

GREAT ATLANTIC & PACIFIC TEA CO INC
Form 10-K
May 12, 2009

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

FORM 10-K

(Mark One)

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

For the fiscal year ended February 28, 2009

OR

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 1-4141

THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC.

(Exact name of registrant as specified in its charter)

Maryland
(State or other jurisdiction of
incorporation or organization)

13-1890974
(I.R.S. Employer
Identification No.)

2 Paragon Drive
Montvale, New Jersey 07645
(Address of principal executive offices)

Registrant's telephone number, including area code: 201-573-9700

Securities registered pursuant to Section 12 (b) of the Act:

Title of each class	Name of each exchange on which registered
Common Stock \$1 par value	New York Stock Exchange
5.125% Convertible Senior Notes, due June 15, 2011	New York Stock Exchange
6.750% Convertible Senior Notes, due December 15, 2012	New York Stock Exchange
9.125% Senior Notes, due December 15, 2011	New York Stock Exchange
9.375% Notes, due August 1, 2039	New York Stock Exchange

Securities registered pursuant to Section 12 (g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined by Rule 405 of the Securities Act. Yes No

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Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 of Section 15(d) of the Act. Yes No

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 has submitted electronically and posted on its corporate web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-K (§229.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files.
Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2). Yes No

The aggregate market value of the voting stock held by non-affiliates of the Registrant as of the close of business on September 6, 2008, the registrant's most recently completed second fiscal quarter, was \$451,554,924.

The number of shares of common stock outstanding as of the close of business on May 8, 2009 was 57,771,720.

DOCUMENTS INCORPORATED BY REFERENCE

The information required by Part I, Items 1 and 3, and Part II, Items 5, 6, 7, 7A, 8 and 9A are incorporated by reference from the Registrant's Fiscal 2008 Annual Report to Stockholders. The information required by Part III, Items 10, 11, 12, 13, and 14 are incorporated by reference from the Registrant's Proxy Statement for the 2008 Annual Meeting of Stockholders.

PART I

ITEM 1 Business

General

The Great Atlantic & Pacific Tea Company, Inc. (A&P , we , our , us or our Company) is engaged in the retail food business. We operated 43 stores averaging approximately 42,200 square feet per store as of February 28, 2009.

Operating under the trade names A&P®, Super Fresh®, Waldbaum's®, Super Foodmart, Food Basics®, The Food Emporium®, Best Cellars®, Pathmark® and Pathmark Sav-a-Center®, we sell groceries, meats, fresh produce and other items commonly offered in supermarkets. In addition, many stores have bakery, delicatessen, pharmacy, floral, fresh fish and cheese departments and on-site banking. National, regional and local brands are sold as well as private label merchandise. In support of our retail operations, we sell other private label products in our stores under other brand names of our Company which include without limitation, America's Choice®, Master Choice®, and Health Pride®.

Building upon a broad base of supermarkets, our Company has historically expanded and diversified within the retail food business through the acquisition of other supermarket chains and the development of several alternative store types. We now operate our stores with merchandise, pricing and identities tailored to appeal to different segments of the market, including buyers seeking gourmet and ethnic foods, a wide variety of premium quality private label goods and health and beauty aids along with the array of traditional grocery products.

Our Internet address is www.aptea.com. We make available free of charge through our Internet website our annual reports and the proxy statement for our annual meeting of stockholders as soon as reasonably practicable after we electronically file such material with, or furnish them to, the Securities and Exchange Commission. All of such materials are located at the Investors page. We also provide through our Internet website a hyperlink to the Securities and Exchange Commission website, where the Company's quarterly reports on Form 10-Q, current reports on Form 8-K, and Forms 3, 4 and 5 filed with respect to our equity securities under Section 16(a) of the Securities and Exchange Act of 1934 may be accessed electronically. The information found on our website shall not be deemed incorporated by reference by any general statement incorporating by reference this report into any filing under the Securities Act of 1933, as amended, or under the Securities Exchange Act of 1934, as amended, and shall not otherwise be deemed filed under the Acts.

Modernization of Facilities

During fiscal 2008, we expended approximately \$116.0 million for capital projects, which included 1 new liquor store, 2 liquor store remodels, 1 Gourmet store remodel, 16 major remodels, 1 major enlargement, 2 conversions, 7 Pathmark Price-Impact remodels and 3 Starbucks remodels. Our planned capital expenditures for fiscal 2009 are approximately \$100 million, which relate primarily to enlarging or remodeling supermarkets, and converting supermarkets to more optimal formats.

Sources of Supply

Our Company currently acquires a majority of our saleable inventory from one supplier, C&S Wholesale Grocers, Inc. Although there are a limited number of distributors that can supply our stores, we believe that other suppliers could provide similar product on comparable terms.

On March 7, 2008, our Company entered into a definitive agreement with C&S Wholesale Grocers, Inc. (C&S) whereby C&S will provide warehousing, logistics, procurement and purchasing services (the Services) in support of the Company's entire supply chain. This agreement replaces and supersedes three (3) separate wholesale supply agreements under which the parties have been operating. The term of the agreement is ten and one-half (10-1/2) years, which included a six-month ramp-up period during which the parties transitioned to the new contractual terms and conditions. The agreement provides that the actual costs of performing the services shall be reimbursed to C&S on an open-book or cost-plus basis, whereby the parties will negotiate annual budgets that will be reconciled against actual costs on a periodic basis. The parties will also annually negotiate services specifications and performance standards that will govern warehouse operations. The agreement defines the parties' respective responsibilities for the procurement and purchase of merchandise intended for use or resale at the Company's stores, as well as the parties' respective remuneration for warehousing and procurement/purchasing activities. In consideration for the services it provides under the agreement, C&S will be paid an annual fee and will have incentive income opportunities based upon A&P's cost savings and increases in retail sales volume.

