- Level 2 - inputs to the valuation methodology include quoted prices for a similar asset or liability in an active market or model-derived valuations in which all significant inputs are observable for substantially the full term of the asset or liability
- Level 3 - inputs to the valuation methodology are unobservable and significant to the fair value measurement of the asset or liability

The following table presents assets and liabilities measured at fair value on a recurring basis as of June 28, 2009 by SFAS No.157 valuation hierarchy (in thousands):

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Carrying Value</u>
Marketable securities	\$ -	\$ 25,265	\$ -	\$ 25,265
<b>Total assets at fair value</b>	<b>\$ -</b>	<b>\$ 25,265</b>	<b>\$ -</b>	<b>\$ 25,265</b>

Nathan's marketable securities, which consists primarily of municipal bonds, are not actively traded. The valuation of such bonds is based upon quoted market prices for similar bonds currently trading in an active market.

The carrying amounts of cash equivalents, accounts receivable and accounts payable approximate fair value due to the short-term maturity of the instruments. The carrying amount of the note receivable approximates fair value, as determined using level three inputs, as the current interest rate on such instrument approximates current market interest rates on similar instruments.

Certain non-financial assets and liabilities are measured at fair value on a nonrecurring basis; that is, the assets and liabilities are not measured at fair value on an ongoing basis but are subject to fair value adjustments in certain circumstances, such as when evidence of impairment exists. At June 28, 2009, no fair value adjustment or material fair value measurements were required for non-financial assets or liabilities.

#### NOTE E – DISCONTINUED OPERATIONS

The Company follows the provisions of SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS No. 144"), related to the accounting and reporting for components of a business to be disposed of. In accordance with SFAS No. 144, the definition of discontinued operations includes components of an entity whose cash flows are clearly identifiable. SFAS No. 144 requires the Company to classify as discontinued operations any restaurant, property or business outlet that Nathan's sells, abandons or otherwise disposes of where the Company will have no further involvement in the operation of, or cash flows from, such restaurant, property or business outlet operations.

##### 1. Sale of NF Roasters Corp.

On April 23, 2008, Nathan's completed the sale of its wholly-owned subsidiary, NF Roasters Corp. ("NF Roasters"), the franchisor of the Kenny Rogers Roasters concept, to Roasters Asia Pacific (Cayman) Limited. Pursuant to the Stock Purchase Agreement ("NFR Agreement"), Nathan's sold all of the stock of NF Roasters for \$4,000,000 in cash.

In connection with the NFR Agreement, Nathan's and its previously-owned subsidiary, Miami Subs, may continue to sell Kenny Rogers products within the then-existing restaurants without payment of royalties.

The following is a summary of the assets and liabilities of NF Roasters, as of the date of sale, that were sold:

Cash	\$ 8,000(A)
Accounts receivable, net	1,000
Deferred income taxes, net	230,000
Intangible assets, net	391,000
Other assets	30,000
Total assets sold	<u>660,000</u>
Accrued expenses	27,000(B)
Other liabilities	328,000
Total liabilities sold	<u>355,000</u>
Net assets sold	<u>\$ 305,000</u>

(A) - Represents unexpended marketing funds.

(B) - Includes unexpended marketing funds of \$8,000.

Nathan's realized a gain on the sale of NF Roasters of \$3,656,000 net of professional fees of \$39,000 and recorded income taxes of \$1,289,000 on the gain during the fiscal year ended March 29, 2009. Nathan's has determined that it will not have any significant cash flows or continuing involvement in the ongoing operations of NF Roasters.

Therefore, the results of operations for NF Roasters, including the gain on disposal, have been presented as discontinued operations for the period ended June 29, 2008.

## 2. Sale of Miami Subs Corporation

On June 7, 2007, Nathan's completed the sale of its wholly-owned subsidiary, Miami Subs Corporation ("Miami Subs") to Miami Subs Capital Partners I, Inc. ("Purchaser"). Pursuant to the Stock Purchase Agreement ("MSC Agreement"), Nathan's sold all of the stock of Miami Subs in exchange for \$3,250,000 consisting of \$850,000 in cash and the Purchaser's promissory note in the principal amount of \$2,400,000 (the "MSC Note"). The MSC Note bears interest at 8% per annum and is secured by a lien on all of the assets of Miami Subs and by the personal guarantees of two principals of the Purchaser. The Purchaser may also prepay the MSC Note at any time. In the event the MSC Note was fully repaid within one year of the sale, Nathan's would have been required to reduce the amount due by \$250,000. Due to the ability to prepay the loan and reduce the amount due, the recognition of \$250,000 was initially deferred. The MSC Note was not prepaid within the requisite timeframe and Nathan's recognized an additional gain of \$250,000, or \$158,000 net of tax, resulting from the contingent consideration which was deferred at the time of sale, during the fiscal year ended March 29, 2009.

### NOTE F - INCOME PER SHARE

Basic income per common share is calculated by dividing income by the weighted-average number of common shares outstanding and excludes any dilutive effect of stock options or warrants. Diluted income per common share gives effect to all potentially dilutive common shares that were outstanding during the period. Dilutive common shares used in the computation of diluted income per common share result from the assumed exercise of stock options and warrants, as determined using the treasury stock method.

The following chart provides a reconciliation of information used in calculating the per share amounts for the thirteen-week periods ended June 28, 2009 and June 29, 2008, respectively.

#### Thirteen weeks

	Income from		Number of Shares		Income from	
	Continuing Operations				Continuing Operations	
	2009	2008	2009	2008	2009	2008
	(in thousands)		(in thousands)		Per Share	
<u>Basic EPS</u>						
Basic calculation	\$ 1,563	\$ 1,355	5,612	6,165	\$ 0.28	\$ 0.22
Effect of dilutive employee stock options and warrants	-	-	267	308	(0.01)	(0.01)
<u>Diluted EPS</u>						
Diluted calculation	<u>\$ 1,563</u>	<u>\$ 1,355</u>	<u>5,879</u>	<u>6,473</u>	<u>\$ 0.27</u>	<u>\$ 0.21</u>

Options to purchase 110,000 shares of common stock in the thirteen-week periods ended June 28, 2009 and June 29, 2008 were not included in the computation of diluted EPS because the exercise prices exceeded the average market price of common shares during the period.

#### NOTE G – INCOME TAXES

The income tax provisions on continuing operations reflect effective tax rates of 36.8% in 2009 and 37.1% in 2008. Nathan’s estimates that its annual tax rate for the fiscal year ending March 28, 2010 will be approximately 35.0% to 37.5%. The final annual tax rate is subject to many variables, including the effect of tax-exempt interest earned, among other factors, and therefore cannot be determined until the end of the fiscal year; therefore, the actual tax rate could differ from our current estimates.

The amount of unrecognized tax benefits at June 28, 2009 was \$510,000, all of which would impact Nathan’s effective tax rate, if recognized. As of June 28, 2009, Nathan’s had \$380,000 of accrued interest and penalties in connection with unrecognized tax benefits.

There was no material change in the amount of uncertain tax benefits recognized during the thirteen-week period ended June 28, 2009. Nathan’s is seeking to resolve various uncertain tax positions during the year ending March 28, 2010. It is reasonably possible that the amount of unrecognized tax benefits could change in the next 12 months, which could lower its effective tax rate for the year.

Nathan’s estimates that its unrecognized tax benefits and the related accrued interest and penalties could be reduced by \$50,000 to \$250,000.

#### NOTE H – SHARE-BASED COMPENSATION

Total share-based compensation during the thirteen-week periods ended June 28, 2009 and June 29, 2008 was \$107,000 and \$124,000, respectively. Total share-based compensation is included in general and administrative expense in our accompanying Consolidated Statements of Earnings. As of June 28, 2009, there was \$792,000 of unamortized compensation expense related to stock options. We expect to recognize this expense over approximately two years, three months, which represents the requisite service periods for such awards.

There were no share-based awards granted during the thirteen-week periods ended June 28, 2009 or June 29, 2008.

##### *Stock options outstanding:*

Transactions with respect to stock options for the thirteen weeks ended June 28, 2009, are as follows:

	Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life	Aggregate Intrinsic Value
Options outstanding at March 29, 2009	1,027,308	\$ 6.94	2.93	\$ 6,723,000
Granted	-	-	-	-
Expired	-	-	-	-
Exercised	-	-	-	-
Options outstanding at June 28, 2009	<u>1,027,308</u>	<u>\$ 6.94</u>	<u>2.68</u>	<u>\$ 7,081,436</u>
Options exercisable at June 28, 2009	<u>869,975</u>	<u>\$ 5.44</u>	<u>2.24</u>	<u>\$ 7,056,156</u>

There were no stock options exercised during the thirteen-week period ended June 28, 2009.

