

JACK IN THE BOX INC /NEW/

Form 10-Q

May 13, 2009

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
FORM 10-Q  
QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended April 12, 2009  
Commission File Number: 1-9390  
JACK IN THE BOX INC.**

(Exact name of registrant as specified in its charter)

DELAWARE

95-2698708

(State of Incorporation)

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

9330 BALBOA AVENUE, SAN DIEGO, CA

92123

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code (858) 571-2121

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-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes  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

Number of shares of common stock, \$.01 par value, outstanding as of the close of business  
May 8, 2009 57,079,932.

**JACK IN THE BOX INC. AND SUBSIDIARIES  
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CONDENSED CONSOLIDATED BALANCE SHEETS**

(Dollars in thousands, except per share data)

(Unaudited)

	<b>April 12, 2009</b>	<b>September 28, 2008</b>
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 11,008	\$ 47,884
Accounts and other receivables, net	65,257	70,290
Inventories	41,122	45,206
Prepaid expenses	28,971	20,061
Deferred income taxes	46,166	46,166
Assets held for sale	135,819	112,994
Other current assets	5,967	7,480
Total current assets	334,310	350,081
Property and equipment, at cost	1,609,352	1,605,497
Less accumulated depreciation and amortization	(663,055)	(662,435)
Property and equipment, net	946,297	943,062
Other assets, net	206,924	205,275
	\$ 1,487,531	\$ 1,498,418
<b>LIABILITIES AND STOCKHOLDERS EQUITY</b>		
Current liabilities:		
Current maturities of long-term debt	\$ 24,587	\$ 2,331
Accounts payable	70,712	99,708
Accrued liabilities	217,010	213,631
Total current liabilities	312,309	315,670
Long-term debt, net of current maturities	451,347	516,250
Other long-term liabilities	155,493	161,277
Deferred income taxes	47,114	48,110

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Stockholders' equity:

Preferred stock \$.01 par value, 15,000,000 authorized, none issued		
Common stock \$.01 par value, 175,000,000 authorized, 73,773,394 and 73,506,049 issued, respectively	738	735
Capital in excess of par value	162,254	155,023
Retained earnings	853,915	795,657
Accumulated other comprehensive loss, net	(21,180)	(19,845)
Treasury stock, at cost, 16,726,032 shares	(474,459)	(474,459)
Total stockholders' equity	521,268	457,111
	\$ 1,487,531	\$ 1,498,418

See accompanying notes to condensed consolidated financial statements.

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JACK IN THE BOX INC. AND SUBSIDIARIES  
CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS  
(In thousands, except per share data)  
(Unaudited)

	<b>Twelve Weeks Ended</b>		<b>Twenty-Eight Weeks Ended</b>	
	<b>April 12, 2009</b>	<b>April 13, 2008</b>	<b>April 12, 2009</b>	<b>April 13, 2008</b>
Revenues:				
Restaurant sales	\$ 468,326	\$ 490,810	\$ 1,096,975	\$ 1,138,525
Distribution sales	67,460	61,646	158,983	142,037
Franchised restaurant revenues	42,625	35,578	99,126	84,469
	578,411	588,034	1,355,084	1,365,031
Operating costs and expenses:				
Restaurant costs of sales	150,738	161,971	364,626	374,734
Restaurant operating costs	240,291	247,790	563,574	572,302
Distribution costs of sales	67,035	61,439	157,614	141,349
Franchised restaurant costs	17,561	14,892	39,690	33,840
Selling, general and administrative expenses	66,910	65,342	157,689	155,432
Gains on the sale of company-operated restaurants	(17,234)	(11,629)	(35,595)	(27,978)
	525,301	539,805	1,247,598	1,249,679
Earnings from operations	53,110	48,229	107,486	115,352
Interest expense	4,979	6,777	13,180	15,854
Interest income	(406)	(42)	(880)	(293)
Interest expense, net	4,573	6,735	12,300	15,561
Earnings from continuing operations and before income taxes	48,537	41,494	95,186	99,791
Income taxes	18,951	15,156	37,633	37,154
Earnings from continuing operations	29,586	26,338	57,553	62,637
Earnings (losses) from discontinued operations, net	275	(104)	705	(148)
Net earnings	\$ 29,861	\$ 26,234	\$ 58,258	\$ 62,489

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Net earnings per share basic:				
Earnings from continuing operations	\$ 0.52	\$ 0.45	\$ 1.02	\$ 1.06
Earnings (losses) from discontinued operations, net	0.01	(0.00)	0.01	(0.00)
Net earnings per share	\$ 0.53	\$ 0.45	\$ 1.03	\$ 1.06
Net earnings per share diluted:				
Earnings from continuing operations	\$ 0.51	\$ 0.44	\$ 1.00	\$ 1.04
Earnings (losses) from discontinued operations, net	0.01	(0.00)	0.01	(0.01)
Net earnings per share	\$ 0.52	\$ 0.44	\$ 1.01	\$ 1.03
Weighted-average shares outstanding:				
Basic	56,714	58,833	56,644	59,229
Diluted	57,704	59,953	57,554	60,488

See accompanying notes to condensed consolidated financial statements.

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JACK IN THE BOX INC. AND SUBSIDIARIES  
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(Dollars in thousands)  
(Unaudited)

	<b>Twenty-Eight Weeks Ended</b>	
	<b>April 12, 2009</b>	<b>April 13, 2008</b>
Cash flows from operating activities:		
Net earnings	\$ 58,258	\$ 62,489
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	53,887	53,908
Deferred finance cost amortization	836	837
Deferred income taxes	(168)	(1,472)
Share-based compensation expense awards	4,962	5,385
Pension and postretirement expense	6,594	7,797
Losses on cash surrender value of company-owned life insurance	10,006	3,883
Gains on the sale of company-operated restaurants	(35,595)	(27,978)
Gains on the acquisition of franchise-operated restaurants	(958)	
Losses on the disposition of property and equipment, net	5,784	8,967
Impairment charges	4,857	1,461
Changes in assets and liabilities, excluding acquisitions and dispositions:		
Increase in receivables	(10,957)	(9,032)
Decrease in inventories	4,985	128
Decrease (increase) in prepaid expenses and other current assets	(5,856)	5,491
Decrease in accounts payable	(14,913)	(13,986)
Pension and postretirement contributions	(9,524)	(9,201)
Increase (decrease) in other liabilities	(4,857)	17,563
Cash flows provided by operating activities	67,341	106,240
Cash flows from investing activities:		
Purchases of property and equipment	(92,020)	(91,322)
Proceeds from the sale of company-operated restaurants	40,429	36,053
Purchase of assets held for sale and leaseback, net	(22,760)	(1,362)
Collections on notes receivable	21,356	23
Acquisition of franchise-operated restaurants	(6,760)	
Other	(2,093)	(2,995)
Cash flows used in investing activities	(61,848)	(59,603)
Cash flows from financing activities:		
Borrowings on revolving credit facility	246,000	248,000
Repayments of borrowings on revolving credit facility	(287,000)	(248,000)
Principal payments on debt	(1,647)	(3,408)



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Proceeds from issuance of common stock	2,136	7,649
Repurchase of common stock		(50,000)
Excess tax benefits from share-based compensation arrangements	450	4,202
Change in book overdraft	(2,308)	(4,382)
Cash flows used in financing activities	(42,369)	(45,939)
Net increase (decrease) in cash and cash equivalents	(36,876)	698
Cash and cash equivalents at beginning of period	47,884	15,702
Cash and cash equivalents at end of period	\$ 11,008	\$ 16,400

See accompanying notes to condensed consolidated financial statements.

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JACK IN THE BOX INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Nature of operations*** Founded in 1951, Jack in the Box Inc. (the Company) operates and franchises Jack in the Box® quick-service restaurants and Qdoba Mexican Grill® (Qdoba) fast-casual restaurants in 45 states. References to the Company throughout these notes to the condensed consolidated financial statements are made using the first person notations of we, us and our.

***Basis of presentation*** The accompanying condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles and the rules and regulations of the Securities and Exchange Commission (SEC). In our opinion, all adjustments considered necessary for a fair presentation of financial condition and results of operations for these interim periods have been included. Operating results for one interim period are not necessarily indicative of the results for any other interim period or for the full year.

The condensed consolidated financial statements include the accounts of the Company, its wholly-owned subsidiaries and any variable interest entities where the Company is deemed the primary beneficiary. All significant intercompany transactions are eliminated.

These financial statements should be read in conjunction with the consolidated financial statements and related notes contained in our Annual Report on Form 10-K for the fiscal year ended September 28, 2008. The accounting policies used in preparing these condensed consolidated financial statements are the same as those described in our Form 10-K, with the exception of new accounting pronouncements adopted in fiscal 2009.

***Reclassifications and adjustments*** Certain prior year amounts in the condensed consolidated financial statements have been reclassified to conform to the fiscal 2009 presentation. In the fourth quarter of 2008, our Board of Directors approved plans to sell our Quick Stuff® convenience and fuel stores. As such, Quick Stuff operations have been presented as discontinued operations for all periods presented. Refer to Note 2, *Discontinued Operations*, for additional information.