On September 27, 2008, our Company agreed to sell C&S all general merchandise, health beauty and cosmetics, seasonal grocery and other such merchandise warehoused at our distribution center located in Edison, New Jersey. The cost of this inventory was approximately \$29.9 million and we have repurchased all of the inventory at the end of our third quarter of fiscal 2008.

Licenses and Trademarks

Our stores require a variety of licenses and permits that are renewed on an annual basis. Payment of a fee is generally the only condition to maintaining such licenses and permits. We maintain registered trademarks for nearly all of our store banner trade names and private label brand names. Trademarks are generally renewable on a 10 year cycle. We consider trademarks an important way to establish and protect our Company brands in a competitive environment.

Employees

As of February 28, 2009, we had approximately 48,000 employees, of which 68% were employed on a part-time basis. Approximately 92% of our employees are covered by union contracts. Our Company considers its present relations with employees to be satisfactory.

Competition

The supermarket business is highly competitive throughout the marketing areas served by our Company and is generally characterized by low profit margins on sales with earnings primarily dependent upon rapid inventory turnover, effective cost controls and the ability to achieve high sales volume. We compete for sales and store locations with a number of national and regional chains, as well as with many independent and cooperative stores and markets.

Segment Information

The segment information required is contained under the caption "Note 18 - Segments" in the Fiscal 2008 Annual Report to Stockholders ("Annual Report ") and is herein incorporated by reference.

ITEM 1A Risk Factors

The Risk Factors required are disclosed in the Fiscal 2008 Annual Report to Stockholders and are herein incorporated by reference.

ITEM 1B Unresolved Staff Comments

None.

ITEM 2 Properties

At February 28, 2009, we owned 57 properties consisting of the following:

<u>Stores, Not Including Stores in Owned Shopping Centers</u>	
Land and building owned	14
Building owned and land leased	22
Total stores	36
<u>Shopping Centers</u>	
Land and building owned	6
Building owned and land leased	1
Total shopping centers	7
<u>Administrative and Other Properties</u>	
Land and building owned	6
Undeveloped land	8
Total other properties	14
Total Properties	57

None of the properties listed above are subject to material encumbrances.

At February 28, 2009, we operated 436 retail stores. These stores are geographically located as follows:

<u>Company Stores:</u>	
<u>New England States:</u>	
Connecticut	24
Massachusetts	1
Total	25
<u>Middle Atlantic States:</u>	
District of Columbia	2
Delaware	12
Maryland	27
New Jersey	154
New York	172
Pennsylvania	43
Virginia	1
Total	411
Total Stores	436

The total area of all of our operated retail stores is 18.4 million square feet averaging approximately 42,200 square feet per store. Excluding liquor and The Food Emporium® stores, which are generally smaller in size, the average store size is approximately 45,300 square feet. We opened a 6,000 square foot liquor store during fiscal 2008 with a selling area of approximately 42% of the total square footage. The stores built over the past several years and those planned for fiscal 2009 and thereafter, generally range in size from 40,000 to 60,000 square feet. The selling area of new stores is normally approximately 75% of the total square footage.

Our Company considers our stores, warehouses, and other facilities adequate for our operations.

ITEM 3 Legal Proceedings

The information required is contained under the caption Note 21 Commitments and Contingencies in the Fiscal 2008 Annual Report to Stockholders and is herein incorporated by reference.

ITEM 4 Submission of Matters to a Vote of Security Holders

There were no matters submitted to a vote of security holders during the fourth quarter of fiscal 2008.

ITEM 4A Executive Officers of the Registrant

The executive officers of our Company are as follows:

<u>Name</u>	<u>Age</u>	<u>Current Position</u>
Christian Haub	45	Executive Chairman
Eric Claus	52	President and Chief Executive Officer
Brenda Galgano	40	Senior Vice President, Chief Financial Officer
Andreas Guldin	47	Executive Managing Director, Strategy & Development
Jennifer MacLeod	48	Senior Vice President, Marketing and Communications
Rebecca Philbert	47	Senior Vice President, Merchandising & Supply & Logistics
Allan Richards	45	Senior Vice President, Human Resources, Labor Relations, Legal Services & Secretary
Paul Wiseman	48	Senior Vice President, Store Operations
William Moss	61	Vice President and Treasurer
Melissa Sungela	43	Vice President and Corporate Controller

Mr. Haub was appointed Executive Chairman in August 2005. He was elected a director in December 1991, and is Chair of the Executive Committee. Mr. Haub previously served as Chairman of the Board and Chief Executive Officer; and as Chief Operating Officer of our Company from December 1993, becoming Co-Chief Executive Officer in April 1997, sole CEO in May 1998 and Chairman of the Board in May 2001. Mr. Haub also served as President of the Company from December 1993 through February 2002, and from November 2002 through November 2004. Mr. Haub is a partner and Co-Chief Executive Officer of Tengelmänn Warenhandels-gesellschaft KG, a partnership organized under the laws of the Federal Republic of Germany (Tengelmänn). Mr. Haub is on the Board of Directors of Metro, Inc., the Food Marketing Institute and on the Board of Trustees of St. Joseph's University in Philadelphia, Pennsylvania.

Mr. Claus was appointed President & Chief Executive Officer in August 2005. Mr. Claus previously served as President & Chief Executive Officer, Canadian Company from November 2002 to August 2005. Prior to joining our Company, Mr. Claus served as Chief Executive Officer of Co-Op Atlantic, between February 1997 and November 2002.