#### NOTE I – STOCKHOLDERS’ EQUITY

Through June 28, 2009, Nathan’s purchased a total of 2,693,806 shares of common stock at a cost of approximately \$18,798,000 pursuant to its stock repurchase plans previously authorized by the Board of Directors. None of these repurchased shares were repurchased during the thirteen-week period ended June 28, 2009. On November 13, 2008, Nathan’s Board of Directors authorized a fourth stock repurchase plan for the purchase of up to 500,000 shares of the Company’s common stock, under which 193,806 shares were repurchased at a cost of \$2,400,000 as of June 28, 2009.

On February 5, 2009, Nathan’s and Mutual Securities Inc. (“MSI”) entered into an agreement (the “10b5-1 Agreement”) pursuant to which MSI has been authorized to purchase shares of the Company’s common stock, having a value of up to an aggregate \$3.6 million, which commenced on March 16, 2009. The 10b5-1 Agreement was adopted under the safe harbor provided by Rule 10b5-1 of the Securities Exchange Act of 1934 in order to assist the Company in implementing its previously-announced fourth stock repurchase plan, for the purchase of up to 500,000 shares. The 10b5-1 Agreement shall terminate no later than March 15, 2010.

On June 30, 2009, Nathan's Board of Directors authorized its fifth stock repurchase plan for the purchase of up to 500,000 shares of its common stock on behalf of the Company and the Company repurchased 238,129 shares of common stock at a cost of \$3,015,000 in a privately- negotiated transaction with Prime Logic Capital, LLC.

After giving effect to the repurchase made on June 30, 2009, there are 306,194 and 261,871 shares remaining to be purchased pursuant to the fourth and fifth stock repurchase plans, respectively.

Purchases may be made from time to time, depending on market conditions, in open market or privately-negotiated transactions, at prices deemed appropriate by management. There is no set time limit on the repurchases to be made under the fourth and fifth stock repurchase plans.

At June 28, 2009 the Company has reserved 15,246,683 shares of common stock for issuance upon exercise of the Rights approved by the Board of Directors on June 4, 2008.

**NOTE J - COMPREHENSIVE INCOME**

The components of comprehensive income are as follows:

	Thirteen weeks ended June 28, 2009 (in thousands)	Thirteen weeks ended June 29, 2008 (in thousands)
Net income	\$ 1,563	\$ 3,822
Unrealized gain (loss) on available-for-sale securities, net of tax expense (benefit) of \$40, and (\$99), respectively	<u>61</u>	<u>(143)</u>
Comprehensive income	<u>\$ 1,624</u>	<u>\$ 3,679</u>

Accumulated other comprehensive income at June 28, 2009 and March 29, 2009 consists entirely of unrealized gains and losses on available-for-sale securities, net of deferred taxes.

**NOTE K - COMMITMENTS AND CONTINGENCIES**

**1. Commitments**

In January 2009, the Company entered into a commitment to purchase 2,592,000 pounds of hot dogs for \$4,368,000 from its primary hot dog manufacturer between April through September 2009. Through June 28, 2009, Nathan's purchased approximately 1,256,000 pounds of hot dogs pursuant to this purchase commitment. Nathan's expects to complete the purchase of the remaining 1,336,000 pounds of product between July and September 2009.

**2. Contingencies**

The Company and its subsidiaries are from time to time involved in ordinary and routine litigation. Management presently believes that the ultimate outcome of these proceedings, individually or in the aggregate, will not have a material adverse effect on the Company's financial position, cash flows or results of operations. Nevertheless, litigation is subject to inherent uncertainties and unfavorable rulings could occur. An unfavorable ruling could include money damages and, in such event, could result in a material adverse impact on the Company's results of operations for the period in which the ruling occurs.

The Company is also involved in the following legal proceedings:

On March 20, 2007, a personal injury lawsuit was initiated seeking unspecified damages against the Company's subtenant and the Company's master landlord at a leased property in Huntington, New York. The claim relates to damages suffered by an individual as a result of an alleged "trip and fall" on the sidewalk in front of the leased property, maintenance of which is the subtenant's responsibility. Although the Company was not named as a defendant in the lawsuit, under its master lease agreement the Company may have an obligation to indemnify the master landlord in connection with this claim. The Company did not maintain its own insurance on the property concerned at the time of the incident; however, the Company is named as an additional insured under its subtenant's liability policy. Accordingly, if the master landlord is found liable for damages and seeks indemnity from the Company, the Company believes that it would be entitled to coverage under the subtenant's insurance policy. Additionally, under the terms of the sublease, the subtenant is required to indemnify the Company, regardless of insurance coverage.

The Company is party to a License Agreement with SMG, Inc. ("SMG") dated as of February 28, 1994, as amended (the "License Agreement") pursuant to which: (i) SMG acts as the Company's exclusive licensee for the manufacture, distribution, marketing and sale of packaged Nathan's Famous frankfurter product at supermarkets, club stores and other retail outlets in the United States; and (ii) the Company has the right, but not the obligation, to require SMG to produce hot dogs for the Nathan's Famous restaurant system and Branded Product Program. On July 31, 2007, the Company provided notice to SMG that the Company has elected to terminate the License Agreement, effective July 31, 2008, due to SMG's breach of certain provisions of the License Agreement. SMG has disputed that a breach has occurred and has commenced, together with certain of its affiliates, an action in state court in Illinois seeking, among other things, a declaratory judgment that SMG did not breach the License Agreement. The Company has answered SMG's complaint and asserted its own counterclaims which seek, among other things, a declaratory judgment that SMG did breach the License Agreement and that the Company has properly terminated the License Agreement. On July 31, 2008, SMG and Nathan's entered into a stipulation pursuant to which Nathan's agreed that it would not effectuate the termination of the License Agreement on the grounds alleged in the present litigation until such litigation has been successfully adjudicated, and SMG agreed that in such event, Nathan's shall have the option to require SMG to continue to perform under the License Agreement for an additional period of up to six months to ensure an orderly transition of the business to a new licensee/supplier. Each of the parties has moved for summary judgment in its favor.

On July 31, 2009, the Company was served with a class action complaint filed in the Superior Court of the State of New Jersey, Essex County (the "Complaint"). In addition to Nathan's Famous, Inc., the Complaint names as defendants Kraft Foods, Sara Lee Corporation, ConAgra Foods, Inc., and Marathon Enterprises, Inc. (together with Nathan's Famous, Inc., the "Defendants"). The named class plaintiffs purport to represent consumers who have purchased processed meat products that were distributed and sold in New Jersey from July 22, 2003 through July 22, 2009. The Complaint alleges, among other things, that Defendants violated the New Jersey Consumer Fraud Act (N.J.S.A. 56:8-2) (the "Act") by omitting material information about their respective processed meat products for the purpose of inducing consumers to purchase the products. The Complaint seeks injunctive relief, attorneys' fees and costs incurred in bringing the lawsuit. The named plaintiffs are further seeking combined damages in the amount of \$900.00. If a violation of the Act is found to have occurred, named plaintiffs are entitled to trebled damages in the combined amount of \$2,700.00. The Company is presently evaluating its response to the Complaint; however, management believes that any liability will not have a material impact on the financial condition of the Company.

## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

### Forward-Looking Statements

Statements in this Form 10-Q quarterly report may be “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements include, but are not limited to, statements that express our intentions, beliefs, expectations, strategies, predictions or any other statements relating to our future activities or other future events or conditions. These statements are based on current expectations, estimates and projections about our business based, in part, on assumptions made by management. These statements are not guarantees of future performance and involve risks, uncertainties and assumptions that are difficult to predict. These risks and uncertainties, many of which are not within our control, include but are not limited to: the adverse effect that increasing commodity costs has on our profitability and operating results; the pending litigation with the primary supplier of hot dogs to our Branded Product Program may result in a disruption in that supply or increased costs, which would adversely affect our operating results; current economic conditions could result in decreased consumer spending on discretionary products, such as fast food; as well as those risks discussed from time to time in the Company’s Form 10-K annual report for the year ended March 29, 2009, and in other documents which we file with the Securities and Exchange Commission. Therefore, actual outcomes and results may differ materially from what is expressed or forecasted in the forward-looking statements. We generally identify forward-looking statements with the words “believe,” “intend,” “plan,” “expect,” “anticipate,” “estimate,” “will,” “should” and similar expressions. Any forward-looking statements speak only as of the date on which they are made, and we do not undertake any obligation to update any forward-looking statement to reflect events or circumstances after the date of this Form 10-Q.