***Fiscal year*** Our fiscal year is 52 or 53 weeks ending the Sunday closest to September 30. Fiscal years 2009 and 2008 include 52 weeks. Our first quarter includes 16 weeks and all other quarters include 12 weeks. All comparisons between 2009 and 2008 refer to the 12-week (quarter) and 28-week (year-to-date) periods ended April 12, 2009 and April 13, 2008, respectively, unless otherwise indicated.

***Use of estimates*** In preparing the condensed consolidated financial statements in conformity with U.S. generally accepted accounting principles, management is required to make certain assumptions and estimates that affect reported amounts of assets, liabilities, revenues, expenses and the disclosure of contingencies. In making these assumptions and estimates, management may from time to time seek advice and consider information provided by actuaries and other experts in a particular area. Actual amounts could differ materially from these estimates.

***Company-owned life insurance*** We have purchased company-owned life insurance (COLI) policies to support our non-qualified benefit plans. The cash surrender values of these policies were \$57.2 million and \$65.3 million as of April 12, 2009 and September 28, 2008, respectively, and are included in other assets, net in the accompanying condensed consolidated balance sheets. These policies reside in an umbrella trust for use only to pay plan benefits to participants or to pay creditors if the Company becomes insolvent. As of April 12, 2009 and September 28, 2008, the trust also included cash of \$1.4 million. During the 28-weeks ended April 12, 2009, we incurred losses on our COLI policies of \$10.0 million due to continued declines in the stock market, which were offset in part by a \$6.1 million fair value adjustment to our non-qualified deferred compensation plan obligation.

**Assets held for sale** Assets held for sale, which typically represent the costs for sites that we plan to sell and lease back, also include assets expected to be sold upon our disposition of Quick Stuff and the net book value of equipment we plan to sell to franchisees. Assets held for sale were as follows at the end of each period (*in thousands*):

	<b>April 12, 2009</b>	<b>September 28, 2008</b>
Sites held for sale and leaseback	\$ 84,828	\$ 62,309
Quick Stuff assets held for sale (Note 2)	50,031	49,656
Assets held for sale to franchisees	960	1,029
Assets held for sale	\$ 135,819	\$ 112,994

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## JACK IN THE BOX INC. AND SUBSIDIARIES

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

**Franchise arrangements** Franchise arrangements generally provide for initial franchise fees, which are included in franchised restaurant revenues in the accompanying condensed consolidated statements of earnings. We also recognize gains on the sale of company-operated restaurants to franchisees, which are recorded when the sales are consummated and certain other gain recognition criteria are met. The following is a summary of these transactions (*dollars in thousands*):

	Twelve Weeks Ended		Twenty-Eight Weeks Ended	
	April 12, 2009	April 13, 2008	April 12, 2009	April 13, 2008
Number of restaurants sold to franchisees	46	23	75	51
Number of restaurants opened by franchisees	12	7	31	32
Initial franchise fees received	\$ 2,233	\$ 1,205	\$ 4,188	\$ 3,228
Cash proceeds from the sale of company-operated restaurants	\$ 21,809	\$ 14,118	\$ 40,429	\$ 36,053
Notes receivable	3,259		8,552	
Net assets sold (primarily property and equipment)	(7,289)	(2,176)	(12,330)	(7,306)
Goodwill related to the sale of company-operated restaurants	(545)	(313)	(1,056)	(769)
Gains on the sale of company-operated restaurants	\$ 17,234	\$ 11,629	\$ 35,595	\$ 27,978

**New accounting pronouncements adopted** In March 2008, the Financial Accounting Standards Board ( FASB ) issued Statement of Financial Accounting Standard ( SFAS ) 161, *Disclosures about Derivative Instruments and Hedging Activities*, which amends SFAS 133, *Accounting for Derivative Instruments and Hedging Activities* ( SFAS 133 ) and expands disclosures to include information about the fair value of derivatives, related credit risks and a company's strategies and objectives for using derivatives. We adopted this Statement in the second quarter of fiscal 2009 and the required disclosures are provided below.

**Objectives and strategies** We are exposed to interest rate volatility with regard to our variable rate debt. To reduce our exposure to rising interest rates, in March 2007, we entered into two interest rate swap agreements that effectively converted \$200.0 million of our variable rate term loan borrowings to a fixed rate basis until April 1, 2010. These agreements have been designated as cash flow hedges under the terms of SFAS 133, with effectiveness assessed based on changes in the present value of the term loan interest payments. As such, the gains or losses on these derivatives are reported in other comprehensive income ( OCI ).

We are also exposed to the impact of utility price fluctuations related to unpredictable factors such as weather and various other market conditions outside our control. Our ability to recover increased costs through higher prices is limited by the competitive environment in which we operate. Therefore, from time to time, we enter into futures and option contracts to manage these fluctuations. These contracts have not been designated as hedging instruments under SFAS 133.

Financial position The following derivative instruments were outstanding as of the end of each period (*in thousands*):

	<b>April 12, 2009</b>		<b>September 28, 2008</b>	
	<b>Balance</b>	<b>Fair</b>	<b>Balance</b>	<b>Fair</b>
	<b>Sheet</b>	<b>Value</b>	<b>Sheet</b>	<b>Value</b>
	<b>Location</b>		<b>Location</b>	
Derivatives designated hedging instruments:				
Interest rate swaps (Note 3)	Accrued liabilities	\$ 7,092	Accrued liabilities	\$ 4,657
Derivatives not designated hedging instruments:				
Natural gas contracts	Accrued liabilities		Accrued liabilities	840
Total derivatives		\$ 7,092		\$ 5,497

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## JACK IN THE BOX INC. AND SUBSIDIARIES

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

Financial performance The following is a summary of the gains or losses recognized on our derivative instruments (*in thousands*):

	Amount of Gain/(Loss) Recognized in OCI			
	Twelve Weeks Ended		Twenty-Eight Weeks Ended	
	April 12, 2009	April 13, 2008	April 12, 2009	April 13, 2008
Derivatives in cash flow hedging relationship:				
Interest rate swaps (Note 9)	\$ 1,919	\$ (1,367)	\$ (2,434)	\$ (7,701)

	Location of Gain/(Loss) Recognized in Income	Amount of Gain/(Loss) Recognized in Income			
		Twelve Weeks Ended		Twenty-Eight Weeks Ended	
		April 12, 2009	April 13, 2008	April 12, 2009	April 13, 2008
Derivatives not designated hedging instruments:					
Natural gas contracts	Restaurant operating costs	\$	\$	\$ (544)	\$

During 2009 and 2008, our interest rate swaps had no hedge ineffectiveness and no gains or losses were reclassified into net earnings.

**2. DISCONTINUED OPERATIONS**

We operate a proprietary chain of convenience stores called Quick Stuff, with 61 locations, each built adjacent to a full-size Jack in the Box restaurant and including a major-brand fuel station. In the fourth quarter of 2008, our Board of Directors approved a plan to sell Quick Stuff to maximize the potential of the Jack in the Box and Qdoba brands.

We expect to sell this business within fiscal 2009 and do not expect this sale to have a material impact on ongoing earnings. In accordance with the provisions of SFAS 144, *Accounting for the Impairment or Disposal of Long-lived Assets*, the results of operations of Quick Stuff for all periods presented have been reported as discontinued operations.

The major classes of Quick Stuff assets held for sale were as follows at the end of each period (*in thousands*):

	April 12, 2009	September 28, 2008
Assets held for sale:		
Inventories	\$ 5,618	\$ 6,518
Property and equipment, net	43,120	41,827

Goodwill	912	912
Other assets, primarily liquor licenses	381	399
Total assets of discontinued operations	\$ 50,031	\$ 49,656

Revenue and operating income from discontinued operations in each period are as follows (*in thousands*):

	<b>Twelve Weeks Ended</b>		<b>Twenty-Eight Weeks Ended</b>	
	<b>April 12, 2009</b>	<b>April 13, 2008</b>	<b>April 12, 2009</b>	<b>April 13, 2008</b>
Revenue	\$62,410	\$105,480	\$ 155,350	\$ 233,425
Earnings (losses) before income taxes	424	(165)	1,141	(232)

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JACK IN THE BOX INC. AND SUBSIDIARIES  
 NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

**3. FAIR VALUE MEASUREMENTS**

On September 29, 2008, we adopted the fair value provisions of SFAS 157, *Fair Value Measurements*, for our financial assets and liabilities and elected the deferral option for our non-financial assets and liabilities. The adoption of this Statement did not have a material impact on our condensed consolidated financial statements.

The following table presents the financial assets and liabilities measured at fair value on a recurring basis as of April 12, 2009 summarized by SFAS 157 valuation hierarchy (*in thousands*):

	April 12, 2009	Fair Value Measurements		
		Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Interest rate swaps (1) (Note 1)	\$ 7,092	\$	\$ 7,092	\$
Non-qualified deferred compensation plan (2)	29,437	29,437		
Total liabilities at fair value	\$ 36,529	\$ 29,437	\$ 7,092	\$

(1) We entered into interest rate swaps to reduce our exposure to rising interest rates on our variable debt. The fair value of our interest rate swaps are based upon valuation models as reported by our counterparties.

(2) We maintain an unfunded defined contribution plan for key



executives and other members of management excluded from participation in our qualified savings plan.