Ms. Galgano, CPA, was appointed Senior Vice President, Chief Financial Officer in November 2005. Ms. Galgano served as Senior Vice President and Corporate Controller, from November 2004 to November 2005; Vice President, Corporate Controller from February 2002 to November 2004, Assistant Corporate Controller of our Company from July 2000 to February 2002 and Director of Corporate Accounting from October 1999 to July 2000. Prior to joining our Company, Ms. Galgano was with PricewaterhouseCoopers LLP as Senior Manager, Assurance and Business Advisory Services.

Mr. Guldin was appointed Executive Managing Director, Strategy & Development on May 1, 2007 and was elected to the Board of Directors effective May 1, 2007. Prior to that he was Senior Executive Vice President (Corporate Finance) and Co-CFO of Tengelmänn Warenhandels-gesellschaft KG. Prior to joining Tengelmänn, Mr. Guldin served as a member of the Executive Management Team and Chief Financial Officer at E. Breuninger GmbH & Co. (Germany), the most prestigious department store and fashion retailer in Germany. Before that he worked for several years as a business and strategy consultant as a Senior Consultant and Project Leader at PA Consulting and CSC Index, Germany.

Ms. MacLeod was appointed Senior Vice President of Marketing and Communications in November 2005. Prior to joining our Company, Ms. MacLeod served as Vice President of Marketing and Public Relations from 1998 to November 2005 for Co-op Atlantic, an operator based in New Brunswick, Canada.

Ms. Philbert was appointed Senior Vice President, Merchandising, in December 2006 and in February 2007 was additionally appointed over Supply & Logistics. Prior to joining our Company, she was with Safeway, Inc. from 1981 to 2006, where she most recently served as Corporate Vice President and Senior Lead, Lifestyle Store development. Prior to that she served as Corporate Vice President Deli and Foodservice & Starbucks and prior to that Corporate Vice President of Marketing.

Mr. Richards was appointed Senior Vice President, Human Resources, Labor Relations & Legal Services in September 2005 and in October 2005 was additionally appointed the Company's Secretary. Prior to that Mr. Richards served as Senior Vice President, Labor Relations & Human Resources from July 2004 to September 2005 and as Senior Vice President, Labor Relations from March 2004 to July 2004. Prior to joining our Company Mr. Richards served as a consultant with MGS Consulting, Inc. from July 2003 to July 2004; and prior to that as Director of Labor Relations and Employment Law for Fleming Companies, Inc. from June 2000 to July 2003.

Mr. Wiseman was appointed Senior Vice President, Store Operations in September 2005. Prior to that Mr. Wiseman was Senior Vice President, Discount Operations, A&P Canada from 2004 to September 2005 and prior to that served as District Manager/Vice President Retail Operations from 1999 to 2004 for Co-op Atlantic, an operator based in New Brunswick, Canada.

Mr. Moss was appointed Vice President and Treasurer in February 2002. Prior to that Mr. Moss was Vice President, Treasury Services and Risk Management from 1992 to February 2002.

Ms. Sungela, CPA, was appointed Vice President and Corporate Controller in November 2005. Ms. Sungela served as Vice President and Assistant Corporate Controller from June 2004 to November 2005. Prior to joining our Company, Ms. Sungela was North American Controller for Amersham Biosciences, a part of GE Healthcare, from April 2002 to June 2004. Previously, she served as Director of Accounting Policy for Honeywell, from June 1998 to January 2002.

PART II**ITEM 5 Market for the Registrant's Equity and Related Stockholder Matters and Issuer Purchases of Equity Securities**

The information required is contained under the captions Summary of Quarterly Results, Five Year Summary of Selected Financial Data, and Stockholder Information in the Fiscal 2008 Annual Report to Stockholders and is herein incorporated by reference.

Although our Company declared and paid a special one-time dividend to our shareholders of record on April 17, 2006 equal to \$7.25 per share in April 2006, our Company's policy is to not pay dividends. As such, we have not made dividend payments in the previous three years and do not intend to pay dividends in the normal course of business in fiscal 2008. The terms of our Revolving Credit Agreement restrict the Company's ability to pay cash dividends on common shares.

There have been no repurchases of our Company stock in fiscal 2008.

As of May 8, 2009, there were approximately 5,667 stockholders of record of our common stock.

Securities authorized for issuance under equity compensation plans are summarized below:

	As of February 28, 2009		
<i>Plan Category</i>	Number of Securities to be Issued Upon Exercises	Weighted Average Exercise Price of Outstanding Options and Rights	Number of Securities Available to Grant
1994 Stock Option Plan for officers and key employees*	58,464	\$ 4.28	
1994 Stock Option Plan for Board of Directors**	20,285	11.72	
1998 Long Term Incentive and Share Award Plan***	2,566,477	23.79	
2008 Long Term Incentive and Share Award Plan			4,970,915
Pathmark Rollover Options	722,245	31.45	
Series B Warrants	6,965,858	32.40	
Pathmark 2000 Warrants	5,294,118	22.31	
Total Outstanding as of February 28, 2009	15,627,447	\$27.39	4,970,915

* On March 17, 2004, the plan expired.

** On July 14, 2004, the plan was replaced with the 2004 Non-Employee Director Compensation Plan

*** On July 14, 2008, the plan expired.

Stock Performance Graph

The following performance graph compares the five-year cumulative total stockholder return (assuming reinvestment of dividends) of the Company's Common Stock to the Standard & Poor's 500 Index and the Company's Peer Group which consists of the Company, Supervalu Inc., Safeway, Inc. and The Kroger Co. The Peer Group for the purposes of the Stock Performance Graph is a subset of, and should not be confused for, the peer group list of companies used to benchmark executive compensation as discussed in the Proxy Statement for the Company's 2008 Annual Meeting of Shareholders (Proxy Statement). The performance graph assumes \$100 is invested in the Company's Common Stock, the Standard & Poor's 500 Index and the Company's Peer Group on February 27, 2004, and that dividends paid during the period were reinvested to purchase additional shares.