### Introduction

As used in this Report, the terms “we”, “us”, “our”, “Nathan’s” or “the Company” mean Nathan’s Famous, Inc. and its subsidiaries (unless the context indicates a different meaning).

We are engaged primarily in the marketing of the “Nathan’s Famous” brand and the sale of products bearing the “Nathan’s Famous” trademarks through several different channels of distribution. Historically, our business has been the operation and franchising of quick-service restaurants featuring Nathan’s World Famous Beef Hot Dogs, crinkle-cut French-fried potatoes, and a variety of other menu offerings. Our Company-owned and franchised units operate under the name “Nathan’s Famous,” the name first used at our original Coney Island restaurant opened in 1916. Nathan’s licensing program began in 1978 by selling packaged hot dogs and other meat products to retail customers through supermarkets or grocery-type retailers for off-site consumption. During fiscal 1998, we introduced our Branded Product Program, which enables foodservice retailers to sell some of Nathan’s proprietary products outside of the realm of a traditional franchise relationship. In conjunction with this program, foodservice operators are granted a limited use of the Nathan’s Famous trademark with respect to the sale of Nathan’s World Famous Beef Hot Dogs and certain other proprietary food items and paper goods. During fiscal 2008, we launched our Branded Menu Program, under which foodservice operators may sell a greater variety of Nathan’s Famous menu items than under the Branded Product Program.

Our revenues are generated primarily from selling products under Nathan’s Branded Product Program, operating Company-owned restaurants, franchising the Nathan’s restaurant concept (including under the Branded Menu Program) and licensing agreements for the sale of Nathan’s products within supermarkets and club stores, the manufacture of certain proprietary spices and the sale of Nathan’s products directly to other foodservice operators.

In addition to plans for expansion through franchising, licensing and our Branded Product Program, Nathan’s continues to co-brand within its restaurant system. Nathan’s is also the owner of the Arthur Treachers brand. At June 28, 2009, the Arthur Treacher’s brand was being sold within 58 Nathan’s restaurants.

Today, our restaurant system consists of 289 Nathan’s franchised or licensed units, including 102 Branded Menu units and five Company-owned units (including one seasonal unit), located in 24 states, the Cayman Islands and four foreign countries. Included in the number of Branded Menu units are 42 Miami Subs locations. Previously, Miami Subs locations were not included in the number of units operating. At June 29, 2008, our restaurant system consisted of 230 Nathan’s franchised or licensed units, including 40 limited-menu Branded Menu locations and six Company-owned units (including one seasonal unit), located in 20 states and four foreign countries.

### Critical Accounting Policies and Estimates

As discussed in our Form 10-K for the fiscal year ended March 29, 2009, the discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in conformity with accounting principles generally accepted in the United States of America. The preparation of these financial statements require us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses reported in those financial statements. These judgments can be subjective and complex, and consequently, actual results could differ from those estimates. Our most critical accounting policies and estimates relate to revenue recognition; impairment of goodwill and other intangible assets; impairment of long-lived assets; impairment of notes receivable; share-based compensation and income taxes (including uncertain tax positions). Since March 29, 2009, there have been no changes in our critical accounting policies or significant changes to the assumptions and estimates related to them.

## **Adoption of Accounting Pronouncements**

See Note C to the Consolidated Financial Statements contained in Item 1, for a complete discussion of the impact of adopting new accounting pronouncements during the fiscal quarter ended June 28, 2009 on the Company's financial position and results of operations.

## **Recently Issued Accounting Standards Not Yet Adopted**

See Note B, to the Consolidated Financial Statements contained in Item 1, for a discussion of recently issued accounting standards not yet adopted.

## **Revenues from Continuing Operations**

Total sales were \$11,015,000 for the thirteen weeks ended June 28, 2009 ("fiscal 2010 period") as compared to \$11,016,000 for the thirteen weeks ended June 29, 2008 ("fiscal 2009 period"). Foodservice sales from the Branded Product and Branded Menu Programs increased by 3.4% to \$6,843,000 for the fiscal 2010 period as compared to sales of \$6,618,000 in the fiscal 2009 period. This increase was primarily attributable to price increases of 11.7%, which was partly offset by lower sales volume of approximately 8.4%. Total Company-owned restaurant sales (representing four comparable Nathan's restaurants and one seasonal restaurant during both periods and one restaurant that was transferred to a franchisee on January 26, 2009) were \$3,496,000 for the fiscal 2010 period as compared to \$3,859,000 during the fiscal 2009 period. Sales at the four comparable Company-owned restaurants (excluding one seasonal restaurant and the restaurant that was transferred to a franchisee in January 2009) were \$3,282,000 during the fiscal 2010 period, as compared to \$3,387,000 during the fiscal 2009 period. The sales decline at our four comparable Company-owned restaurants occurred during June 2009, which we believe was primarily attributable to weather conditions. The rain during June 2009 severely reduced the number of people that went to the beach and consequently our Coney Island restaurant. Sales during April and May 2009 had increased by approximately 5.1% over the same period last year. During the fiscal 2010 period, sales to our television retailer were approximately \$137,000 higher than the fiscal 2009 period. Nathan's products were on air 38 times during the fiscal 2010 period as compared to 18 times during the fiscal 2009 period. This year's airings included 10 "Try Me" special promotions, seven "Today's Special Value" promotions and two, half-hour food shows.

Franchise fees and royalties were \$1,154,000 in the fiscal 2010 period as compared to \$1,152,000 in the fiscal 2009 period. Total royalties were \$1,037,000 in the fiscal 2010 period as compared to \$1,035,000 in the fiscal 2009 period. During the fiscal 2010 period, we did not recognize revenue of \$105,000 for royalties deemed to be uncollectible as compared to the fiscal 2009 period, when we did not recognize \$27,000 of royalty income. Total royalties, excluding the adjustments for royalties deemed uncollectible as described above, were \$1,142,000 in the fiscal 2010 period as compared to \$1,062,000 in the fiscal 2009 period. During the fiscal 2010 period, Nathan's earned \$30,000 of higher royalties from sales by our manufacturers and primary distributor under our Branded Menu Program primarily due to the increase in the number of Branded Menu locations. Franchise restaurant sales were \$23,998,000 in the fiscal 2010 period as compared to \$23,756,000 in the fiscal 2009 period. Comparable domestic franchise sales (consisting of 128 Nathan's outlets, excluding sales under the Branded Menu Program) were \$16,887,000 in the fiscal 2010 period as compared to \$18,303,000 in the fiscal 2009 period, a decrease of 7.7%. Franchise sales continued to be negatively affected by the economic recession, particularly at our travel, retail and entertainment venues, where sales are lower by approximately 10% compared to the fiscal 2009 period. At June 28, 2009, 289 domestic and international franchised or Branded Menu Program franchise outlets were determined to be operating as compared to 230 domestic and international franchised or Branded Menu Program franchise outlets at June 29, 2008. (Included in the number of Branded Menu units are 42 Miami Subs locations at June 28, 2009. Previously, Miami Subs locations were not included in the number of units operating.) Royalty income from 13 domestic franchised outlets was deemed unrealizable during the thirteen weeks ended March 29, 2009, as compared to 10 franchised outlets during the thirteen weeks ended June 29, 2008. Domestic franchise fee income was \$68,000 in the fiscal 2010 period as compared to \$47,000 in the fiscal 2009 period due to the opening of more conventional locations during the fiscal 2010 period. International franchise fee income was \$49,000 in the fiscal 2010 period, as compared to \$70,000 during the fiscal 2009 period primarily due to fewer openings of international franchised restaurants. During the fiscal 2010 period, seven new franchised outlets opened, including four Branded Menu Program outlets, one unit in Kuwait and one unit in the Dominican Republic. During the fiscal 2009 period, 14 new franchised outlets were opened, including nine Branded Menu Program outlets, two units in Kuwait and one unit in Dubai.