The fair value of this obligation is based on the closing market prices of the participants elected investments.

#### **4. ACQUISITIONS**

We account for the acquisition of franchised restaurants using the purchase method of accounting pursuant to SFAS 141, *Business Combinations*. During the quarter ended January 18, 2009, we acquired 22 Qdoba restaurants from franchisees for net consideration of \$6.8 million. The total purchase was allocated to property and equipment, goodwill and other income.

#### **5. IMPAIRMENT CHARGES, RESTAURANT CLOSING AND OTHER**

We recognize an impairment loss as the amount by which the carrying value exceeds the fair value of the assets. We typically estimate fair value based on the estimated discounted cash flows of the related asset. In 2009 and 2008, we recorded impairment charges of \$4.9 million and \$1.5 million, respectively, primarily related to the write-down of the carrying value of certain Jack in the Box restaurants we continue to operate. We also recognized accelerated depreciation and other costs on the disposition of property and equipment of \$5.8 million and \$9.0 million, respectively, primarily related to our restaurant re-image program, which includes a major renovation of our restaurant facilities, normal ongoing capital maintenance activities and, in 2008, a kitchen enhancement project.

These impairment charges, accelerated depreciation and other costs on the disposition of property and equipment are included in selling, general and administrative expenses in the accompanying condensed consolidated statements of earnings.

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## JACK IN THE BOX INC. AND SUBSIDIARIES

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

Total accrued restaurant closing costs, included in accrued expenses and other long-term liabilities, changed as follows during 2009 and 2008 (*in thousands*):

	Twelve Weeks Ended		Twenty-Eight Weeks Ended	
	April 12, 2009	April 13, 2008	April 12, 2009	April 13, 2008
Balance at beginning of period	\$ 4,800	\$ 5,415	\$ 4,712	\$ 5,451
Additions and adjustments	2	113	479	399
Cash payments	(298)	(385)	(687)	(707)
Balance at end of period	\$ 4,504	\$ 5,143	\$ 4,504	\$ 5,143

Additions and adjustments primarily relate to revisions to certain sublease assumptions in 2009 and 2008, and the closure of two Jack in the Box restaurants in 2008.

**6. INCOME TAXES**

The income tax provisions reflect effective tax rates of 39.5% in 2009 and 37.2% in 2008. The final annual tax rate cannot be determined until the end of the fiscal year; therefore, the actual rate could differ from our current estimates.

At September 28, 2008, our gross unrecognized tax benefits associated with uncertain income tax positions were \$4.2 million, of which \$4.0 million, if recognized, would favorably affect the effective income tax rate. As of April 12, 2009, the gross unrecognized tax benefits decreased to \$0.7 million, of which \$0.6 million, if recognized, would favorably affect the effective income tax rate. The decrease in unrecognized tax benefit was due to the disallowance of a refund claim.

It is reasonably possible that material changes to the gross unrecognized tax benefits will be required within the next twelve months during which the state of California is expected to complete its audit of requested claims for refund. The statute of limitations in various state taxing jurisdictions will also expire within the next year. Although the Company expects these items may result in a net reduction of its unrecognized tax benefits, an estimate of the expected change cannot be made at this time.

The federal statute of limitations for all tax years beginning with 2004 remain open at this time. The statutes of limitations for the states of California and Texas, where there could be a material impact, have not expired for tax years 2000 and 2003, respectively. Generally, the statutes of limitations for the other state jurisdictions have not expired for tax years 2001 and forward.

**7. RETIREMENT PLANS**

**Defined benefit pension plans** We sponsor a defined benefit pension plan covering substantially all full-time employees. We also sponsor an unfunded supplemental executive retirement plan which is closed to new participants and provides certain employees additional pension benefits. Benefits under all plans are based on the employees' years of service and compensation over defined periods of employment.

**Postretirement healthcare plans** We also sponsor healthcare plans that provide postretirement medical benefits to certain employees who meet minimum age and service requirements. The plans are contributory, with retiree contributions adjusted annually, and contain other cost-sharing features such as deductibles and coinsurance.

**Measurement date** On September 29, 2008, we adopted the measurement date provisions of SFAS 158, *Employers Accounting for Defined Benefit Pension and Other Postretirement Plans an amendment of FASB Statements No. 87, 88, 106 and 132(R)*, using the alternative transition method based on a 15-month projection derived from plan asset and benefit obligation measurements as of June 30, 2008. Adoption of the measurement date provision will result in a reduction of \$3.0 million to beginning retained earnings at the end of the fiscal year representing 3/15ths of the periodic benefit costs for the period June 30, 2008 to September 27, 2009. The remaining 12/15ths of the periodic benefit costs will be recognized during fiscal 2009.

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## JACK IN THE BOX INC. AND SUBSIDIARIES

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

**Net periodic benefit cost** The components of net periodic benefit cost were as follows (*in thousands*):

	Twelve Weeks Ended		Twenty-Eight Weeks Ended	
	April 12, 2009	April 13, 2008	April 12, 2009	April 13, 2008
<b>Defined benefit pension plans:</b>				
Service cost	\$ 2,233	\$ 2,592	\$ 5,209	\$ 6,047
Interest cost	4,212	3,944	9,829	9,203
Expected return on plan assets	(4,035)	(3,925)	(9,415)	(9,160)
Actuarial loss	104	346	243	810
Amortization of unrecognized prior service cost	192	209	448	487
Net periodic benefit cost	\$ 2,706	\$ 3,166	\$ 6,314	\$ 7,387
<b>Postretirement health plans:</b>				
Service cost	\$ 23	\$ 51	\$ 54	\$ 120
Interest cost	277	271	646	633
Actuarial gain	(222)	(189)	(519)	(442)
Amortization of unrecognized prior service cost	42	43	99	99
Net periodic benefit cost	\$ 120	\$ 176	\$ 280	\$ 410

**Cash flows** Our policy is to fund our plans at or above the minimum required by law. Details regarding 2009 contributions are as follows (*in thousands*):

	Defined benefit pension plans	Postretirement health plans (1)
Net contributions during the twenty-eight weeks ended April 12, 2009	\$ 9,254	\$ 270
Remaining estimated net contributions during fiscal 2009	\$ 15,700	\$ 600

(1) Net of Medicare Part D subsidy.

**8. SHARE-BASED EMPLOYEE COMPENSATION**

**Compensation expense** We offer share-based compensation plans to attract, retain, and motivate key officers, non-employee directors, and employees to work toward the financial success of the Company. The components of share-based compensation expense recognized in each period are as follows (*in thousands*):

Twelve Weeks Ended	Twenty-Eight Weeks Ended
	April 12,

	<b>April 12, 2009</b>	<b>April 13, 2008</b>	<b>2009</b>	<b>April 13, 2008</b>
Stock options	\$ 1,978	\$ 1,441	\$ 5,647	\$ 3,475
Performance-vested stock awards	223	578	(1,259)	1,342
Nonvested stock awards	160	187	395	429
Nonvested stock units	32		32	
Deferred compensation for non-management directors	79	59	147	139
Total share-based compensation expense	\$ 2,472	\$ 2,265	\$ 4,962	\$ 5,385

**Performance-vested stock awards** In November 2008, we granted 117,840 performance-vested stock awards to certain non-officer employees at a grant date price of \$15.56. The awards represent the right to receive shares of common stock at the end of a three-year service period based on the achievement of performance goals for fiscal 2009. Also in November 2008, we modified the performance periods and goals of our outstanding performance-vested stock awards to address challenges associated with establishing long-term performance measures. The modifications and changes to expectations regarding achievement levels resulted in a \$2.2 million reduction in our expense.

**Nonvested stock units** In February 2009, the Board of Directors approved the issuance of a new type of stock award, nonvested stock units. Nonvested stock units will replace nonvested stock awards previously issued to certain executives under our share ownership guidelines. Our nonvested stock units vest upon retirement or termination based upon years of service as provided in the award agreements. These awards are amortized as

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## JACK IN THE BOX INC. AND SUBSIDIARIES

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

compensation expense over the estimated vesting period based upon the fair value of our common stock on the award date. In February 2009, we granted 26,854 nonvested stock units at a grant date price of \$23.27.

**9. STOCKHOLDERS EQUITY**

**Repurchases of common stock** In November 2007, the Board approved a program to repurchase up to \$200.0 million in shares of our common stock over three years expiring November 9, 2010. We repurchased 1.9 million shares at an aggregate cost of \$50.0 million during the first two quarters of fiscal 2008. We did not repurchase any shares in the first two quarters of 2009 and, as of April 12, 2009, the total remaining amount authorized for repurchase was \$100.0 million, subject to certain limitations under our credit facility.