(Company fiscal year ends the last Saturday in February)

Last Business Day of Fiscal Year	S&P 500	A&P	Peer Group
	\$	\$	\$
02/27/04	100	100	100
02/25/05	106	145	108
02/24/06	113	407	184
02/23/07	127	482	228
02/22/08	118	431	202
02/28/09	64	63	70

The performance graph above is being furnished solely to accompany this annual report on Form 10-K pursuant to Item 201(e) of Regulation S-K, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of our Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

ITEM 6 Selected Financial Data

The information required is contained under the caption Five Year Summary of Selected Financial Data in the Fiscal 2008 Annual Report to Stockholders and is herein incorporated by reference.

ITEM 7 Management's Discussion and Analysis of Financial Condition and Results of Operations

The information required is contained under the caption Management's Discussion and Analysis in the Fiscal 2008 Annual Report to Stockholders and is herein incorporated by reference.

ITEM 7A Quantitative and Qualitative Disclosures About Market Risk

The information required is contained in the section Market Risk under the caption Management's Discussion and Analysis in the Fiscal 2008 Annual Report to Stockholders and is herein incorporated by reference.

ITEM 8 Financial Statements and Supplementary Data

- (a) Financial Statements: The financial statements required to be filed herein are described in Part IV, Item 15 of this report and are incorporated herein by reference to the Annual Report. Except for the sections included herein by reference, our Fiscal 2008 Annual Report to Stockholders is not deemed to be filed as part of this report.
- (b) Supplementary Data: The information required is contained under the caption Summary of Quarterly Results (Unaudited) in the Fiscal 2008 Annual Report to Stockholders and is herein incorporated by reference.

ITEM 9 Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

There were no changes in or disagreements with accountants on accounting and financial disclosure during the fiscal year ended February 28, 2009.

ITEM 9A Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We have established and maintain disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) that are designed to ensure that information required to be disclosed in our Company's Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our Company's management, including our President and Chief Executive Officer, and Senior Vice President, Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

We carried out an evaluation, under the supervision and with the participation of our Company's management, including our Company's President and Chief Executive Officer along with our Company's Senior Vice President, Chief Financial Officer, of the effectiveness of the design and operation of our Company's disclosure controls and procedures pursuant to Exchange Act Rule 13a-15(b). Based upon the foregoing, as of the end of the period covered by this report, our Company's President and Chief Executive Officer along with our Company's Senior Vice President, Chief Financial Officer, concluded that our Company's disclosure controls and procedures were effective at the reasonable assurance level.

The Company's management does not expect that its disclosure controls and procedures or its internal control over financial reporting will prevent all errors and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and breakdowns can occur because of simple errors or mistakes. Additionally, controls can be circumvented by the individual acts of some person or by collusion of two or more people. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected. Accordingly, the Company's disclosure controls and procedures are designed to provide reasonable, not absolute, assurance that the objectives of our disclosure control system are met and, as set forth above, the Company's management has concluded, based on their evaluation as of the end of the period, that our disclosure controls and procedures were sufficiently effective to provide reasonable assurance that the objectives of our disclosure control system were met.

Incorporation by reference of Management's Annual Report on Internal Control over Financial Reporting

Management of The Great Atlantic and Pacific Tea Company, Inc. has prepared an annual report on internal control over financial reporting (as such item is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act). Management's report is included in our Company's Fiscal 2008 Annual Report to Stockholders and is herein incorporated by reference in this Annual Report on Form 10-K.

Changes in Internal Control over Financial Reporting

There has been no change during our Company's fiscal quarter ended February 28, 2009 in our Company's internal control over financial reporting (as such item is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that has materially affected, or is reasonably likely to materially affect, our Company's internal control over financial reporting.

ITEM 9B Other Information

None

PART III

ITEM 10 Directors, Executive Officers and Corporate Governance

Disclosures of delinquent filers pursuant to Item 405 of Regulation S-K are incorporated herein by reference to the Proxy Statement.

Code of Business Conduct and Ethics

Our Company has adopted a Code of Business Conduct and Ethics applicable to all employees. This Code is applicable to Senior Financial Executives including the Chief Executive Officer, Chief Financial Officer and Chief Accounting Officer of our Company. A&P's Code of Business Conduct and Ethics is available on the Company's Web site at www.aptea.com under Corporate Governance. Our Company intends to post on its web site any amendments to, or waivers from, its Code of Business Conduct and Ethics applicable to Senior Financial Executives. The Code of Business Conduct and Ethics is available in print to any shareholder or other interested party upon written request to the Legal Compliance Officer, 2 Paragon Drive, Montvale, New Jersey 07645 or by calling (201) 571-4355.

Additional information required by our directors is contained under the caption Election of Directors in the Proxy Statement and is incorporated herein by reference.

ITEM 11 Executive Compensation

The information required regarding our directors, executive compensation and our beneficial ownership reporting compliance is contained under the captions, Executive Compensation and Section 16(a) Beneficial Ownership Reporting Compliance, respectively, in the Proxy Statement, to be filed on or before May 30, 2009, and is herein incorporated by reference.

ITEM 12 Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required is contained in our Proxy Statement under the heading Security Ownership of Certain Beneficial Owners and Management, and is herein incorporated by reference.

