

REEDS INC
Form S-1
January 23, 2009

As filed with the Securities and Exchange Commission on January 23, 2009
Registration No. 333-_____

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

FORM S-1
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Reed's, Inc.
(Exact name of registrant as specified in its charter)

Delaware (State or jurisdiction of incorporation or organization)	2086 (Primary Standard Industrial Classification Code Number)	35-2177773 (I.R.S. Employer Identification Number)
---	---	--

13000 South Spring Street
Los Angeles, California 90061
(310) 217-9400
(Address and telephone number of principal executive offices and principal place of business)

Christopher J. Reed
Chief Executive Officer
13000 South Spring Street
Los Angeles, California 90061
(310) 217-9400
(Name, address and telephone number of agent for service)

With copies to:

Peter Hogan, Esq.
Ruba Qashu, Esq.
Richardson & Patel, LLP
10900 Wilshire Boulevard, Suite 500
Los Angeles, CA 90024
Telephone: (310) 208-1182
Facsimile: (310) 208-1154

Douglas S. Ellenoff, Esq.
Lawrence A. Rosenbloom, Esq.
Asim Grabowski-Shaikh, Esq.
Ellenoff Grossman & Schole LLP
150 East 42nd Street, 11th Floor
New York, New York 10017
Telephone: (212) 370-1300
Facsimile: (212) 370-7889

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, check the following box. "

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective Registration Statement for the same offering. "

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. "

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 12b2 of the Exchange Act.

Large accelerated filer " Accelerated filer "
 Non-accelerated filer " (Do not check if a smaller reporting company) Smaller reporting company x

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Proposed Amount to be Registered (1)	Proposed Maximum Offering Price per Share (1)	Estimated Proposed Maximum Aggregate Offering Price (3)	Amount of Registration Fee
Subscription Rights ("Rights") to purchase common stock, \$0.0001 par value per share ("Common Stock")	—	—	—	—(2)
Shares of Common Stock underlying the Rights	—	—\$	10,000,000	\$ 558.00(4)
Total	—	—\$	10,000,000	\$ 558.00(4)

- (1) This registration statement relates to (a) the subscription rights to purchase common stock and (b) the shares of common stock a deliverable upon the exercise of the rights.
- (2) The rights are being issued without consideration. Pursuant to Rule 457(g), no separate registration fee is payable with respect to the rights being offered hereby since the rights are being registered in the same registration statement as the securities to be offered pursuant thereto.
- (3) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.
- (4) Calculated pursuant to Rule 457(o) based on an estimate of the proposed maximum aggregate offering price.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Preliminary Prospectus

Subject To Completion, Dated January 23, 2009

REED'S INC.

Up to Shares of Common Stock
Issuable Upon Exercise of Rights to Subscribe for such Shares at \$ per Right

We are distributing at no charge to the holders of our common stock on [], 2009, which we refer to as the record date, subscription rights to purchase up to an aggregate of shares of our common stock. We will distribute to you one right for every share of common stock that you own on the record date.

Each right entitles the holder to purchase one share of common stock at the subscription price of \$[] per share [which will be between 90% of the five day volume weighted average price per share of our common stock, or VWAP, prior to the date of this prospectus and 115% of the 20 day VWAP prior to the date of this prospectus, but in no event less than \$2.25 unless waived by our board of directors]. Holders who fully exercise their basic subscription rights will be entitled to subscribe for additional shares that remain unsubscribed as a result of any unexercised basic subscription rights, which we refer to as the over-subscription right. The over-subscription right allows a holder to subscribe for an additional amount equal to up to 400% of the shares for which such holder was otherwise entitled to subscribe. Rights may only be exercised for whole numbers of shares; no fractional shares of common stock will be issued in this offering.