**Comprehensive income** Our total comprehensive income, net of taxes, was as follows (*in thousands*):

	Twelve Weeks Ended		Twenty-Eight Weeks Ended	
	April 12, 2009	April 13, 2008	April 12, 2009	April 13, 2008
Net earnings	\$ 29,861	\$ 26,234	\$ 58,258	\$ 62,489
Net unrealized gains (losses) related to cash flow hedges (Note 1)	1,919	(1,367)	(2,434)	(7,701)
Tax effect	(734)	508	932	2,943
	1,185	(859)	(1,502)	(4,758)
Effect of amortization of unrecognized net actuarial losses and prior service cost	116	409	271	954
Tax effect	(45)	(234)	(104)	(444)
	71	175	167	510
Total comprehensive income	\$ 31,117	\$ 25,550	\$ 56,923	\$ 58,241

The components of accumulated other comprehensive loss, net of taxes, were as follows at the end of each period (*in thousands*):

	April 12, 2009	September 28, 2008
Unrecognized periodic benefit costs, net of tax benefits of \$10,416 and \$10,520, respectively	\$ (16,803)	\$ (16,970)
Net unrealized losses related to cash flow hedges, net of tax benefits of \$2,714 and \$1,782, respectively	(4,377)	(2,875)
Accumulated other comprehensive loss	\$ (21,180)	\$ (19,845)

**10. AVERAGE SHARES OUTSTANDING**

Our basic earnings per share calculation is computed based on the weighted-average number of common shares outstanding. Our diluted earnings per share calculation is computed based on the weighted-average number of common shares outstanding adjusted by the number of additional shares that would have been outstanding had the potentially dilutive common shares been issued. Potentially dilutive common shares include stock options, nonvested stock awards, non-management director stock equivalents and shares issuable under our employee stock purchase plan. Performance-vested stock awards are included in the average diluted shares outstanding each period if the performance criteria have been met at the end of the respective periods.

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## JACK IN THE BOX INC. AND SUBSIDIARIES

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

The following table reconciles basic weighted-average shares outstanding to diluted weighted-average shares outstanding (*in thousands*):

	Twelve Weeks Ended		Twenty-Eight Weeks Ended	
	April 12, 2009	April 13, 2008	April 12, 2009	April 13, 2008
Weighted-average shares outstanding basic	56,714	58,833	56,644	59,229
Effect of potentially dilutive securities:				
Stock options	658	888	590	1,020
Nonvested stock Awards	155	213	165	220
Performance-vested stock awards	177	19	155	19
Weighted-average shares outstanding diluted	57,704	59,953	57,554	60,488
Excluded from diluted weighted-average shares outstanding:				
Antidilutive	2,767	1,438	2,747	1,303
Performance conditions not satisfied at end of the period	115	348	138	348

**11. VARIABLE INTEREST ENTITIES**

The primary entities in which we possess a variable interest are franchise entities, which operate our franchised restaurants. We do not possess any ownership interests in franchise entities. We have reviewed these franchise entities and determined that we are not the primary beneficiary of the entities and therefore, these entities have not been consolidated.

We use advertising funds for both our restaurant concepts to administer our advertising programs. These funds are consolidated into our financial statements as they are deemed variable interest entities ( VIEs ) for which we are the primary beneficiary. Contributions to these funds are designated for advertising, and we administer the funds' contributions. The Company's maximum loss exposure for these funds is limited to its investment.

The following table reflects the assets and liabilities of these VIEs that were included in our condensed consolidated balance sheet at April 12, 2009 (*in thousands*):

	Jack in the Box	Qdoba
Cash	\$	\$ 1,590
Accounts receivable		36
Prepaid assets	5,658	25
Other		7
Total assets	\$ 5,658	\$ 1,658



Accounts payable	\$		\$ 207
Accrued expenses		21,693	1,451
Total liabilities	\$	21,693	\$ 1,658

## 12. CONTINGENCIES AND LEGAL MATTERS

**Legal matters** We are subject to normal and routine litigation. In the opinion of management, based in part on the advice of legal counsel, the ultimate liability from all pending legal proceedings, asserted legal claims and known potential legal claims should not materially affect our operating results, financial position or liquidity.

## 13. SEGMENT REPORTING

Consistent with our vision of being a national restaurant company and based on the information used in managing the Company as a two-branded restaurant operations business, we operate our business in two operating segments, Jack in the Box restaurant operations and Qdoba restaurant operations. This segment reporting structure reflects the Company's management structure, internal reporting method, and financial information used in deciding how to allocate Company resources. Based upon certain quantitative thresholds, both operating segments are considered reportable segments.

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## JACK IN THE BOX INC. AND SUBSIDIARIES

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

We measure and evaluate our segments based on segment earnings from operations. Summarized financial information concerning our reportable segments follows (*in thousands*):

	Twelve Weeks Ended		Twenty-Eight Weeks Ended	
	April 12, 2009	April 13, 2008	April 12, 2009	April 13, 2008
<b>Revenues by Segment:</b>				
Jack in the Box restaurant operations	\$ 479,166	\$ 500,633	\$ 1,124,203	\$ 1,163,854
Qdoba restaurant operations	31,785	25,755	71,898	59,140
Distribution operations	67,460	61,646	158,983	142,037
Consolidated revenues	\$ 578,411	\$ 588,034	\$ 1,355,084	\$ 1,365,031
<b>Earnings from Operations by Segment:</b>				
Jack in the Box restaurant operations	\$ 51,062	\$ 46,532	\$ 101,132	\$ 110,028
Qdoba restaurant operations	1,463	1,515	4,583	4,434
Distribution operations	585	182	1,771	890
Consolidated earnings from operations	\$ 53,110	\$ 48,229	\$ 107,486	\$ 115,352

Interest income and expense and income taxes are not reported for our segments, in accordance with our method of internal reporting.

**14. SUPPLEMENTAL CONSOLIDATED CASH FLOW INFORMATION**

Additional information related to cash flows is as follows (*in thousands*):

	Twenty-Eight Weeks Ended	
	April 12, 2009	April 13, 2008
Cash paid during the year for:		
Interest, net of amounts capitalized	\$17,614	\$15,966
Income tax payments	\$35,084	\$31,942

**15. FUTURE APPLICATION OF ACCOUNTING PRINCIPLES**

In September 2006, the FASB issued SFAS 157, *Fair Value Measurements*. SFAS 157 clarifies the definition of fair value, describes methods used to appropriately measure fair value, and expands fair value disclosure requirements. This statement applies under other accounting pronouncements that currently require or permit fair value measurements and is effective for fiscal years beginning after November 15, 2007, and interim periods within those years. We adopted the provisions of SFAS 157 for our financial assets and liabilities and have elected to defer adoption for our nonfinancial assets and liabilities until fiscal year 2010. We are currently in the process of assessing the impact that SFAS 157 may have on our consolidated financial statements related to our non-financial assets and liabilities.

In December 2008, the FASB issued FASB Staff Position FAS 132(R)-1 (FSP FAS 132(R)-1), *Employers Disclosures about Postretirement Benefit Plan Assets*, which expands the disclosure requirements about plan assets for pension plans, postretirement medical plans, and other funded postretirement plans. This FSP is effective for fiscal years ending after December 15, 2009. We are currently in the process of assessing the impact that FSP FAS 132(R)-1 may have on the disclosures in our consolidated financial statements.

Other accounting standards that have been issued or proposed by the FASB or other standards-setting bodies that do not require adoption until a future date are not expected to have a material impact on our consolidated financial statements upon adoption.

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**ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

**GENERAL**

All comparisons between 2009 and 2008 refer to the 12-week ( quarter ) and 28-week ( year-to-date ) periods ended April 12, 2009 and April 13, 2008, respectively, unless otherwise indicated.

For an understanding of the significant factors that influenced our performance during the quarterly periods ended April 12, 2009 and April 13, 2008, we believe our Management's Discussion and Analysis of Financial Condition and Results of Operations ( MD&A ) should be read in conjunction with the Condensed Consolidated Financial Statements and related Notes included in this Quarterly Report as indexed on page two.

Our MD&A consists of the following sections:

**Overview** a general description of our business, the quick-service dining segment of the restaurant industry and fiscal 2009 highlights.

**Results of operations** an analysis of our consolidated statements of earnings for the periods presented in our condensed consolidated financial statements.

**Liquidity and capital resources** an analysis of cash flows including capital expenditures, aggregate contractual obligations, share repurchase activity and known trends that may impact liquidity, and the impact of inflation.

**Discussion of critical accounting estimates** a discussion of accounting policies that require critical judgments and estimates.

**New accounting pronouncements** a discussion of new accounting pronouncements, dates of implementation and impact on our consolidated financial position or results of operations, if any.

**Cautionary statements regarding forward-looking statements** a discussion of the forward-looking statements used by management.

**OVERVIEW**

As of April 12, 2009, Jack in the Box Inc. (the Company ) operated and franchised 2,186 Jack in the Box quick-service restaurants ( QSR ), primarily in the western and southern United States, and 484 Qdoba Mexican Grill ( Qdoba ) fast-casual restaurants throughout the United States.

Our primary source of revenue is from retail sales at company-operated restaurants. We also derive revenue from sales of food and packaging to Jack in the Box and Qdoba franchised restaurants and revenue from franchisees including royalties, based upon a percent of sales, rents and franchise fees. In addition, we recognize gains from the sale of company-operated restaurants to franchisees, which are presented as a reduction of operating costs and expenses in the accompanying condensed consolidated statements of earnings.

The quick-service restaurant industry is complex and challenging. Challenges presently facing the sector include higher levels of consumer expectations, intense competition with respect to market share, restaurant locations, labor, menu and product development, changes in the economy, including the current recessionary environment, costs of commodities, and trends for healthier eating.