ITEM 13 Certain Relationships and Related Transactions and Director Independence

The information required is contained in our Proxy Statement under the heading Certain Relationships and Transactions and The Board of Directors of the Company , and is herein incorporated by reference.

ITEM 14 Principal Accounting Fees and Services

The information required is contained in our Proxy Statement under the heading Independent Registered Public Accounting Firm , and is herein incorporated by reference.

PART IV

ITEM 15 Exhibits and Financial Statement Schedules

(a) Documents filed as part of this report:

- 1) Financial Statements: The following Consolidated Financial Statements, related Notes and Report of Independent Registered Public Accounting Firm are included in the Annual Report and are incorporated by reference into Item 8 of Part II of this Annual Report on Form 10-K.

Consolidated Statements of Operations
 Consolidated Statements of Stockholders Equity and Comprehensive (Loss) Income
 Consolidated Balance Sheets
 Consolidated Statements of Cash Flows
 Notes to Consolidated Financial Statements
 Report of Independent Registered Public Accounting Firm

- 2) Financial Statement Schedule:

Schedule II Valuation and Qualifying Accounts and Reserves

All other schedules are omitted because they are not required or do not apply, or the required information is included elsewhere in the Consolidated Financial Statements or Notes thereto.

- 3) Exhibits:

The following are filed as Exhibits to this Report:

EXHIBIT NO.	DESCRIPTION
2.1	Stock Purchase Agreement, dated as of July 19, 2005, by and among the Company, A&P Luxembourg S.a.r.l., Metro Inc. and 4296711 Canada Inc. (incorporated herein by reference to Exhibit 2.1 to Form 8-K filed on July 22, 2005)

- 3.1 Articles of Incorporation of The Great Atlantic & Pacific Tea Company, Inc., as amended through July 1987 (incorporated herein by reference to Exhibit 3(a) to Form 10-K filed on May 27, 1988)
- 3.2 By-Laws of The Great Atlantic & Pacific Tea Company, Inc., as amended and restated through October 6, 2005 (incorporated herein by reference to Exhibit 3.1 to Form 8-K filed on October 11, 2005)
- 4.1 Indenture, dated as of January 1, 1991, between the Company and JPMorgan Chase Bank (formerly The Chase Manhattan Bank as successor by merger to Manufacturers Hanover Trust Company), as trustee (the Indenture) (incorporated herein by reference to Exhibit 4.1 to Form 8-K, filed on January 1, 1991)
- 4.3 Second Supplemental Indenture, dated as of December 20, 2001, to the Indenture between the Company and JPMorgan Chase Bank, relating to the 9 1/8% Senior Notes due 2011 (incorporated herein by reference to Exhibit 4.1 to Form 8-K filed on December 20, 2001)
- 4.4 Successor Bond Trustee (incorporated herein by reference to Exhibit 4.4 to Form 10-K filed on May 9, 2003)
- 4.5 Third Supplemental Indenture, dated as of August 23, 2005, to the Indenture between the Company and Wilmington Trust Company (as successor to JPMorgan Chase Bank) (incorporated herein by reference to Exhibit 4.1 to Form 8-K filed on August 23, 2005)
- 4.6 Fourth Supplemental Indenture, dated as of August 23, 2005, to the Indenture between the Company and Wilmington Trust Company (as successor to JPMorgan Chase Bank) (incorporated herein by reference to Exhibit 4.2 to Form 8-K filed on August 23, 2005)
- 4.7 Indenture, dated as of December 18, 2007, among The Great Atlantic & Pacific Tea Company, Inc. and Wilmington Trust Company, as Trustee (incorporated herein by reference to Exhibit 4.1 to Form 8-K filed on December 17, 2007)
- 4.8 First Supplemental Indenture, dated as of December 18, 2007, among The Great Atlantic & Pacific Tea Company, Inc. and Wilmington Trust Company, as Trustee, relating to the 5.125% Senior Convertible Notes due 2011 (incorporated herein by reference to Exhibit 4.2 to Form 8-K filed on December 17, 2007)

4.9	Second Supplemental Indenture, dated as of December 18, 2007, among The Great Atlantic & Pacific Tea Company, Inc. and Wilmington Trust Company, as Trustee, relating to the 6.75% Senior Convertible Notes due 2011 (incorporated herein by reference to Exhibit 4.4 to Form 8-K filed on December 17, 2007)
4.10	Form of Global 5.125% Senior Convertible Note due 2011 (incorporated herein by reference to Exhibit 4.3 to Form 8-K filed on December 17, 2007)
4.11	Form of Global 6.75% Senior Convertible Note due 2012 (incorporated herein by reference to Exhibit 4.5 to Form 8-K filed on December 17, 2007)
10.1	Executive Employment Agreement, made and entered into as of the 15 th day of August, 2005, by and between the Company and Mr. Eric Claus (incorporated herein by reference to Exhibit 10.1 to Form 8-K filed on September 9, 2005) and a technical amendment (incorporated herein by reference to Exhibit 10.1 to Form 10-K filed on May 9, 2006)
10.2	Employment Agreement, made and entered into as of the 16 th day of June, 2003, by and between the Company and Brenda Galgano (incorporated herein by reference to Exhibit 10.9 to Form 10-Q filed on October 17, 2003)
10.3	Employment Agreement, made and entered into as of the 14 th day of May, 2001, by and between the Company and John E. Metzger, as amended February 14, 2002 (Metzger Agreement) (incorporated herein by reference to Exhibit 10.13 to Form 10-K filed on July 5, 2002)
10.4	Amendment to Employment Agreement dated September 13, 2004, by and between the Company and John E. Metzger (incorporated herein by reference to Exhibit 10.11 to Form 10-K filed on May 10, 2005)
10.5	Employment Agreement, made and entered into as of the 25 th day of January, 2006, by and between the Company and Jennifer MacLeod (incorporated herein by reference to Exhibit 10.13 to Form 10-K filed on May 9, 2006)
10.6	Employment Agreement, made and entered into as of the 1 st day of March, 2005, by and between the Company and William J. Moss (incorporated herein by reference to Exhibit 10.13 to Form 10-K filed on May 10, 2005)
10.7	Employment Agreement, made and entered into as of the 11 th day of December, 2006, by and between the Company and Rebecca Philbert (incorporated herein by reference to Exhibit 10.15 to Form 10-K filed on April 25, 2007)
10.8	Offer letter, made as of the 21 st day of November, 2006 and entered into as of the 11 th day of December, 2006, by and between the Company and Rebecca Philbert. (incorporated herein by reference