License royalties increased by \$192,000 or 11.9% to \$1,807,000 in the fiscal 2010 period as compared to \$1,615,000 in the fiscal 2009 period. Total royalties earned on sales of hot dogs from our retail and foodservice license agreements of \$1,516,000 increased 11.6% from \$1,358,000 as a result of higher licensee sales during the fiscal 2010 period. Royalties earned from SFG, primarily from the retail sale of hot dogs, were \$1,125,000 during the fiscal 2010 period as compared to \$1,052,000 during the fiscal 2009 period. Royalties earned from another licensee, substantially from sales of hot dogs to Sam's Club, were \$391,000 during the fiscal 2010 period as compared to \$306,000 during the fiscal 2009 period. Beginning March 2008, Nathan's World Famous Beef Hot Dogs were introduced into over 500 of the foodservice cafes operating in Sam's Clubs throughout the United States. The Sam's Club introduction was substantially completed by June 2008. Accordingly, we anticipate earning similar royalties under this agreement during the balance of this fiscal year as compared to the last three fiscal quarters of last year. We earned higher revenues of \$37,000 from our agreement for the manufacture of Nathan's proprietary ingredients. Interest income was \$240,000 in the fiscal 2010 period as compared to \$247,000 in the fiscal 2009 period, primarily due to lower interest income on our MSC Note (as defined) receivable, received in connection with the sale of Miami Subs on June 7, 2007.

Other income was \$16,000 in the fiscal 2010 period as compared to \$12,000 in the fiscal 2009 period.

### **Costs and Expenses from Continuing Operations**

Overall, our cost of sales decreased by \$223,000 to \$8,109,000 in the fiscal 2010 period as compared to \$8,332,000 in the fiscal 2009 period. Our gross profit (representing the difference between sales and cost of sales) was \$2,906,000 or 26.4% of sales during the fiscal 2010 period as compared to \$2,684,000 or 24.4% of sales during the fiscal 2009 period.

In the Branded Product Program, our cost of sales decreased by approximately \$93,000 during the fiscal 2010 period when compared to the fiscal 2009 period, primarily as a result of the sales volume decline, which was partly offset by an approximate 5.7% increase in the cost of our hot dogs. During the fiscal 2010 period, the market price of hot dogs was approximately 0.5% higher than during the fiscal 2009 period. This disparity is due to the varying effects that the Company's purchase commitments had on the fiscal 2010 period and fiscal 2009 period results. In January 2009, we entered into a purchase commitment, as amended, to acquire 2,592,000 pounds of hot dogs at \$1.685 per pound from April 2009 through September 2009. In January 2008, we entered into a purchase commitment to acquire approximately 1,785,000 pounds of hot dogs at \$1.535 per pound from April 2008 through August 2008. These purchase commitments lowered our hot dog costs during the fiscal 2010 and fiscal 2009 periods by \$41,000 and \$304,000, respectively, as compared to purchasing all of our products at the then-prevailing market price. These savings offset some of the effects of the higher commodity costs for beef and beef trimmings. Beginning in July 2008, we initiated price increases in our Branded Product Program, in an effort to offset the increased cost of our hot dogs, which has improved margins. If the cost of beef and beef trimmings increases and we are unable to pass on these higher costs through price increases, our margins will be adversely impacted.

With respect to our Company-owned restaurants, our cost of sales during the fiscal 2010 period was \$1,997,000 or 57.1% of restaurant sales, as compared to \$2,237,000 or 58.0% of restaurant sales in the fiscal 2009 period. During the fiscal 2010 period, our Company-owned stores experienced lower food and labor-related costs as a percentage of sales. The lower food cost as a percentage of sales was due primarily to the slightly lower commodity cost of our products and the effect of the sales price increases for select menu items. Cost of sales to our television retailer increased by \$110,000 in the fiscal 2010 period, primarily due to higher sales volume and the higher cost of hot dogs.

Restaurant operating expenses decreased by \$89,000 to \$823,000 in the fiscal 2010 period as compared to \$912,000 in the fiscal 2009 period. The decrease during the fiscal 2010 period when compared to the fiscal 2009 period results from operating one less restaurant during the fiscal 2010 period of \$61,000 and from lower utility costs of \$14,000, lower occupancy costs of \$20,000 and reductions in various other costs of \$34,000, which were partly offset by higher marketing costs of \$33,000 in connection with three monthly Free Standing Insert campaigns. During the fiscal 2010 period our utility costs were approximately 8.3% lower than the fiscal 2009 period which was due to lower commodity costs and lower consumption. We continue to be concerned about the uncertain market conditions for oil and natural gas.

Depreciation and amortization was \$199,000 in the fiscal 2010 period as compared to \$198,000 in the fiscal 2009 period.

General and administrative expenses increased by \$183,000 or 7.5% to \$2,628,000 in the fiscal 2010 period as compared to \$2,445,000 in the fiscal 2009 period. The difference in general and administrative expenses was due primarily to an increase in bad debts of \$121,000 and un-reimbursed property costs of \$48,000. We also incurred higher tax and audit fees of approximately \$83,000, which were partly offset by lower occupancy costs of \$32,000, stock compensation of \$18,000 and other reduced costs.

### **Provision for Income Taxes from Continuing Operations**

In the fiscal 2010 period, the income tax provision was \$910,000 or 36.8% of income from continuing operations before income taxes as compared to \$800,000 or 37.1% of income from continuing operations before income taxes in the fiscal 2009 period. For the fiscal periods ended June 28, 2009 and June 29, 2008, Nathan's tax provision, excluding the effects of tax-exempt interest income, was 40.1% and 40.6%, respectively.

### **Discontinued Operations**

On April 23, 2008, Nathan's completed the sale of its wholly-owned subsidiary, NF Roasters Corp. ("NF Roasters"), to Roasters Asia Pacific (Cayman) Limited. Pursuant to the Stock Purchase Agreement, Nathan's sold all of the stock of NF Roasters for \$4,000,000 in cash. The results of operations for NF Roasters, including the gains on disposal, have been presented as discontinued operations for the fiscal 2009 period.



Nathan's realized a gain on the sale of NF Roasters of \$3,656,000 net of professional fees of \$39,000, and recorded income taxes of \$1,289,000 on the gain during the thirteen weeks ended June 29, 2008. Nathan's has determined that it will not have any significant cash flows or continuing involvement in the ongoing operations of NF Roasters.

On June 7, 2007, Nathan's completed the sale of Miami Subs to Miami Subs Capital Partners I, Inc. ("Purchaser"). Pursuant to the Stock Purchase Agreement ("MSC Agreement"), Nathan's sold all of the stock of Miami Subs in exchange for \$3,250,000, consisting of \$850,000 in cash and the Purchasers Promissory Note in the amount of \$2,400,000 (the "MSC Note"). In the event the MSC Note were fully repaid within one year of the sale, Nathan's had agreed to reduce the amount due by \$250,000. Due to the ability to prepay the loan and reduce the amount due, the recognition of \$250,000 was initially deferred. The MSC Note was not prepaid within the requisite timeframe and Nathan's recognized \$250,000 as additional gain and initially recorded estimated income taxes of \$92,000 during the fiscal 2009 period, resulting from the contingent consideration which was deferred at the time of sale.

#### **Off-Balance Sheet Arrangements**

We are not a party to any off-balance sheet arrangements, other than the remaining purchase commitment to acquire approximately 1,336,000 pounds of hot dogs between July and September 2009. See Note K to the Consolidated Financial Statements.

#### **Liquidity and Capital Resources**

Cash and cash equivalents at June 28, 2009 aggregated \$9,011,000, increasing by \$332,000 during the fiscal 2010 period. At June 28, 2009, marketable securities were \$25,265,000 compared to \$25,670,000 at March 29, 2009 and net working capital increased to \$37,083,000 from \$35,303,000 at March 29, 2009.

Cash provided by operations of \$15,000 in the fiscal 2010 period is primarily attributable to net income of \$1,563,000, and other non-cash items of \$455,000, net. Changes in Nathan's operating assets and liabilities decreased cash by \$2,003,000, resulting primarily from increased accounts and other receivables of \$2,193,000, and increased inventories of \$328,000, which were partly offset by decreases in prepaid expenses of \$626,000. The increase in accounts and other receivables relates primarily to normal seasonal fluctuations from licensees of \$1,064,000, increased sales under the Branded Product Program and to our television retailer of \$516,000, advances to Nathan's advertising fund of \$356,000 and higher franchise royalties of \$206,000. Inventories increased in anticipation of higher sales to our television retailer and in our Company-operated restaurants. The decrease in prepaid expenses is due primarily to the reduction of prepaid corporate income taxes of \$282,000 which have been applied against the fiscal 2010 period income, usage of prepaid expenses for insurance and rent of \$151,000 and various other reductions.