To address these challenges and others, management has a strategic plan focused on four key initiatives. The first initiative is a holistic reinvention of the Jack in the Box brand through menu innovation, upgrading guest service and a major re-imaging of the Jack in the Box restaurant facilities to reflect the personality of Jack, the chain's fictional founder. The second initiative is to expand franchising through new restaurant development and the sales of company-operated restaurants to franchisees, to create a business model that is less capital intensive and not as susceptible to cost fluctuations. The third strategic initiative is to improve our business model as we transition to becoming a predominantly franchised company. The fourth initiative is a growth strategy that includes opening new restaurants and increasing same-store sales.

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The following summarizes the most significant events occurring in fiscal 2009:

**Restaurant Sales.** Sales at Jack in the Box company-operated restaurants open more than one year ( same-store ) increased 1.1% year-to-date on top of a 0.8% increase a year ago. Sales continued to improve in many of our major markets. Same-store sales were positive in California, Texas and Las Vegas. Although still negative in Phoenix, same-store sales improved versus the prior two quarters. System same-store sales at Qdoba restaurants decreased 1.7% year-to-date compared with a 3.5% increase a year ago as the macroeconomic environment continued to affect consumer spending at restaurants with higher check averages.

**Commodity Costs.** Our business has been impacted by pressures from increased commodity costs. In 2009, food and packaging costs were 30 basis points higher than last year. Commodity costs, which moderated as expected, were approximately 3.3% higher than last year in the second quarter and as compared to a nearly 8% increase in the first quarter. Looking forward, we expect overall commodity costs to continue to moderate through the year, with a fiscal year increase of approximately 3%.

**New Market Expansion.** We opened 34 new Jack in the Box restaurants and continued expanding into new contiguous markets. Along with opening our first company-operated restaurant in Victoria, Texas, franchisees opened the first Jack in the Box restaurant in Colorado Springs, Colorado, and two Texas cities: Abilene and Wichita Falls. Qdoba franchisees have also entered into new markets in 2009 opening restaurants in Delaware and Minnesota. With the opening in Delaware, Qdoba now has a presence in 42 states.

**Re-Image Program.** We continued to execute our strategic initiative to reinvent the Jack in the Box brand, which includes comprehensive enhancements to our restaurant facilities. As of April 12, 2009, approximately 44% of all Jack in the Box restaurants were fully re-imaged, including new construction, that feature all interior and exterior elements of the program. As we stated in November, we have accelerated the system-wide completion of exterior elements of this program and expect to be substantially completed with this phase by the end of fiscal 2009. Exterior enhancements, including new paint schemes, lighting and landscaping, are now installed at 55% of the Jack in the Box system.

**Franchising Program.** As expected, we continued on pace executing our strategic initiative to expand franchising through new restaurant development and sales of company-operated restaurants to franchisees, despite tight credit markets. We refranchised 75 Jack in the Box restaurants, and Qdoba and Jack in the Box franchisees opened 31 restaurants. At April 12, 2009, approximately 41% of our Jack in the Box restaurants were franchised. We remain on track to achieve our long-term goal to increase the percentage of franchise ownership in the Jack in the Box system to 70%-80% by the end of fiscal 2013.

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The following table sets forth, unless otherwise indicated, the percentage relationship to total revenues of certain items included in our condensed consolidated statements of earnings:

	Twelve Weeks Ended		Twenty-Eight Weeks Ended	
	April 12, 2009	April 13, 2008	April 12, 2009	April 13, 2008
<b>Statement of Earnings Data:</b>				
Revenues:				
Restaurant sales	81.0%	83.5%	81.0%	83.4%
Distribution sales	11.7%	10.5%	11.7%	10.4%
Franchised restaurant revenues	7.3%	6.0%	7.3%	6.2%
Total revenues	100.0%	100.0%	100.0%	100.0%
Operating costs and expenses:				
Restaurant costs of sales (1)	32.2%	33.0%	33.2%	32.9%
Restaurant operating costs (1)	51.3%	50.5%	51.4%	50.3%
Distribution costs of sales (1)	99.4%	99.7%	99.1%	99.5%
Franchised restaurant costs (1)	41.2%	41.9%	40.0%	40.1%
Selling, general and administrative expenses	11.6%	11.1%	11.6%	11.4%
Gains on sale of company-operated restaurants	(3.0)%	(2.0)%	(2.6)%	(2.0)%
Earnings from operations	9.2%	8.2%	7.9%	8.5%
Income tax rate (2)	39.0%	36.5%	39.5%	37.2%

(1) As a percentage of the related sales and/or revenues.

(2) As a percentage of earnings from continuing operations and before income taxes.

The following table summarizes the changes in the number of Jack in the Box and Qdoba company-operated and franchised restaurants:

	Twenty-Eight Weeks Ended April 12, 2009			Twenty-Eight Weeks Ended April 13, 2008		
	Company	Franchised	Total	Company	Franchised	Total
<b>Jack in the Box:</b>						
Beginning of period	1,346	812	2,158	1,436	696	2,132
New	26	8	34	11	5	16

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Franchised	(75)	75		(51)	51	
Closed	(5)	(1)	(6)	(3)	(3)	(6)
End of period	1,292	894	2,186	1,393	749	2,142
% of system	59%	41%	100%	65%	35%	100%
<b>Qdoba:</b>						
Beginning of period	111	343	454	90	305	395
New	9	23	32	7	27	34
Acquired	22	(22)				
Closed		(2)	(2)		(6)	(6)
End of period	142	342	484	97	326	423
% of system	29%	71%	100%	23%	77%	100%
<b>Consolidated:</b>						
Total system	1,434	1,236	2,670	1,490	1,075	2,565
% of system	54%	46%	100%	58%	42%	100%

**Revenues**

Company-operated restaurant sales decreased \$22.5 million, or 4.6%, in the quarter and \$41.5 million, or 3.6%, year-to-date primarily due to a decrease in the number of Jack in the Box company-operated restaurants, reflecting the sale of company-operated restaurants to franchisees. This decrease was partially offset by an increase in the number of Qdoba company-operated restaurants and increases in same-store sales at Jack in the Box company-operated

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restaurants. Same-store sales at Jack in the Box company-operated restaurants increased 0.4% in the quarter and 1.1% year-to-date compared with a year ago, reflecting the benefit of an approximate 2.5% price increase taken during the first quarter.

Distribution sales to Jack in the Box and Qdoba franchisees grew \$5.8 million in the quarter and \$16.9 million year-to-date from a year ago to \$67.5 million and \$159.0 million, respectively, primarily reflecting an increase in the number of franchised restaurants serviced by our distribution centers.

Franchised restaurant revenues include royalties, rents and fees from restaurants operated by franchisees. Franchised restaurant revenue increased \$7.0 million in the quarter and \$14.7 million year-to-date due primarily to an increase in the number of franchised restaurants. The number of franchised restaurants increased to 1,236 at the end of the quarter, reflecting the franchising of Jack in the Box company-operated restaurants and new restaurant development by Qdoba and Jack in the Box franchisees. To a lesser extent, an increase in our average royalty rate (royalties as percentage of franchised restaurant sales) to 5.2% in 2009 from 5.1% a year ago also contributed to the overall increase.

**Operating Costs and Expenses**

Restaurant costs of sales, which include food and packaging costs, decreased 80 basis points in the quarter to 32.2% of restaurant sales compared with 33.0% a year ago. Year-to-date restaurant costs of sales were 33.2% versus 32.9% a year ago. Higher commodity costs, including beef, potatoes, bakery and shortening, began to moderate in the quarter and were offset by selling price increases, lower costs for cheese and dairy, product mix changes and margin improvement initiatives. Beef costs, which represent the Company's largest single commodity expense, increased by approximately 15% year-to-date.

Restaurant operating costs increased to 51.3% and 51.4%, respectively, in 2009 compared with 50.5% and 50.3% in 2008. The increase is primarily due to higher depreciation resulting from the kitchen enhancements completed in fiscal 2008 and the ongoing re-image program at Jack in the Box, as well as higher rent and depreciation related to new restaurant development and sales deleverage at Qdoba.

Costs of distribution sales increased \$5.6 million and \$16.3 million, respectively, from last year primarily reflecting an increase in the related sales. These costs decreased to 99.4% and 99.1% of distribution sales in 2009 from 99.7% and 99.5% in 2008, due primarily to slightly higher selling prices.

Franchised restaurant costs, principally rents and depreciation on properties leased to Jack in the Box franchisees, increased \$2.7 million and \$5.9 million, respectively, to \$17.6 million and \$39.7 million in 2009, due primarily to an increase in the number of franchised restaurants. As a percentage of franchised restaurant revenues, franchised restaurant costs were 41.2% and 40.0% in 2009 compared with 41.9% and 40.1% in 2008. The rates were impacted by the Company's re-image contributions to franchisees of \$0.4 million and \$1.5 million in 2009 and \$0.3 million and \$0.6 million in 2008, which were recorded as a reduction of franchised restaurant revenue.

Selling, general and administrative expenses ( SG&A ) increased slightly to \$66.9 million and \$157.7 million, respectively in 2009 from \$65.3 million and \$155.4 million, in 2008. In the quarter, SG&A expenses increased to 11.6% of revenues from 11.1% last year primarily due to impairment charges of \$3.2 million, or approximately 55 basis points, related to restaurants we continue to operate. Year-to-date, the higher impairment charges and market-driven losses incurred on our company-owned life insurance policies used to fund certain non-qualified retirement plans were partially offset by lower incentive compensation.