10.9	Employment Agreement, made and entered into as of the 4 th day of January, 2006, by and between the Company and Melissa E. Sungela (incorporated herein by reference to Exhibit 10.17 to Form 10-Q filed on January 6, 2006)
10.10	Employment Agreement, made and entered into as of the 12 th day of September, 2005, by and between the Company and Paul Wiseman (incorporated herein by reference to Exhibit 10.17 to Form 10-Q filed on October 18, 2005)
10.11	Employment Agreement, made and entered into as of the 2 nd day of December, 2004, by and between the Company and Allan Richards (incorporated herein by reference to Exhibit 10.18 to Form 10-Q filed on October 18, 2005)
10.12	Employment Agreement, made and entered into as of the 2 nd day of December, 2004, by and between the Company and Stephen Slade (incorporated herein by reference to Exhibit 10.19 to Form 10-Q filed on October 18, 2005)
10.13	Supplemental Executive Retirement Plan effective as of September 1, 1997 (incorporated herein by reference to Exhibit 10.B to Form 10-K filed on May 27, 1998)
10.14	Supplemental Retirement and Benefit Restoration Plan effective as of January 1, 2001 (incorporated herein by reference to Exhibit 10(j) to Form 10-K filed on May 23, 2001)
10.15	1994 Stock Option Plan (incorporated herein by reference to Exhibit 10(e) to Form 10-K filed on May 24, 1995)
10.16	1998 Long Term Incentive and Share Award Plan (incorporated herein by reference to Appendix B to the Proxy Statement dated May 25, 2006)
10.17	Form of Stock Option Grant (incorporated herein by reference to Exhibit 10.20 to Form 10-K filed on May 10, 2005)
10.18	Description of 2005 Turnaround Incentive Compensation Program (incorporated herein by reference to Exhibit 10.21 to Form 10-K filed on May 10, 2005)
10.19	Form of Restricted Share Unit Award Agreement (incorporated herein by reference to Exhibit 10.22 to Form 10-K filed on May 10, 2005)
10.20	Description of 2006 Long Term Incentive Plan (incorporated herein by reference to Exhibit 10.28 to Form 10-Q filed on July 21, 2006)

10.21	Form of 2006 Restricted Share Unit Award Agreement (incorporated herein by reference to Exhibit 10.29 to Form 10-Q filed on July 21, 2006)
10.22	1994 Stock Option Plan for Non-Employee Directors (incorporated herein by reference to Exhibit 10(f) to Form 10-K filed on May 24, 1995)
10.23	2004 Non-Employee Director Compensation effective as of July 14, 2004 (incorporated herein by reference to Appendix C to the Proxy Statement dated May 25, 2006)
10.24	Description of Management Incentive Plan (incorporated herein by reference to Exhibit 10.30 to Form 10-K filed on May 9, 2006)
10.25	Asset Purchase Agreement, dated as of June 27, 2005, by and between the Company, Ocean Logistics LLC and C&S Wholesale Grocers, Inc. (incorporated herein by reference to Exhibit 10.38 to Form 10-Q/A filed on June 25, 2007)
10.26	Supply Agreement, dated as of June 27, 2005, by and between the Company and C&S Wholesale Grocers, Inc. (incorporated herein by reference to Exhibit 10.39 to Form 10-Q/A filed on June 25, 2007)
10.27	Information Technology Transition Services Agreement by and between The Great Atlantic and Pacific Tea Company, Limited (A&P Canada) and Metro, Inc. entered into on August 15, 2005 (incorporated herein by reference to Exhibit 10.40 to Form 10-Q filed on October 18, 2005)
10.28	Investor Agreement by and between A&P Luxembourg S.a.r.l., a wholly owned subsidiary of the Company, and Metro, Inc. entered into on August 15, 2005 (incorporated herein by reference to Exhibit 10.41 to Form 10-Q filed on October 18, 2005)
10.29	Commitment letter dated as of March 4, 2007, by and between the Company and Pathmark Stores, Inc. (incorporated herein by reference to Exhibit 10.1 to Form 8-K filed on March 6, 2007)
10.30	Employment Agreement, made and entered into as of the 1 st day of May, 2007, by and between the Company and Andreas Guldin (incorporated herein by reference to Exhibit 10.1 to Form 8-K filed on May 7, 2007)
10.31	Credit Agreement dated as of December 3, 2007 among The Great Atlantic & Pacific Tea Company, Inc., and the other Borrowers party thereto, as Borrowers and the Lenders party thereto, and Bank of America, N.A., as Administrative Agent and Collateral Agent and Banc of America Securities LLC as Lead Arranger (incorporated herein by reference to Exhibit 10.1 to Form 8-K/A Amendment No. 2 filed on December 7, 2007)