Cash provided by investing activities was \$317,000 in the fiscal 2010 period, primarily related to cash proceeds of \$435,000 from the redemption of maturing available-for-sale securities and \$71,000 from the receipt of all scheduled payments on the MSC Note receivable. We also incurred capital expenditures of \$189,000.

Through June 28, 2009, Nathan's purchased a total of 2,693,806 shares of common stock at a cost of approximately \$18,798,000 pursuant to its stock repurchase plans previously authorized by the Board of Directors. None of these shares were repurchased during the thirteen-week period ended June 28, 2009. On November 13, 2008, Nathan's Board of Directors authorized a fourth stock repurchase plan for the purchase of up to 500,000 shares of the Company's common stock, under which 193,806 shares were repurchased at a cost of \$2,400,000 as of June 28, 2009.

On February 5, 2009, Nathan's and MSI entered into an agreement (the "10b5-1 Agreement") pursuant to which MSI has been authorized to purchase shares of the Company's common stock, having a value of up to an aggregate \$3.6 million, which commenced on March 16, 2009. The 10b5-1 Agreement was adopted under the safe harbor provided by Rule 10b5-1 of the Securities Exchange Act of 1934 in order to assist the Company in implementing its previously-announced fourth stock repurchase plan, for the purchase of up to 500,000 shares. The 10b5-1 Agreement shall terminate no later than March 15, 2010.

On June 30, 2009, Nathan's Board of Directors authorized its fifth stock repurchase plan for the purchase of up to 500,000 shares of its common stock on behalf of the Company and the Company repurchased 238,129 shares of common stock at a cost of \$3,015,000 in a privately-negotiated transaction with Prime Logic Capital, LLC.

After giving effect to the repurchase made on June 30, 2009, there are 306,194 and 261,871 shares remaining to be purchased pursuant to the fourth and fifth stock repurchase plans, respectively.

Purchases may be made from time to time, depending on market conditions, in open market or privately negotiated transactions, at prices deemed appropriate by management. There is no set time limit on the repurchases to be made under the fourth and fifth stock repurchase plans.

Management believes that available cash, marketable securities and cash generated from operations should provide sufficient capital to finance our operations and stock repurchases for at least the next twelve months.

Nathan's philosophy with respect to maintaining a balance sheet with a significant amount of cash and marketable securities reflects our views of maintaining readily available capital to expand our existing business and pursue any new business opportunities which might present themselves to expand our business. Nathan's routinely assesses its investment management approach with respect to our current and potential capital requirements.

We expect that in the future we will continue the stock repurchase programs, make additional investments in certain existing restaurants and support the growth of the Branded Product Program and fund those investments from our operating cash flow. We may also incur capital expenditures in connection with opportunistic investments on a case-by-case basis.

At June 28, 2009, there were four properties that we lease from third parties which we sublease to franchisees and a non-franchisee. Two of the subleases are currently in default of the sublease agreements. We remain contingently liable for all costs associated with these properties including: rent, property taxes and insurance. We may incur future cash payments with respect to such properties, consisting primarily of future lease payments, including costs and expenses associated with terminating any of such leases.

The following schedule represents Nathan's cash contractual obligations and commitments by maturity (in thousands):

Cash Contractual Obligations	Total	Payments Due by Period			
		Less than 1 Year	1 - 3 Years	3-5 Years	More than 5 Years
Employment Agreements (a)	\$ 3,202	\$ 1,236	\$ 1,166	\$ 400	\$ 400
Operating Leases	10,925	1,576	1,347	1,082	6,920
Gross Cash Contractual Obligations	14,127	2,812	2,513	1,482	7,320
Sublease Income	1,173	232	452	244	245
Net Cash Contractual Obligations	\$ 12,954	\$ 2,580	\$ 2,061	\$ 1,238	\$ 7,075
		Amount of Commitment Expiration by Period			
Other Contractual Commitment	Total Amounts Committed	Less than 1 Year	1 - 3 Years	3-5 Years	More than 5 Years
Commitment to purchase	\$ 2,251	\$ 2,251	\$ -	\$ -	\$ -
Total Other Contractual Commitment	\$ 2,251	\$ 2,251	\$ -	\$ -	\$ -

(a) Includes the extension of Messrs. Gatoff's and Norbitz' employment agreements for which no non-renewal notices were provided within the required 180 days of December 31, 2009.

### Inflationary Impact

We do not believe that general inflation has materially impacted earnings since 2006. However, since then, we have experienced significant cost increases for certain food products, distribution costs and utilities. Our commodity costs for beef have been very volatile since fiscal 2004. During the fiscal 2010 period, the market price of hot dogs was approximately 0.5% higher than during the fiscal 2009 period. During that same period, our cost of beef has been approximately 5.7% higher than the fiscal 2009 period. This disparity is due to the varying affects that the purchase commitments had on the fiscal 2010 period and fiscal 2009 period results, which lowered our costs by 0.8% and 5.7%, respectively. To date, the cost of hot dogs has not increased as rapidly as we experienced during the period May through September 2008, when the cost of hot dogs reached the highest level since the inception of our Branded Product Program. Consequently, the resulting benefit of the purchase commitment was not as significant during the fiscal 2010 period. Since January 2009, the cost of beef and beef trimmings has been relatively stable. However, we are unable to predict the future cost of our hot dogs and expect to experience price volatility for our beef products during fiscal 2010. During the fiscal 2010 period we experienced lower costs for corn oil and cheese which were partly offset by higher costs for potatoes. We may seek to enter into a purchase commitment for corn oil in the future. Additionally, we continue to experience the volatility in oil prices on our distribution costs for our food products and utility costs in our Company-owned restaurants.

From time to time, various Federal and New York State legislators have proposed changes to the minimum wage requirements. The Federal and New York State minimum wages were increased to \$7.25 per hour, effective July 24, 2009. This increase was the final scheduled increase pursuant to existing legislation where our Company-owned restaurants are located. This wage increase is not expected to have a material impact on our results of operations or financial position as the vast majority of our employees are paid at a rate higher than the minimum wage. Although we only operate five Company-owned restaurants, we believe that significant increases in the minimum wage could have a significant financial impact on our financial results and the results of our franchisees. Continued increases in labor, food and other operating expenses could adversely affect our operations and those of the restaurant industry and we might have to further reconsider our pricing strategy as a means to offset reduced operating margins.

The Company's business, financial condition, operating results and cash flows can be impacted by a number of factors, including but not limited to those set forth above in "Management's Discussion and Analysis of Financial Condition and Results of Operations," any one of which could cause our actual results to vary materially from recent results or from our anticipated future results. For a discussion identifying additional risk factors and important factors that could cause actual results to differ materially from those anticipated, also see the discussions in "Forward-Looking Statements" and "Notes to Consolidated Financial Statements" in this Form 10-Q and "Risk Factors" in our Form 10-K for our fiscal year ended March 29, 2009.

### Item 3. Quantitative and Qualitative Disclosures About Market Risk.

#### Cash and Cash Equivalents

We have historically invested our cash and cash equivalents in short term, fixed rate, highly rated and highly liquid instruments which are reinvested when they mature throughout the year. Although our existing investments are not considered at risk with respect to changes in interest rates or markets for these instruments, our rate of return on short-term investments could be affected at the time of reinvestment as a result of intervening events. As of June 28, 2009, Nathans' cash and cash equivalents aggregated \$9,011,000. Earnings on these cash and cash equivalents would increase or decrease by approximately \$23,000 per annum for each 0.25% change in interest rates.

#### Marketable Securities

We have invested our marketable securities in intermediate term, fixed rate, highly rated and highly liquid instruments. These investments are subject to fluctuations in interest rates. As of June 28, 2009, the market value of Nathans' marketable securities aggregated \$25,265,000. Interest income on these marketable securities would increase or decrease by approximately \$63,000 per annum for each 0.25% change in interest rates. The following chart presents the hypothetical changes in the fair value of the marketable investment securities held at June 28, 2009 that are sensitive to interest rate fluctuations (in thousands):

	Valuation of securities Given an interest rate Decrease of X Basis points			Fair Value	Valuation of securities Given an interest rate Increase of X Basis points		
	(150BPS)	(100BPS)	(50BPS)		+50BPS	+100BPS	+150BPS
	Municipal notes and bonds	\$ 26,399	\$ 26,071		\$ 25,692	\$ 25,265	\$ 24,817

#### Borrowings

The interest rate on our prior borrowings was generally determined based upon the prime rate and was subject to market fluctuation as the prime rate changed, as determined within each specific agreement. At June 28, 2009, we had no outstanding indebtedness. If we were to borrow money in the future, such borrowings would be based upon the then prevailing interest rates. We do not anticipate entering into interest rate swaps or other financial instruments to hedge our borrowings. Accordingly, we do not believe that fluctuations in interest rates would have a material impact on our financial results.