The rights will expire at 5:00 p.m., New York City time, on [], 2009, which date we refer to as the expiration date. We may extend the period for exercising the rights for up to an additional 30 trading days in our sole discretion. Any rights not exercised at or before that time will expire worthless without any payment to the holders of those unexercised rights. There is no minimum subscription amount required for consummation of the rights offering. Unless the maximum offering amount is waived by Reed's, Inc.'s board of directors, we will raise no more than \$10,000,000 in this offering.

You should carefully consider whether to exercise your subscription rights before the expiration date. All exercises of subscription rights are irrevocable. Our board of directors is making no recommendation regarding your exercise of the subscription rights.

Investing in our securities involves a high degree of risk. In addition, your holdings in our company will be diluted if you do not exercise the full amount of your basic subscription rights. See "Risk Factors" beginning on page 15 of this prospectus.

Our common stock is quoted on the NASDAQ Capital Market under the symbol "REED." The last reported sale price of our common stock on January [], 2009 was \$[] per share. The rights are transferable and will be listed for trading on the NASDAQ Capital Market under the symbol "REEDR" during the course of this offering.

	Proceeds, Before		
	Subscription Price	Dealer Manager Fee (1)	Expenses, to us
Per share	\$ []	\$ []	\$ []
Total (2)	\$ 10,000,000	\$ 1,000,000	\$ 9,000,000

(1) In connection with the rights offering, we have agreed to pay Maxim Group LLC, the dealer-manager for this offering, a cash fee equal to 8% of the gross proceeds of this offering in cash and a non-accountable expense allowance equal to 2% of the gross proceeds of this offering. We will also grant Maxim Group LLC a warrant to purchase 10% of the shares of common stock sold in this offering at an exercise price of \$[] per share, or 110% of the subscription price.

(2) Assumes that the rights offering is fully subscribed and that the maximum offering amount in the aggregate of \$10,000,000 is subscribed.

Neither the U.S. Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

Our principal executive offices are located at 13000 South Spring Street, Los Angeles, California 90061. Our telephone number is 310-217-9400. If you have any questions or need further information about this rights offering, please call MacKenzie Partners, Inc., our information agent for the rights offering, at (212) 929-5500 (call collect) or (800) 322-2885 (toll-free).

Dealer-Manager

Maxim Group LLC

The date of this prospectus is , 2009

TABLE OF CONTENTS

About This Prospectus	-ii-
Questions and Answers About the Rights Offering	1
Prospectus Summary	8
Special Note Regarding Forward-Looking Statements	13
Risk Factors	15
Use of Proceeds	33
Capitalization	34
Dilution	35
Management’s Discussion and Analysis of Financial Condition and Results of Operations	36
Market for Common Stock and Related Stockholder Matters	49
Dividend Policy	49
Business	51
Management	69
Certain Relationships and Related Transactions	79
Security Ownership of Certain Beneficial Owners and Management	81
Description of our Securities	82
The Rights Offering	86
Material U.S. Federal Income Tax Considerations	94
Plan of Distribution	97
Interests of Named Experts and Counsel	98
Disclosure of Commission Position of Indemnification for Securities Act	98
Liabilities	
Where You Can Find Additional Information	100
Index to Financial Statements	F-1

ABOUT THIS PROSPECTUS

Unless the context otherwise requires, all references to “Reed’s,” “we,” “us,” “our,” “our company,” or similar language in this prospectus refer to Reed’s, Inc., a Delaware corporation.

You should rely only on the information contained in this prospectus. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. For further information, please see the section of this prospectus entitled “Where You Can Find More Information.” We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted.

You should not assume that the information appearing in this prospectus is accurate as of any date other than the date on the front cover of this prospectus, regardless of the time of delivery of this prospectus or any sale of a security. Our business, financial condition, results of operations and prospects may have changed since those dates.