Gains on the sale of company-operated restaurants to franchisees were \$17.2 million and \$35.6 million from the sale of 46 and 75 Jack in the Box restaurants in 2009 compared with \$11.6 million and \$28.0 million from the sale of 23 and 51 Jack in the Box restaurants in 2008. The change in gains relates to the number of restaurants sold and the specific sales and cash flows of those restaurants.

**Interest Expense**

Interest expense decreased \$1.8 million and \$2.7 million compared with last year to \$5.0 million in the quarter and \$13.2 million year-to-date due primarily to lower average interest rates partially offset by higher average borrowings compared to a year ago.

**Interest Income**



Interest income increased \$0.4 million in the quarter and \$0.6 million year-to-date compared with last year primarily reflecting interest earned on notes receivable from franchisees.

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### **Income Taxes**

The income tax provisions reflect effective tax rates of 39.5% in 2009 and 37.2% in 2008. The higher tax rate is attributable to market performance of insurance investment products used to fund certain non-qualified retirement plans. Changes in the cash value of the insurance products are not includable in taxable income. We expect the annual tax rate for fiscal year 2009 to be 39% to 40%. The final annual tax rate cannot be determined until the end of the fiscal year; therefore, the actual rate could differ from our current estimates.

### **Earnings and Earnings per Share from Continuing Operations**

Earnings from continuing operations were \$29.6 million, or \$0.51 per diluted share, in the quarter compared to \$26.3 million, or \$0.44 per diluted share, in 2008. Year-to-date, earnings from continuing operations were \$57.6 million, or \$1.00 per diluted share, compared to \$62.6 million, or \$1.04 per diluted share, in 2008.

### **Earnings (losses) from Discontinued Operations**

As described in Note 2, *Discontinued Operations*, in the notes to the condensed consolidated financial statements, Quick Stuff's results of operations have been reported as discontinued operations. Earnings (losses) from discontinued operations, net were \$0.3 million and \$0.7 million, respectively, in 2009 and \$(0.1) million, in both periods of 2008.

## **LIQUIDITY AND CAPITAL RESOURCES**

**General.** Our primary sources of short-term and long-term liquidity are expected to be cash flows from operations, the revolving bank credit facility, the sale of company-operated restaurants to franchisees and the sale and leaseback of certain restaurant properties.

Our cash requirements consist principally of:  
working capital;

capital expenditures for new restaurant construction, restaurant renovations and upgrades of our management information systems;

income tax payments;

debt service requirements; and

obligations related to our benefit plans.

Based upon current levels of operations and anticipated growth, we expect that cash flows from operations, combined with other financing alternatives in place or available, will be sufficient to meet our capital expenditure, working capital and debt service requirements for the foreseeable future.

As is common in the restaurant industry, we maintain relatively low levels of accounts receivable and inventories and our vendors grant trade credit for purchases such as food and supplies. We also continually invest in our business through the addition of new units and refurbishment of existing units, which are reflected as long-term assets and not as part of working capital. As a result, we typically maintain current liabilities in excess of current assets that result in a working capital deficit.

Cash and cash equivalents decreased \$36.9 million to \$11.0 million at the end of the quarter from \$47.9 million at the beginning of the fiscal year. This decrease is primarily due to property and equipment expenditures and net repayments under our revolving credit facility. These uses of cash were offset in part by cash flows provided by operating activities, proceeds from the sale of restaurants to franchisees and collections of notes receivable. We generally reinvest available cash flows from operations to develop new restaurants or enhance existing restaurants, to repurchase shares of our common stock and to reduce debt.

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**Cash Flows.** The table below summarizes our cash flows from operating, investing and financing activities for the 28-weeks ended April 12, 2009 and April 13, 2008. The cash flows from our Quick Stuff discontinued operations are not material to our condensed consolidated statements of cash flows (*in thousands*).

	<b>Twenty-Eight Weeks Ended</b>	
	<b>April 12, 2009</b>	<b>April 13, 2008</b>
Total cash provided by (used in):		
Operating activities	\$ 67,341	\$ 106,240
Investing activities	(61,848)	(59,603)
Financing activities	(42,369)	(45,939)
Increase (decrease) in cash and cash equivalents	\$ (36,876)	\$ 698

**Operating Activities.** In 2009, operating cash flows decreased \$38.9 million compared with a year ago primarily due to changes in working capital related to the timing of cash receipts and disbursements and a decrease in net earnings adjusted for non-cash items.

**Qualified Pension Plan.** As of June 30, 2008, the fair value of our qualified pension plan assets exceeded our projected benefit obligation by approximately \$17 million. The fair value of the Company's qualified pension plan assets declined approximately 20% from June 30, 2008 (our last measurement date) to March 31, 2009. Based on the funding status of the plan as of our last measurement date, we are not required to make a minimum contribution in 2009, however we are planning to make voluntary contributions of approximately \$22.5 million during the fiscal year.

**Investing Activities.** Cash flows used in investing activities increased \$2.2 million in 2009 compared with a year ago primarily due to an increase in spending for new sites that we plan to sell and leaseback when construction is complete and cash used to acquire franchise-operated restaurants in 2009 offset in part by an increase in collections on notes receivable.

**Capital Expenditures.** Our capital expenditure program includes, among other things, investments in new locations, restaurant remodeling, new equipment, and information technology enhancements. We used cash of \$92.0 million for purchases of property and equipment in 2009 compared with \$91.3 million in 2008. The slight increase in capital expenditures primarily relates to the development of 35 Jack in the Box and Qdoba company-operated restaurants versus 18 last year, offset by lower spending related to our reimage program and a kitchen enhancement project completed in the prior year.

In fiscal 2009, capital expenditures are expected to be approximately \$175-\$185 million, including investment costs related to the Jack in the Box restaurant re-image program. We plan to open approximately 35 Jack in the Box and 25 Qdoba company-operated restaurants in 2009.

**Sale of Company-Operated Restaurants.** We have continued our strategy of selling Jack in the Box company-operated restaurants to franchisees. In 2009, we generated cash proceeds and notes receivable of \$49.0 million from the sale of 75 restaurants compared with \$36.1 million from the sale of 51 restaurants in 2008. In fiscal year 2009, we expect cash flows of \$80-\$90 million from the sale of approximately 120-140 company-operated restaurants to franchisees.

In the fourth quarter of fiscal 2008 and in 2009, we provided bridge and mezzanine financing for certain franchising transactions. The \$20 million in notes receivable at the end of fiscal 2008 related to temporary financing was fully repaid in 2009. As of April 12, 2009, notes receivable related to franchising transactions were \$9.3 million.

**Acquisition of Franchise-Operated Restaurants.** In the first quarter of 2009, Qdoba acquired 22 franchise-operated restaurants for approximately \$6.8 million, net of cash received. The total purchase price was allocated to property and equipment, goodwill and other income. The restaurants acquired are located in Michigan and Los Angeles which we believe provide good long-term growth potential consistent with our strategic goals.

Financing Activities. Cash used in financing activities decreased \$3.6 million compared with a year ago primarily attributable to cash used in 2008 to repurchase shares of our common stock which exceeded the repayment of borrowings under our revolving credit facility in 2009.

*Credit Facility.* Our credit facility is comprised of (i) a \$150.0 million revolving credit facility maturing on December 15, 2011 and (ii) a term loan maturing on December 15, 2012, both bearing interest at London Interbank

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Offered Rate ( LIBOR ) plus 1.125%. As part of the credit agreement, we may request the issuance of up to \$75.0 million in letters of credit, the outstanding amount of which reduces the net borrowing capacity under the agreement. The credit facility requires the payment of an annual commitment fee based on the unused portion of the credit facility. The credit facility's interest rates and the annual commitment rate are based on a financial leverage ratio, as defined in the credit agreement. Our obligations under the credit facility are secured by first priority liens and security interests in the capital stock, partnership and membership interests owned by us and (or) our subsidiaries, and any proceeds thereof, subject to certain restrictions set forth in the credit agreement. Additionally, the credit agreement includes a negative pledge on all tangible and intangible assets (including all real and personal property) with customary exceptions.

*Debt Covenants.* We are also subject to a number of covenants under our credit facility, including limitations on additional borrowings, acquisitions, loans to franchisees, capital expenditures, lease commitments, stock repurchases and dividend payments, as well as requirements to maintain certain financial ratios, cash flows and net worth. As of April 12, 2009, we complied with all debt covenants and the terms of our credit facility.

*Interest Rate Swaps.* To reduce our exposure to rising interest rates under our credit facility, we entered into two interest rate swaps that effectively converted \$200.0 million of our variable rate term loan borrowings to a fixed-rate basis until April 1, 2010. These agreements have been designated as cash flow hedges under the terms of SFAS 133, *Accounting for Derivative Instruments and Hedging Activities*, with effectiveness assessed on changes in the present value of the term loan interest payments. There was no hedge ineffectiveness in 2009 or 2008. Accordingly, changes in the fair value of the interest rate swap contracts were recorded, net of taxes, as a component of accumulated other comprehensive loss in the Company's condensed consolidated balance sheet at the end of each period.