#### Commodity Costs

The cost of commodities is subject to market fluctuation. In January 2009, we entered a purchase commitment, as amended, to acquire 2,592,000 pounds of hot dogs at \$1.685 per pound from April 2009 through September 2009. In January 2008, we entered into a purchase commitment to acquire approximately 1,785,000 pounds of hot dogs at \$1.535 per pound from April 2008 through August 2008. During the fiscal 2010 period, the market price of hot dogs was approximately 0.5% higher than the fiscal 2009 period. However, our cost of beef was approximately 5.7% higher during the fiscal 2010 period than the fiscal 2009 period. This disparity is due to the varying effects that the purchase commitments had on the fiscal 2010 period and fiscal 2009 period results, which lowered our costs by 0.8% and 5.7%, respectively. We may attempt to enter into similar arrangements for hot dogs and other products in the future. With the exception of those commitments, we have not attempted to hedge against fluctuations in the prices of the commodities we purchase using future, forward, option or other instruments. As a result, we expect that the majority of our future commodities purchases will be subject to changes in the prices of such commodities. Generally, we have attempted to pass through permanent increases in our commodity prices to our customers, thereby reducing the impact of long-term increases on our financial results. A short-term increase or decrease of 10.0% in the cost of our food and paper products for the thirteen weeks ended June 28, 2009 would have increased or decreased our cost of sales by approximately \$658,000.

#### Foreign Currencies

Foreign franchisees generally conduct business with us and make payments in United States dollars, reducing the risks inherent with changes in the values of foreign currencies. As a result, we have not purchased future contracts, options or other instruments to hedge against changes in values of foreign currencies and we do not believe fluctuations in the value of foreign currencies would have a material impact on our financial results.

#### **Item 4. Controls and Procedures.**

##### **Evaluation of Disclosure Controls and Procedures**

Our management, with the participation of our Chief Executive Officer, Chief Operating Officer and Chief Financial Officer, conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as required by Exchange Act Rule 13a-15. Based on that evaluation, the Chief Executive Officer, Chief Operating Officer and Chief Financial Officer have concluded that, as of the end of the period covered by this report, our disclosure controls and procedures were effective to ensure that the information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified by the SEC's rules and forms and that such information is accumulated and communicated to our management, including our principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure.

##### **Changes in Internal Controls**

There were no changes in our internal controls over financial reporting that occurred during the thirteen weeks ended June 28, 2009 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

##### **Limitations on the Effectiveness of Controls**

We believe that a control system, no matter how well designed and operated, cannot provide absolute assurance that the objectives of the control system are met, and no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within a company have been detected. Our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives and our Chief Executive Officer, Chief Operating Officer and Chief Financial Officer have concluded that such controls and procedures are effective at the reasonable assurance level.

## PART II. OTHER INFORMATION

### Item 1. Legal Proceedings.

We and our subsidiaries are from time to time involved in ordinary and routine litigation. Management presently believes that the ultimate outcome of such ordinary and routine litigation individually or in the aggregate, will not have a material adverse effect on our financial position, cash flows or results of operations. Nevertheless, litigation is subject to inherent uncertainties and unfavorable rulings could occur. An unfavorable ruling could include money damages and, in such event, could result in a material adverse impact on our results of operations for the period in which the ruling occurs.

On March 20, 2007, a personal injury lawsuit was initiated seeking unspecified damages against the Company's subtenant and the Company's master landlord at a leased property in Huntington, New York. The claim relates to damages suffered by an individual as a result of an alleged "trip and fall" on the sidewalk in front of the leased property, maintenance of which is the subtenant's responsibility. Although the Company was not named as a defendant in the lawsuit, under its master lease agreement the Company may have an obligation to indemnify the master landlord in connection with this claim. The Company did not maintain its own insurance on the property concerned at the time of the incident; however, the Company is named as an additional insured under its subtenant's liability policy. Accordingly, if the master landlord is found liable for damages and seeks indemnity from the Company, the Company believes that it would be entitled to coverage under the subtenant's insurance policy. Additionally, under the terms of the sublease, the subtenant is required to indemnify the Company, regardless of insurance coverage.

The Company is party to a License Agreement with SMG, Inc. ("SMG") dated as of February 28, 1994, as amended (the "License Agreement") pursuant to which: (i) SMG acts as the Company's exclusive licensee for the manufacture, distribution, marketing and sale of packaged Nathan's Famous frankfurter product at supermarkets, club stores and other retail outlets in the United States; and (ii) the Company has the right, but not the obligation, to require SMG to produce frankfurters for the Nathan's Famous restaurant system and Branded Product Program. On July 31, 2007, the Company provided notice to SMG that the Company has elected to terminate the License Agreement, effective July 31, 2008 (the "Termination Date"), due to SMG's breach of certain provisions of the License Agreement. SMG has disputed that a breach has occurred and has commenced, together with certain of its affiliates, an action in state court in Illinois seeking, among other things, a declaratory judgment that SMG did not breach the License Agreement. The Company filed its own action on August 2, 2007, in New York State court seeking a declaratory judgment that SMG has breached the License Agreement and that the Company has properly terminated the License Agreement. On January 23, 2008, the New York court granted SMG's motion to dismiss the Company's case in New York on the basis that the dispute was already the subject of a pending lawsuit in Illinois. The Company has answered SMG's complaint and asserted its own counterclaims which seek, among other things, a declaratory judgment that SMG did breach the License Agreement and that the Company has properly terminated the License Agreement. On July 31, 2008, SMG and Nathan's entered into a Stipulation pursuant to which Nathan's agreed that it would not effectuate the termination of the License Agreement on the grounds alleged in the present litigation until such litigation has been successfully adjudicated, and SMG agreed that in such event, Nathan's shall have the option to require SMG to continue to perform under the License Agreement for an additional period of up to six months to ensure an orderly transition of the business to a new licensee/supplier. Each of the parties has moved for summary judgment in its favor.

On July 31, 2009, the Company was served with a class action complaint filed in the Superior Court of the State of New Jersey, Essex County (the "Complaint"). In addition to Nathan's Famous, Inc., the Complaint names as defendants Kraft Foods, Sara Lee Corporation, ConAgra Foods, Inc., and Marathon Enterprises, Inc. (and together with Nathan's Famous, Inc., the "Defendants"). The named class plaintiffs purport to represent consumers who have purchased processed meat products that were distributed and sold in New Jersey from July 22, 2003 through July 22, 2009. The Complaint alleges, among other things, that Defendants violated the New Jersey Consumer Fraud Act (N.J.S.A. 56:8-2) (the "Act") by omitting material information about their respective processed meat products for the purpose of inducing consumers to purchase the products. The Complaint seeks injunctive relief, attorneys' fees and costs incurred in bringing the lawsuit. The named plaintiffs are further seeking combined damages in the amount of \$900.00. If a violation of the Act is found to have occurred, named plaintiffs are entitled to trebled damages in the combined amount of \$2,700.00. The Company is presently evaluating its response to the Complaint; however, management believes that any liability will not have a material impact on the financial condition of the Company.

### Item 1A. Risk Factors.

You should carefully consider the factors discussed in Part I, "Item 1A. Risk Factors" in the Annual Report on Form 10-K for the fiscal year ended March 29, 2009, which could materially affect our business, financial condition or future results. The risks described in our Annual Report on Form 10-K are not the only risks facing Nathan's. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or operating results.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.**

## ISSUER PURCHASES OF EQUITY SECURITIES

Period (A)	(a) Total Number of Shares Purchased	(b) Average Price Paid per Share	(c) Total Number of Shares Purchased as Part of Publicly Announced Plans	(d) Maximum Number of Shares that May Yet Be Purchased Under the Plan
March 30, 2009				
April 26, 2009	-0-	\$ -	-0-	306,194
April 27, 2009				
May 24, 2009	-0-	\$ -	-0-	306,194
May 25, 2009				
June 28, 2009	-0-	\$ -	-0-	306,194
Total	-0-	\$ -	-0-	306,194

A) Represents the Company's fiscal periods during the first quarter ended June 28, 2009.