We obtained statistical data, market data and other industry data and forecasts used throughout this prospectus from market research, publicly available information and industry publications. Industry publications generally state that they obtain their information from sources that they believe to be reliable, but they do not guarantee the accuracy and completeness of the information. Similarly, while we believe that the statistical data, industry data and forecasts and market research are reliable, we have not independently verified the data, and we do not make any representation as to the accuracy of the information. We have not sought the consent of the sources to refer to their reports appearing in this prospectus.

This prospectus contains trademarks, tradenames, service marks and service names of Reed’s, Inc.

QUESTIONS AND ANSWERS ABOUT THE RIGHTS OFFERING

The following are examples of what we anticipate may be common questions about the rights offering. The answers are based on selected information from this prospectus. The following questions and answers do not contain all of the information that may be important to you and may not address all of the questions that you may have about the rights offering. This prospectus contains more detailed descriptions of the terms and conditions of the rights offering and provide additional information about us and our business, including potential risks related to the rights offering, our common stock and our business.

Exercising the rights and investing in our securities involves a high degree of risk. We urge you to carefully read the section entitled "Risk Factors" beginning on page 15 of this prospectus and all other information included in this prospectus in its entirety before you decide whether to exercise your rights.

Q: What is a rights offering?

A: A rights offering is a distribution of subscription rights on a pro rata basis to all existing common stockholders of a company. We are distributing to holders of our common stock, at no charge, as of the close of business on the record date ([], 2009), subscription rights to purchase up to an aggregate of [] shares of our common stock valued, in the aggregate, at up to \$10,000,000. You will receive one subscription right for every share of common stock you own at the close of business on the record date. The subscription rights will be evidenced by subscription rights certificates, which may be physical certificates but will more likely be electronic certificates issued through the facilities of the Depository Trust Company, or DTC.

Q: Why are you undertaking the rights offering?

A: We are making the rights offering to raise funds primarily for production of inventory and marketing, plus for general working capital purposes. We had approximately \$282,218 of available cash and cash equivalents as of December 31, 2008. If we fail to raise capital by the end of February 2009, we would expect to have to significantly decrease operating expenses, which will curtail the growth of our business.

Our board of directors has elected a rights offering over other types of financings because a rights offering provides our existing stockholders the opportunity to participate in this offering first, and our board believes this creates less percentage dilution of stockholder ownership interest in our company than if we issued shares to new investors.

Q: How much money will Reed's raise as a result of the rights offering?

A: Assuming full participation in the rights offering, we estimate that the net proceeds from the rights offering will be approximately \$ million, after deducting expenses related to this offering payable by us estimated at approximately \$, including dealer-manager fees. We may decide to close the rights offering and accept such proceeds of the basic subscription rights and over-subscription rights as we have received as of the expiration date of the rights offering whether or not they are sufficient to meet the objectives we state in this prospectus, other corporate milestones that we may set, or to avoid a "going concern" modification in future reports of our auditors as to uncertainty with respect to our ability to continue as a going concern. Unless our board of directors waives the maximum offering amount, we will raise no more than \$10,000,000 in this offering. See "Risk Factors — Completion of this offering is not subject to us raising a minimum offering amount and proceeds may be insufficient to meet our objectives, thereby increasing the risk to investors in this offering."

Q: What is a right?

A: Each right carries with it a basic subscription right and an over-subscription right and entitles the holder of the right the opportunity to purchase one share of common stock at the subscription price of \$ _____ per share [which will be between 90% of the five day volume weighted average price per share of our common stock, or VWAP, prior to the date of this prospectus and 115% of the 20 day VWAP prior to the date of this prospectus, but in no event less than \$2.25 unless waived by our board of directors]. The subscription rights are transferable and will be listed for trading under the symbol "REEDR" during the course of this offering.

Q: What is a basic subscription right?

A: Each basic subscription right gives you the opportunity to purchase one share of our common stock. You may exercise any number of your basic subscription rights or you may choose not to exercise any subscription rights at all.