*Debt Outstanding.* Total debt outstanding decreased to \$475.9 million at the end of the quarter from \$518.6 million at the beginning of the fiscal year due to our repayment of borrowings under our revolving credit facility. Current maturities of long-term debt increased \$22.3 million due primarily to scheduled term loan principal payments. At April 12, 2009, we had borrowings under the revolving credit facility of \$50.0 million, \$415.0 million outstanding under the term loan and letters of credit outstanding of \$38.5 million.

*Repurchases of Common Stock.* In November 2007, the Board approved a program to repurchase up to \$200.0 million in shares of our common stock over three years expiring November 9, 2010. We repurchased 1.9 million shares at an aggregate cost of \$50.0 million during the first two quarters of fiscal 2008. We did not repurchase any shares in the first two quarters of 2009, and as of April 12, 2009, the total remaining amount authorized for repurchase was \$100.0 million, subject to certain limitations under our credit facility.

*Share-based Compensation.* Proceeds from the issuance of common stock decreased \$5.5 million in 2009 reflecting a decline in the exercise of employee stock options compared with 2008, which also resulted in a corresponding decrease in tax benefits from share based compensation. As options granted are exercised, the Company will continue to receive proceeds and a tax deduction, but the amount and the timing of these cash flows cannot be reliably predicted as option holders' decisions to exercise options will be largely driven by movements in the Company's stock price.

*Off-Balance Sheet Arrangements.* Other than operating leases, we are not a party to any off-balance sheet arrangements that have, or are reasonably likely to have, a current or future material effect on our financial condition, changes in financial condition, results of operations, liquidity, capital expenditures or capital resources. We finance a portion of our new restaurant development through sale-leaseback transactions. These transactions involve selling restaurants to unrelated parties and leasing the restaurants back.

**DISCUSSION OF CRITICAL ACCOUNTING ESTIMATES**

We have identified the following as our most critical accounting estimates, which are those that are most important to the portrayal of the Company's financial condition and results and require management's most subjective and complex judgments. Information regarding our other significant accounting estimates and policies are disclosed in Note 1 of our most recent Annual Report on Form 10-K filed with the SEC.

*Share-based Compensation* We account for share-based compensation in accordance with SFAS 123R. Under the provisions of SFAS 123R, share-based compensation cost is estimated at the grant date based on the award's fair-value as calculated by an option pricing model and is recognized as expense ratably over the requisite service

period. The option pricing models require various highly judgmental assumptions including volatility, forfeiture rates, and expected option life. If any of the assumptions used in the model change significantly, share-based compensation expense may differ materially in the future from that recorded in the current or prior periods.

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*Retirement Benefits* We sponsor pension and other retirement plans in various forms covering those employees who meet certain eligibility requirements. Several statistical and other factors, which attempt to anticipate future events, are used in calculating the expense and liability related to the plans, including assumptions about the discount rate, expected return on plan assets and the rate of increase in compensation levels, as determined by us using specified guidelines. In addition, our outside actuarial consultants also use certain statistical factors such as turnover, retirement and mortality rates to estimate our future benefit obligations. The actuarial assumptions used may differ materially from actual results due to changing market and economic conditions, higher or lower turnover and retirement rates or longer or shorter life spans of participants. These differences may affect the amount of pension expense we record.

*Self Insurance* We are self-insured for a portion of our losses related to workers' compensation, general liability, automotive, medical and dental programs. In estimating our self-insurance accruals, we utilize independent actuarial estimates of expected losses, which are based on statistical analysis of historical data. These assumptions are closely monitored and adjusted when warranted by changing circumstances. Should a greater amount of claims occur compared to what was estimated or medical costs increase beyond what was expected, accruals might not be sufficient, and additional expense may be recorded.

*Long-lived Assets* Property, equipment and certain other assets, including amortized intangible assets, are reviewed for impairment when indicators of impairment are present. This review includes a restaurant-level analysis that takes into consideration a restaurant's operating cash flows, the period of time since a restaurant has been opened or remodeled, refranchising expectation, and the maturity of the related market. When indicators of impairment are present, we perform an impairment analysis on a restaurant-by-restaurant basis. If the sum of undiscounted future cash flows is less than the net carrying value of the asset, we recognize an impairment loss by the amount which the carrying value exceeds the fair value of the asset. Our estimates of future cash flows may differ from actual cash flows due to, among other things, economic conditions or changes in operating performance.

*Goodwill and Other Intangibles* We also evaluate goodwill and intangible assets not subject to amortization annually or more frequently if indicators of impairment are present. If the determined fair values of these assets are less than the related carrying amounts, an impairment loss is recognized. The methods we use to estimate fair value include future cash flow assumptions, which may differ from actual cash flows due to, among other things, economic conditions or changes in operating performance. During the fourth quarter of fiscal 2008, we reviewed the carrying value of our goodwill and indefinite life intangible assets and determined that no impairment existed as of September 28, 2008.

*Allowances for Doubtful Accounts* Our trade receivables consist primarily of amounts due from franchisees for rents on subleased sites, royalties and distribution sales. We continually monitor amounts due from franchisees and maintain an allowance for doubtful accounts for estimated losses. This estimate is based on our assessment of the collectibility of specific franchisee accounts, as well as a general allowance based on historical trends, the financial condition of our franchisees, consideration of the general economy and the aging of such receivables. We have good relationships with our franchisees and high collection rates; however, if the future financial condition of our franchisees were to deteriorate, resulting in their inability to make specific required payments, we may be required to increase the allowance for doubtful accounts.

*Legal Accruals* The Company is subject to claims and lawsuits in the ordinary course of its business. A determination of the amount accrued, if any, for these contingencies is made after analysis of each matter. We continually evaluate such accruals and may increase or decrease accrued amounts, as we deem appropriate.

*Income Taxes* We estimate certain components of our provision for income taxes. These estimates include, among other items, depreciation and amortization expense allowable for tax purposes, allowable tax credits, effective rates for state and local income taxes and the tax deductibility of certain other items. We adjust our annual effective income tax rate as additional information on outcomes or events becomes available.

Our estimates are based on the best available information at the time that we prepare the income tax provision. We generally file our annual income tax returns several months after our fiscal year-end. Income tax returns are subject to audit by federal, state and local governments, generally years after the returns are filed. These returns could be subject to material adjustments or differing interpretations of the tax laws.

**NEW ACCOUNTING PRONOUNCEMENTS**

In September 2006, the FASB issued SFAS 157, *Fair Value Measurements*. SFAS 157 clarifies the definition of fair value, describes methods used to appropriately measure fair value, and expands fair value disclosure requirements. This statement applies under other accounting pronouncements that currently require or permit fair value measurements



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and is effective for fiscal years beginning after November 15, 2007, and interim periods within those years. We adopted the provisions of SFAS 157 for our financial assets and liabilities and have elected to defer adoption for our nonfinancial assets and liabilities until fiscal year 2010. We are currently in the process of assessing the impact that SFAS 157 may have on our consolidated financial statements related to our non-financial assets and liabilities.

In December 2008, the FASB issued FASB Staff Position FAS 132(R)-1 (FSP FAS 132(R)-1), *Employers Disclosures about Postretirement Benefit Plan Assets*, which expands the disclosure requirements about plan assets for pension plans, postretirement medical plans, and other funded postretirement plans. This FSP is effective for fiscal years ending after December 15, 2009. We are currently in the process of assessing the impact that FSP FAS 132(R)-1 may have on the disclosures in our consolidated financial statements.

Other accounting standards that have been issued or proposed by the FASB or other standards-setting bodies that do not require adoption until a future date are not expected to have a material impact on our consolidated financial statements upon adoption.

### **CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING STATEMENTS**

This report contains forward-looking statements within the meaning of the federal securities law. Forward-looking statements use such words as anticipate, assume, believe, estimate, expect, forecast, goals, guidance, project, may, will, would, and similar expressions. One can also identify them by the fact that they do not relate strictly to historical or current facts. These statements are based on management's current expectations and are subject to risks and uncertainties, which may cause actual results to differ materially from expectations. You should not rely unduly on forward-looking statements. The Company cautions the reader that the following important factors and the important factors described in the company's annual report on Form 10-K and other Securities and Exchange Commission filings, could cause the Company's results to vary materially from those expressed in an forward-looking statement.

Any widespread negative publicity, whether or not based in fact, about public health issues or pandemics or the prospect of such events, or which affects consumer perceptions about the health, safety or quality of food and beverages served at our restaurants may adversely affect our results.

Recessionary economic conditions, including higher levels of unemployment, lower levels of consumer confidence and decreased consumer spending, could reduce traffic in our restaurants and impose practical limits on pricing, resulting in a negative impact on sales and profitability.

Costs may exceed projections, including costs for food ingredients, labor (including increases in minimum wage, workers compensation and other insurance and healthcare), fuel, utilities, real estate, insurance, equipment, technology, and construction of new and remodeled restaurants. Inflationary pressures affecting the cost of commodities, including speculation and increasing demand for soybeans, corn and other feed grains for use in producing agro fuels and other purposes, may adversely affect our food costs and our operating margins.