On September 14, 2001, Nathan's was authorized to purchase up to 1,000,000 shares of its common stock. Pursuant to its first stock repurchase program, we repurchased 1,000,000 shares of common stock in open market transactions and a private transaction at a total cost of \$3,670,000. On October 7, 2002, Nathan's was authorized to purchase up to 1,000,000 additional shares of its common stock. Nathan's concluded the second authorized stock repurchase program of 1,000,000 shares of common stock at a cost of approximately \$5,416,000. On November 5, 2007, Nathan's Board of Directors authorized the purchase of up to an additional 500,000 shares of its common stock on behalf of the Company. On June 11, 2008, Nathan's and Mutual Securities, Inc. ("MSI") entered into an agreement (the "first 10b5-1 Agreement") pursuant to which MSI was authorized to purchase shares of the Company's common stock having a value of up to an aggregate \$6 million. Purchases under the first 10b5-1 Agreement have been completed. On February 5, 2009, Nathan's and MSI entered into a second agreement (the "second 10b5-1 Agreement") pursuant to which MSI has been authorized to purchase shares of the Company's common stock, having a value of up to an aggregate \$3.6 million, which purchases commenced on March 16, 2009. Both the first and the second 10b5-1 Agreements were adopted under the safe harbor provided by Rule 10b5-1 of the Securities Exchange Act of 1934 in order to assist the Company in implementing its previously announced stock repurchase plans, for the purchase of up to 500,000 shares. The first 10b5-1 plan was completed and the second 10b5-1 Agreement shall terminate no later than March 15, 2010.

Through June 28, 2009, Nathan's purchased a total of 2,693,806 shares of common stock at a cost of approximately \$18,798,000 pursuant to its stock repurchase plans previously authorized by the Board of Directors. None of these repurchased shares were repurchased during the thirteen-week period ended June 28, 2009. On November 13, 2008, Nathan's Board of Directors authorized a fourth stock repurchase plan for the purchase of up to 500,000 shares of the Company's common stock, under which 193,806 shares were repurchased at a cost of \$2,400,000 as of June 28, 2009.

On June 30, 2009, Nathan's Board of Directors authorized its fifth stock repurchase plan for the purchase of up to 500,000 shares of its common stock on behalf of the Company and the Company repurchased 238,129 shares of common stock at a cost of \$3,015,000 in a privately-negotiated transaction with Prime Logic Capital, LLC.

After giving effect to the repurchase made on June 30, 2009, there are 306,194 and 261,871 shares remaining to be purchased pursuant to the fourth and fifth stock repurchase plans, respectively.

Purchases may be made from time to time, depending on market conditions, in open market or privately negotiated transactions, at prices deemed appropriate by management. There is no set time limit on the repurchases to be made under the fourth and fifth stock repurchase plans.

**Item 6. Exhibits**

- 3.1 Certificate of Incorporation. (Incorporated by reference to Exhibit 3.1 to Registration Statement on Form S-1 No. 33- 56976.)
- 3.2 Amendment to the Certificate of Incorporation, filed December 15, 1992. (Incorporated by reference to Exhibit 3.2 to Registration Statement on Form S-1 No. 33-56976.)
- 3.3 By-Laws, as amended. (Incorporated by reference to Exhibit 3.1 to Form 8-K dated November 1, 2006.)
- 4.1 Specimen Stock Certificate. (Incorporated by reference to Exhibit 4.1 to Registration Statement on Form S-1 No. 33-56976.)
- 4.2 Form of Rights Certificate. (Incorporated by reference to Exhibit A to Form 8-K dated June 6, 2008.)
- 4.3 Rights Agreement dated as of June 4, 2008 between Nathan's Famous, Inc. and American Stock Transfer and Trust Company. (Incorporated by reference to Exhibit 4.2 to Form 8-K dated June 6, 2008.)
- 10.1 \*Stock Purchase Agreement dated June 30, 2009 among Nathan's Famous, Inc., Prime Logic Capital LLC and Cantor Fitzgerald & Co.
- 31.1 \*Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2 \*Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32.1 \*Certification by Eric Gatoff, CEO, Nathan's Famous, Inc., pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 32.2 \*Certification by Ronald G. DeVos, CFO, Nathan's Famous, Inc., pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

\*Filed herewith.

**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 thereunto duly authorized.

NATHAN'S FAMOUS, INC.

Date: August 7, 2009

By: /s/Eric Gatoff

Eric Gatoff  
Chief Executive Officer  
(Principal Executive Officer)

Date: August 7, 2009

By: /s/Ronald G. DeVos

Ronald G. DeVos  
Vice President - Finance  
and Chief Financial Officer  
(Principal Financial and Accounting Officer)



## Exhibit Index

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\*Filed herewith.

## AGREEMENT

AGREEMENT dated as of this 30th day of June, 2009, by and among Prime Logic Capital LLC, a Delaware limited liability company ("PLC"), Cantor Fitzgerald & Co., a New York partnership ("Cantor"), and Nathan's Famous, Inc., a Delaware corporation (the "Company").

## RECITALS:

**WHEREAS**, PLC is, on the date hereof, the record and beneficial owner of 238,129 shares of Common Stock, par value \$.01 per share, of the Company (the "Shares"); and

**WHEREAS**, pursuant to the terms and conditions contained herein, (i) PLC wishes to sell the Shares to Cantor, (ii) Cantor wishes to purchase the Shares from PLC and resell the Shares to the Company, and (iii) the Company wishes to purchase the Shares from Cantor.

**NOW, THEREFORE**, in consideration of the agreements and provisions contained herein, the parties hereto hereby agree as follows:

**1. Sale of Shares.**

A. PLC hereby agrees to sell the Shares to Cantor, and Cantor hereby agrees to purchase the Shares from PLC. Cantor shall pay to PLC \$12.60 per share and PLC shall deliver the Shares to Cantor by means of book entry transfer. Cantor shall deliver funds upon receipt of shares and the transaction shall settle in the ordinary manner on T+3 from trade date.

B. Subject to and conditioned upon the consummation of the sale of the Shares from PLC to Cantor referred to in Section 1(A) hereof, Cantor hereby agrees to sell the Shares to the Company, and the Company hereby agrees to purchase the Shares from Cantor. The Company shall pay to Cantor \$12.63 per share and Cantor shall deliver the Shares to the Company by means of book entry transfer. The Company shall deliver funds upon receipt of shares and the transaction shall settle in the ordinary manner on T+3 from trade date.

**2. PLC Acknowledgements.** PLC hereby acknowledges the following to Cantor and the Company:

A. Cantor or the Company has, or may have, material, non-public information relating to the Company, including relating to the Company's results of operations for the fiscal quarter ending June 28, 2009.

B. any non-public information may impact the value of the Shares being sold.

C. PLC has not requested and does not wish to receive any non-public information from the Company.

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3. **Cantor Acknowledgements.** Cantor hereby acknowledges the following to the Company:

- A. the Company has, or may have, material, non-public information relating to the Company, including relating to the Company's results of operations for the fiscal quarter ending June 28, 2009.
- B. any non-public information may impact the value of the Shares being sold.
- C. Cantor has not requested and does not wish to receive any non-public information from the Company.

4. **PLC Representations, Warranties and Covenants.** PLC hereby represents, warrants and covenants to Cantor and the Company as follows:

A. PLC has full corporate power and authority to execute and deliver this agreement and to perform its obligations hereunder. This agreement and each other document, instrument or agreement executed and delivered by PLC in connection with the transactions contemplated hereby has been duly executed and delivered by PLC and constitutes the valid and legally binding obligation of PLC, enforceable against it in accordance with its terms and conditions, except as the enforceability thereof may be limited by bankruptcy, insolvency or other laws relating to or affecting creditors' rights.

B. PLC is the legal and beneficial owner of the Shares and has the right to transfer the whole of the legal and beneficial interest in and title to the Shares, which will be transferred to the Company on the closing date free from any pledge, charge, security interest, hypothecation, restriction, encumbrance, right to acquire, right of pre-emption, option, conversion right, third party right or interest right of set off or counterclaim, equities, trust arrangement or any other type of preferential agreement (collectively, "Liens").