10.32	Amended and Restated Credit Agreement dated as of December 27, 2007, among The Great Atlantic & Pacific Tea Company, Inc., and the other Borrowers party thereto, as Borrowers and the Lenders party thereto, and Bank of America, N.A., as Administrative Agent and Collateral Agent and Banc of America Securities LLC as Lead Arranger (incorporated herein by reference to Exhibit 10.45 to Form 10-Q filed on January 8, 2008)
10.33	Senior Secured Bridge Credit Agreement, dated as of December 3, 2007, among The Great Atlantic & Pacific Tea Company, Inc., The Lenders from time to time party thereto, Bank of America, N.A., as Administrative Agent, and Lehman Commercial Paper Inc., as Syndication Agent (incorporated herein by reference to Exhibit 10.2 to Form 8-K/A Amendment No. 2 filed on December 7, 2007)
10.34	Confirmation of Issuer Warrant Transaction for 2011 Notes, dated December 12, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Bank of America, N.A. (incorporated herein by reference to Exhibit 10.1 to Form 8-K filed on December 18, 2007)
10.35	Amendment to Confirmation of Issuer Warrant Transaction (2011), dated as of December 17, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Bank of America, N.A. (incorporated herein by reference to Exhibit 10.3 to Form 8-K filed on December 21, 2007)
10.36	Confirmation of Issuer Warrant Transaction for 2012 Notes, dated December 12, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Bank of America, N.A. (incorporated herein by reference to Exhibit 10.2 to Form 8-K filed on December 18, 2007)
10.37	Amendment to Confirmation of Issuer Warrant Transaction (2012), dated as of December 17, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Bank of America, N.A. (incorporated herein by reference to Exhibit 10.4 to Form 8-K filed on December 21, 2007)
10.38	Confirmation of Issuer Warrant Transaction for 2011 Notes dated December 12, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Lehman Brothers OTC Derivatives Inc. (incorporated herein by reference to Exhibit 10.3 to Form 8-K filed on December 18, 2007)
10.39	Amendment to Confirmation of Issuer Warrant Transaction (2011) dated as of December 17, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Lehman Brothers OTC Derivatives Inc. (incorporated herein by reference to Exhibit 10.5 to Form 8-K filed on December 21, 2007)

10.40	Confirmation of Issuer Warrant Transaction for 2012 Notes dated December 12, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Lehman Brothers OTC Derivatives Inc. (incorporated herein by reference to Exhibit 10.4 to Form 8-K filed on December 18, 2007)
10.41	Amendment to Confirmation of Issuer Warrant Transaction (2012) dated as of December 17, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Lehman Brothers OTC Derivatives Inc. (incorporated herein by reference to Exhibit 10.6 to Form 8-K filed on December 21, 2007)
10.42	Confirmation of Convertible Bond Hedge Transaction for 2011 Notes, dated December 12, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Bank of America, N.A. (incorporated herein by reference to Exhibit 10.5 to Form 8-K filed on December 18, 2007)
10.43	Confirmation of Convertible Bond Hedge Transaction for 2012 Notes, dated December 12, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Bank of America, N.A. (incorporated herein by reference to Exhibit 10.6 to Form 8-K filed on December 18, 2007)
10.44	Confirmation of Convertible Bond Hedge Transaction for 2011 Notes, dated December 12, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Lehman Brothers OTC Derivatives Inc. (incorporated herein by reference to Exhibit 10.7 to Form 8-K filed on December 18, 2007)
10.45	Confirmation of Convertible Bond Hedge Transaction for 2012 Notes, dated December 12, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Lehman Brothers OTC Derivatives Inc. (incorporated herein by reference to Exhibit 10.8 to Form 8-K filed on December 18, 2007)
10.46	Share Lending Agreement, dated December 12, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc. and Bank of America, N.A. (incorporated herein by reference to Exhibit 10.9 to Form 8-K filed on December 18, 2007)
10.47	Amendment No. 1 to Share Lending Agreement dated as of December 18, 2007, between The Great Atlantic & Pacific Tea Company, Inc. and Bank of America, N.A. (incorporated herein by reference to Exhibit 10.1 to Form 8-K filed on December 21, 2007)
10.48	Share Lending Agreement, dated December 12, 2007, by and between The Great Atlantic & Pacific Tea Company, Inc., Lehman Brothers International (Europe) Limited and Lehman Brothers Inc. (incorporated herein by reference to Exhibit 10.10 to Form 8-K filed on December 18, 2007)

10.49	Amendment No. 1 to Share Lending Agreement dated as of December 18, 2007, among The Great Atlantic & Pacific Tea Company, Inc. and Lehman Brothers International (Europe) Limited, as borrower, and Lehman Brothers Inc., as borrowing agent (incorporated herein by reference to Exhibit 10.2 to Form 8-K filed on December 21, 2007)
10.50	Warehousing, Distribution and Related Services Agreement dated March 7, 2008 by and between our Company and C&S Wholesale Grocers, Inc. (incorporated herein by reference to Exhibit 10.50 to Form 10-Q filed on July 21, 2008)
11**	Statement re computation of per share earnings
13*	Fiscal 2008 Annual Report to Stockholders
18	Preferability Letter Issued by PricewaterhouseCoopers LLP (incorporated herein by reference to Exhibit 18 to Form 10-Q filed on July 29, 2004)
21*	Subsidiaries of Registrant
23.1*	Consent of Independent Registered Public Accounting Firm from PricewaterhouseCoopers LLP
23.2*	Consent of Independent Auditors from Ernst & Young LLP
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*	Certification Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
99.2*	Metro, Inc. September 29, 2007 Consolidated Financial Statements
*	Filed with this 10-K
**	Information required to be presented in Exhibit 11 is included in Exhibit 13 under Note 1 Summary of Significant Accounting Policies, in accordance with Statement of Accounting Standards No. 128, Earnings Per Share.