There can be no assurances that new interior and exterior designs, kitchen enhancements or new equipment will foster increases in sales at remodeled restaurants and yield the desired return on investment.

There can be no assurances that our growth objectives in the regional markets in which we operate restaurants will be met or that the new facilities will be profitable. Delays in development, sales softness and restaurant closures may have a material adverse effect on our results of operations. The development and profitability of restaurants can be adversely affected by many factors, including the ability of the Company and its franchisees to select and secure suitable sites on satisfactory terms, costs of construction, and general business and economic conditions. In addition, tight credit markets may negatively impact the ability of franchisees to fulfill their restaurant development commitments.

There can be no assurances that we will be able to effectively respond to aggressive competition from numerous and varied competitors (some with significantly greater financial resources) in all areas of business, including new concepts, facility design, competition for labor, new product introductions, promotions, (including value promotions) and discounting. Additionally, the trend toward convergence in grocery, deli, convenience store and other types of food services may increase the number of our competitors.

The realization of gains from the sale of company-operated restaurants to existing and new franchisees depends upon various factors, including sales trends, cost trends, and economic conditions. The financing market, including

the cost and availability of borrowed funds and the terms required by lenders, can impact the ability of franchisee

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candidates to purchase franchises and can potentially impact the sales prices and number of franchises sold. The number of franchises sold and the amount of gain realized from the sale of an on-going business may not be consistent from quarter-to-quarter and may not meet expectations. As the number of franchisees increases, our revenues derived from royalties at franchised restaurants will increase, as well as the risk that revenues could be negatively impacted by defaults in payment of royalties. In addition, franchisee business obligations may not be limited to the operation of Jack in the Box restaurants, making them subject to business and financial risks unrelated to the operation of our restaurants. These unrelated risks could adversely affect a franchisee's ability to make payments to us or to make payments on a timely basis.

The costs related to legal claims such as class actions involving employees, franchisees, shareholders or consumers, including costs related to potential settlement or judgments may adversely affect our results.

Changes in accounting standards, policies or practices or related interpretations by auditors or regulatory entities, including changes in tax accounting or tax laws may adversely affect our results.

The costs or exposures associated with maintaining the security of information and the use of cashless payments may exceed expectations. Such risks include increased investment in technology and costs of compliance with consumer protection and other laws.

Many factors affect the trading price of our stock, including factors over which we have no control, such as the current financial crisis, government actions, reports on the economy as well as negative or positive announcements by competitors, regardless of whether the report relates directly to our business.

Significant demographic changes, adverse weather, pressures on consumer spending, economic conditions such as inflation or recession or political conditions such as terrorist activity or the effects of war, or other significant events, particularly in California and Texas where nearly 60% of our restaurants are located; new legislation and governmental regulation; changes in accounting standards; the possibility of unforeseen events affecting the food service industry in general and other factors over which we have no control can each adversely affect our results of operation.

This discussion of uncertainties is by no means exhaustive, but is intended to highlight some important factors that may materially affect our results. We do not intend to update these forward-looking statements.

**ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

Our primary exposure to risks relating to financial instruments is changes in interest rates. Our credit facility, which is comprised of a revolving credit facility and a term loan, bears interest at an annual rate equal to the prime rate or LIBOR plus an applicable margin based on a financial leverage ratio. As of April 12, 2009, the applicable margin for the LIBOR-based revolving loans and term loan was set at 1.125%.

We use interest rate swap agreements to reduce exposure to interest rate fluctuations. At April 12, 2009, we had two interest rate swap agreements having an aggregate notional amount of \$200.0 million expiring April 1, 2010. These agreements effectively convert a portion of our variable rate bank debt to fixed-rate debt and have an average pay rate of 4.875%, yielding a fixed-rate of 6.00% including the term loan's applicable margin of 1.125%.

A hypothetical 100 basis point increase in short-term interest rates, based on the outstanding unhedged balance of our revolving credit facility and term loan at April 12, 2009 would result in an estimated increase of \$2.7 million in annual interest expense.

Changes in interest rates also impact our pension expense, as do changes in the expected long-term rate of return on our pension plan assets. An assumed discount rate is used in determining the present value of future cash outflows currently expected to be required to satisfy the pension benefit obligation when due. Additionally, an assumed long-term rate of return on plan assets is used in determining the average rate of earnings expected on the funds invested or to be invested to provide the benefits to meet our projected benefit obligation. A hypothetical 25 basis point reduction in the assumed discount rate and expected long-term rate of return on plan assets would result in an estimated increase of \$1.7 million and \$0.6 million, respectively, in our future annual pension expense.

We are also exposed to the impact of commodity and utility price fluctuations related to unpredictable factors such as weather and various other market conditions outside our control. Our ability to recover increased costs through higher prices is limited by the competitive environment in which we operate. From time to time, we enter into futures and option contracts to manage these fluctuations. At April 12, 2009, we had no natural gas swap agreements in place.

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**ITEM 4. CONTROLS AND PROCEDURES**

*Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures*

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in the reports that we file or submit under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized, and reported within the time periods specified in the rules of the Securities and Exchange Commission, and that such information is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we evaluated the effectiveness of our disclosure controls and procedures, as such term is defined under Securities and Exchange Act Rules 13a-15(e). Based on this evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this quarterly report.

*Changes in Internal Control Over Financial Reporting*

There have been no changes in the Company's internal control over financial reporting that occurred during the period covered by this Quarterly Report on Form 10-Q that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**PART II. OTHER INFORMATION**

There is no information required to be reported for any items under Part II, except as follows:

**ITEM 1. LEGAL PROCEEDINGS**

The Company is subject to normal and routine litigation. In the opinion of management, based in part on the advice of legal counsel, the ultimate liability from all pending legal proceedings, asserted legal claims and known potential legal claims should not materially affect our operating results, financial position and liquidity.

**ITEM 1A. RISK FACTORS**

This report contains forward-looking statements that reflect management's expectations for the future and are subject to risks and uncertainties. These and other risk factors are discussed under the heading "Cautionary Statements Regarding Forward-Looking Statements" in this Form 10-Q and in our annual report on Form 10-K.

**ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**

*Dividends.* We did not pay any cash or other dividends during the last two fiscal years with the exception of a stock split that was effected in the form of a stock dividend on October 15, 2007, with shareholders receiving an additional share of stock for each share held. We do not anticipate paying any dividends in the foreseeable future. Our credit agreement provides for a remaining aggregate amount of \$97.4 million for the potential repurchase of our common stock and \$50.0 million for the potential payment of cash dividends.

*Stock Repurchases.* In November 2007, the Board approved a program to repurchase up to \$200.0 million in shares of our common stock over three years expiring November 9, 2010. As of April 12, 2009, the total remaining amount authorized for repurchase was \$100.0 million.

**Table of Contents****ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

Our Annual Meeting of Stockholders was held February 13, 2009, at which the following matters were voted as indicated:

	For	Withheld	Abstain	
1. Election of the following directors to serve until the next Annual Meeting of Stockholders and until their successors are elected and qualified.				
Michael E. Alpert	53,758,072	417,848		
David L. Goebel	54,111,640	64,280		
Anne B. Gust	52,629,958	1,545,962		
Murray H. Hutchison	52,323,324	1,852,596		
Linda A. Lang	53,757,007	418,913		
Michael W. Murphy	52,620,857	1,555,063		
David M. Tehle	54,098,426	77,494		
Winifred M. Webb	54,038,613	137,307		
	For	Against	Abstain	Broker Non-Votes
2. Ratification of appointment of KPMG LLP as independent registered public accountants	53,738,545	418,538	18,837	

**ITEM 6. EXHIBITS**

Number	Description
3.1	Restated Certificate of Incorporation, as amended, which is incorporated herein by reference from the registrant's Annual Report on Form 8-K dated September 24, 2007.
3.1.1	Certificate of Amendment of Restated Certificate of Incorporation, which is incorporated herein by reference from the registrant's Current Report on Form 10-K dated September 21, 2007.
3.2	Amended and Restated Bylaws, which are incorporated herein by reference from the registrant's Current Report on Form 8-K dated August 4, 2008.
10.6*	Amended and Restated Supplemental Executive Retirement Plan, which is incorporated herein by reference from the registrant's Quarterly Report on Form 10-Q for the quarter ended January 18, 2009.
10.13*	Amended and Restated Executive Deferred Compensation Plan, which is incorporated herein by reference from the registrant's Quarterly Report on Form 10-Q for the quarter ended January 18, 2009.
10.16.4*	Form of Restricted Stock Unit Award Agreement for officers and certain members of management under the 2004 Stock Incentive Plan.
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

32.1 Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

32.2 Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

\* Management  
contract or  
compensatory  
plan

ITEM 15(b) All required exhibits are filed herein or incorporated by reference as described in Item 15(a)(3).

ITEM 15(c) All supplemental schedules are omitted as inapplicable or because the required information is included in the consolidated financial statements or notes thereto.

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SIGNATURE

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 and in the capacities indicated.

JACK IN THE BOX INC.

By: /S/ JERRY P. REBEL

Jerry P. Rebel

Executive Vice President

and Chief Financial Officer

(Principal Financial Officer)

(Duly Authorized Signatory)

Date: May 13, 2009

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