C. Notwithstanding the provisions of Section 2, PLC has sufficient information on which to base its decision to sell the Shares.

D. Neither Cantor nor the Company has made any representations (oral or otherwise) upon which PLC is relying in connection with the sale of the Shares.

E. PLC has conducted its own analysis and its own due diligence with respect to the transaction, and it has conducted such analysis to whatever extent it considers appropriate to form a basis for its decision to sell the Shares.

F. PLC is experienced and sophisticated in financial and business matters and it is, on its own, capable of evaluating the merits and the risks of the sale of the Shares. In making its decision to sell the Shares, PLC has relied solely on its own advisors, and not on the advice of Cantor, the Company or the Company's advisors or legal counsel.

G. in consideration for Cantor's purchase of the Shares, PLC, for and on behalf of itself, its affiliates, attorneys, successors, and assigns, hereby waives, remits, releases and forever discharges Cantor and the Company and each of their respective subsidiaries (direct or indirect), affiliates, shareholders, board members, officers, directors, trustees, beneficiaries, employees, representatives, personal representatives, trust companies, corporate service companies, executors, servants, attorneys in fact and at law, agents, insurers, sureties, heirs, successors and assigns (collectively, "**Cantor/Company Releasees**") from any and all manner of action, claims, liens, demands, liabilities, potential or actual causes of action, charges, complaints, suits (judicial, administrative, or otherwise), damages, debts, demands, obligations of any other nature, past or present, known or unknown, whether in law or in equity, whether founded upon contract (expressed or implied), tort (including, but not limited to, defamation), statute or regulation (State, Federal or local), common law and/or other theory or basis, from the beginning of the world to the date hereof, relating to any non-disclosure by Cantor or the Company to PLC of any material, non-public information relating to the Company.

H. PLC also covenants not to sue or otherwise participate in any action or class action against, any of the Cantor/Company Releasees based upon any of the claims released in paragraph G, above.

I. PLC fully understands the effect of its waiver contained herein and elects to proceed with the sale of the Shares to Cantor.

5. **Cantor Representations, Warranties and Covenants.** Cantor hereby represents, warrants and covenants to the Company as follows:

A. Cantor has full partnership power and authority to execute and deliver this agreement and to perform its obligations hereunder. This agreement and each other document, instrument or agreement executed and delivered by Cantor in connection with the transactions contemplated hereby has been duly executed and delivered by Cantor and constitutes the valid and legally binding obligation of Cantor, enforceable against it in accordance with its terms and conditions, except as the enforceability thereof may be limited by bankruptcy, insolvency or other laws relating to or affecting creditors' rights.

B. Following the purchase by Cantor of the Shares from PLC in the transaction referred to in Section 1(A) hereof, Cantor will be the legal and beneficial owner of the Shares and will have the right to transfer the whole of the legal and beneficial interest in and title to the Shares, which will be transferred to the Company on the closing date free from any Liens.

C. Notwithstanding the provisions of Section 3, Cantor has sufficient information on which to base its decision to sell the Shares.

D. The Company has not made any representations (oral or otherwise) upon which Cantor is relying in connection with the sale of the Shares.

E. Cantor has conducted its own analysis and its own due diligence with respect to the transaction, and it has conducted such analysis to whatever extent it considers appropriate to form a basis for its decision to sell the Shares.

F. Cantor is experienced and sophisticated in financial and business matters and it is, on its own, capable of evaluating the merits and the risks of the sale of the Shares. In making its decision to sell the Shares, Cantor has relied solely on its own advisors, and not on the advice of Cantor, the Company or the Company's advisors or legal counsel.

G. In consideration for the Company's purchase of the Shares, Cantor, for and on behalf of itself, its affiliates, attorneys, successors, and assigns, hereby waives, remits, releases and forever discharges the Company and each of its subsidiaries (direct or indirect), affiliates, shareholders, board members, officers, directors, trustees, beneficiaries, employees, representatives, personal representatives, trust companies, corporate service companies, executors, servants, attorneys in fact and at law, agents, insurers, sureties, heirs, successors and assigns (collectively, "**Company Releasees**") from any and all manner of action, claims, liens, demands, liabilities, potential or actual causes of action, charges, complaints, suits (judicial, administrative, or otherwise), damages, debts, demands, obligations of any other nature, past or present, known or unknown, whether in law or in equity, whether founded upon contract (expressed or implied), tort (including, but not limited to, defamation), statute or regulation (State, Federal or local), common law and/or other theory or basis, from the beginning of the world to the date hereof, relating to any non-disclosure by Cantor or the Company to Cantor of any material, non-public information relating to the Company.

H. Cantor also covenants not to sue, or otherwise participate in any action or class action against, any of the Company Releasees based upon any of the claims released in paragraph G, above.

I. Cantor fully understands the effect of its waiver contained herein and elects to proceed with the sale of the Shares to the Company.

3. **Survival.** All representations, warranties and covenants of PLC and Cantor contained in this agreement shall survive the closing of the transactions contemplated hereby.

4. **Miscellaneous.**

A. This agreement shall be governed by and construed in accordance with the laws of New York State, notwithstanding the operation of any conflict or choice of law statutes or decisional law to the contrary. Each of PLC and Cantor hereby consents to the jurisdiction of the Federal and state courts located in the Borough of Manhattan, City and State of New York, in connection with any disputes under this agreement.

B. If at any time after the date of the execution of this agreement, any provision of this agreement shall be held to be illegal, void or unenforceable by a court of competent jurisdiction, such provision shall be of no force and effect; provided, however, that the illegality or unenforceability of such provision shall have no effect upon, and shall not impair the enforceability of, any other provision of this agreement.

C. This agreement constitutes the entire agreement and understanding among the parties, and it supersedes any and all prior representations, understandings and agreements, whether written or verbal. This agreement cannot be changed orally. Any amendments to this agreement must be made in writing and signed by the parties.

D. Each of the signatories to this agreement agrees to execute all such further documents, and to take all such further action, as may be deemed necessary or advisable in order to effectuate the intent and purpose of this agreement.

E. This agreement may be executed in counterparts and/or by facsimile transmission, each of which when executed shall be deemed to be an original and all of which together shall constitute a single instrument binding upon the parties hereto; provided, however, that originally signed documents shall also be provided. All fully executed copies shall be considered duplicate originals, equally admissible in evidence.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed by their respective authorized officers as of the day and year first above written.

PRIME LOGIC CAPITAL LLC

By: /s/ Marc Cummings

Title: Partner

CANTOR FITZGERALD & CO.

By: /s/Heid Olson

Title: CAO

NATHAN'S FAMOUS, INC.

By: /s/Eric Gatoff

Title: CEO

Cantor Bank Account Information



Nathan's Bank Account Information

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## CERTIFICATION

I, Eric Gatoff, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the quarter ended June 28, 2009 of Nathan's Famous, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 7, 2009

/s/ Eric Gatoff

Eric Gatoff  
Chief Executive Officer

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## CERTIFICATION

I, Ronald G. DeVos, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the quarter ended June 28, 2009 of Nathan's Famous, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 7, 2009

/s/ Ronald G. DeVos  
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Ronald G. DeVos  
Chief Financial Officer

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CERTIFICATION PURSUANT TO

18 U.S.C. SECTION 1350

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Eric Gatoff, Chief Executive Officer of Nathan's Famous, Inc., certify that:

The quarterly report on Form 10-Q of Nathan's Famous, Inc. for the period ended June 28, 2009 fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934; and

The information contained in such report fairly presents, in all material respects, the financial condition and results of operations of Nathan's Famous, Inc.

/s/ Eric Gatoff

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Name: Eric Gatoff

Date: August 7, 2009

A signed original of this written statement required by Section 906 has been provided to Nathan's Famous, Inc. and will be retained by Nathan's Famous, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

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CERTIFICATION PURSUANT TO

18 U.S.C. SECTION 1350

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Ronald G. DeVos, Chief Financial Officer of Nathan's Famous, Inc., certify that:

The quarterly report on Form 10-Q of Nathan's Famous, Inc. for the period ended June 28, 2009 fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934; and

The information contained in such report fairly presents, in all material respects, the financial condition and results of operations of Nathan's Famous, Inc.

/s/ Ronald G. DeVos

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Name: Ronald G. DeVos

Date: August 7, 2009

A signed original of this written statement required by Section 906 has been provided to Nathan's Famous, Inc. and will be retained by Nathan's Famous, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

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