**Report of Independent Registered Public Accounting Firm on
Financial Statement Schedule**

To the Stockholders and Board of Directors of
The Great Atlantic & Pacific Tea Company, Inc.:

Our audits of the consolidated financial statements and of the effectiveness of internal control over financial reporting referred to in our report dated May 12, 2009 appearing in the Fiscal 2008 Annual Report to Shareholders of The Great Atlantic & Pacific Tea Company, Inc. (which report and consolidated financial statements are incorporated by reference in this Annual Report on Form 10-K) also included an audit of the financial statement schedule listed in Item 15(a)(2) of this Form 10-K. In our opinion, this financial statement schedule presents fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements.

/s/ PricewaterhouseCoopers LLP

Florham Park, New Jersey
May 12, 2009

Schedule II

The Great Atlantic & Pacific Tea Company, Inc.
Valuation and Qualifying Accounts and Reserves
Years Ended February 24, 2007, February 23, 2008, and February 28, 2009
(in thousands)

Allowance for Bad Debts for Year Ended	Beginning Balance	Additions Charged to Costs & Expenses	Additions Charged to Other Accounts	Deductions ⁽¹⁾	Adjustments	Ending Balance
Feb. 24, 2007	\$7,042	(1,072)		(1,456)		\$4,514
Feb. 23, 2008	4,514	2,059		(993)	284 ⁽³⁾	5,864
Feb. 24, 2009	5,864	1,263	2,910 ⁽⁴⁾	(1,574)		8,463
Stock Loss Reserve for Year Ended	Beginning Balance	Additions Charged to Costs & Expenses	Additions Charged to Other Accounts	Deductions	Adjustments	Ending Balance
Feb. 24, 2007	\$13,933	(1,171)				\$12,762
Feb. 23, 2008	12,762	1,455			1,500 ⁽³⁾	15,717
Feb. 28, 2009	15,717	8,525				24,242
LIFO Reserve for Year Ended	Beginning Balance	Additions Charged to Costs & Expenses	Additions Charged to Other Accounts	Deductions	Adjustments	Ending Balance
Feb. 24, 2007	\$					\$
Feb. 23, 2008		2,310				2,310
Feb. 28, 2009	2,310	7,817				10,127
Deferred Tax Valuation Allowance for Year Ended	Beginning Balance	Additions Charged to Costs & Expenses	Additions Charged to Other Accounts	Deductions ⁽²⁾	Adjustments	Ending Balance
Feb. 24, 2007	\$77,020	19,130		(21,795)		\$ 74,355
Feb. 23, 2008	74,355	78,389	152,514 ⁽⁵⁾	(250,392)		54,866
Feb. 28, 2009	54,866	88,096	73,314 ⁽⁶⁾			216,276

(1) Deductions to Allowance for Bad Debts represent write-offs of accounts receivable balances.

- (2) For the year ended February 24, 2007, deductions to the Deferred Tax Valuation Allowance represent several reclassifications to various balance sheet items. For the year ended February 23, 2008 the adjustment represents the reduction in the Deferred Tax Valuation Allowance and reserves acquired in connection with our purchase of Pathmark Stores, Inc.
- (3) For the year ended February 23, 2008, the adjustments represent reserves acquired in connection with our purchase of Pathmark Stores, Inc.
- (4) Primarily represents additional reserves recorded as part of purchase accounting for Pathmark Stores, Inc.
- (5) Primarily represents the impact of the adoption of FIN 48, Accounting for Uncertain Tax Positions.
- (6) Primarily relates to purchase accounting adjustments relating to our acquisition of Pathmark, and pension and postretirement charges to Other comprehensive income.

SIGNATURES

Pursuant to the requirements of Section 13 or 15 (d) 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.

The Great Atlantic &
Pacific Tea Company,
Inc.
(registrant)

Date: May 12, 2009

By: /s/ Brenda M. Galgano
Brenda M. Galgano,
Senior Vice President,
Chief Financial Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant in the capacities and as of the date indicated.

<u>/s/ Christian W.E. Haub</u> Christian W.E. Haub	Executive Chairman	Date: May 12, 2009
<u>/s/ Eric Claus</u> Eric Claus	President and Chief Executive Officer	Date: May 12, 2009
<u>/s/ Brenda M. Galgano</u> Brenda M. Galgano	Senior Vice President, Chief Financial Officer	Date: May 12, 2009
<u>/s/ Melissa E. Sungela</u> Melissa E. Sungela	Vice President, Corporate Controller	Date: May 12, 2009
<u>/s/ John D. Barline</u> John D. Barline	Director	Date: May 12, 2009
<u>/s/ Jens-Jürgen Böckel</u> Jens-Jürgen Böckel	Director	Date: May 12, 2009
<u>/s/ Bobbie A. Gaunt</u> Bobbie A. Gaunt	Director	Date: May 12, 2009
<u>/s/ Andreas Guldin</u> Andreas Guldin	Director	Date: May 12, 2009
<u>/s/ Dan P. Kourkoumelis</u> Dan P. Kourkoumelis	Director	Date: May 12, 2009
<u>/s/ Edward Lewis</u> Edward Lewis	Director	Date: May 12, 2009
<u>/s/ Gregory Mays</u> Gregory Mays	Director	Date: May 12, 2009
<u>/s/ Maureen B. Tart-Bezer</u> Maureen B. Tart-Bezer	Director	Date: May 12, 2009