For example, if you own 1,000 shares of our common stock on the record date and you are granted one right for every share of our common stock you own at that time, then you have the right to purchase up to 1,000 shares of common stock, subject to adjustment to eliminate fractional rights. If you hold your shares in the name of a broker, dealer, custodian bank, trustee or other nominee who uses the services of the DTC, then DTC will issue one right to the nominee for every share of our common stock you own at the record date.

Q: What is an over-subscription right?

A: If you elect to purchase all of the shares available to you pursuant to your basic subscription right, you may also elect to subscribe for any number of additional shares that remain unsubscribed as a result of any other stockholders not exercising their basic subscription rights, subject to a pro rata adjustment if over-subscription requests exceed shares, as more fully described below. The over-subscription right allows a holder to subscribe for an additional amount equal to up to 400% of the shares for which such holder was otherwise entitled to subscribe.

For example, if you own 1,000 shares of our common stock on the record date, and exercise your basic subscription right to purchase all (but not less than all) 1,000 shares which are available for you to purchase, then, you may also concurrently exercise your over-subscription right to purchase up to 4,000 additional shares of common stock that remain unsubscribed as a result of any other stockholders not exercising their basic subscription rights, subject to the pro rata adjustments described below. Accordingly, if your basic and over-subscription rights are exercised and honored in full, you would receive a total of 5,000 shares in this offering. Payments in respect of over-subscription rights are due at the time payment is made for the basic subscription right.

Q. What happens if rights holders exercise their respective over-subscription rights to purchase additional shares of common stock?

A: We will allocate the remaining available shares pro rata among rights holders who exercised their respective over-subscription rights, based on the number of over-subscription shares of common stock to which they subscribed. The allocation process will assure that the total number of remaining shares available for basic and over-subscriptions is distributed on a pro rata basis. The percentage of remaining shares of common stock each over-subscribing rights holder may acquire will be rounded down to result in delivery of whole shares.

Payments for basic subscriptions and over-subscriptions will be deposited upon receipt by the subscription agent and held in a segregated account with the subscription agent pending a final determination of the number of shares to be issued pursuant to the basic and over-subscription rights. If the pro rated amount of shares allocated to you in connection with your basic or over-subscription right is less than your basic or over-subscription request, then the excess funds held by the subscription agent on your behalf will be promptly returned to you without interest or deduction. We will deliver certificates representing your shares of our common stock or credit your account at your nominee holder with shares of our common stock that you purchased pursuant to your basic and over-subscription rights as soon as practicable after the rights offering has expired and all proration calculations and reductions contemplated by the terms of the rights offering have been effected.

Q. Are there any circumstances in which either Reed's could be obligated to distribute basic subscription rights that exceed its available shares or the maximum dollar amount of this offering could be exceeded? What would happen in either case?

A: We are authorized to issue up to 19,500,000 shares of common stock. As of the date of this prospectus, we have 8,979,341 shares of common stock issued and outstanding. Further, we have 2,859,220 shares of common stock which may be issuable as a result of exercises of outstanding warrants and options and conversion of our existing Series A Preferred Stock into common stock. We consider exercise of these options and warrants or conversion of our Series A Preferred Stock an unlikely prospect given the exercise prices of our outstanding options and warrants and the preference for dividends on our Series A Preferred Stock.

If we receive a sufficient number of subscriptions, we could be obligated to distribute basic subscription rights for shares that exceed the number of our authorized shares of common stock available for issuance, or the aggregate dollar amount of the exercises could exceed the maximum dollar amount of this offering. In each case, we would reduce on a pro rata basis, the number of subscriptions we accept so that: (i) we will not become obligated to issue, upon exercise of the subscriptions, a greater number of shares of common stock than we have authorized and available for issuance and (ii) the gross proceeds of this offering will not exceed the maximum dollar amount of this offering. In the event of any pro rata reduction, we would first reduce over-subscriptions prior to reducing basic subscriptions.

Q: Will the officers, directors and significant stockholders of Reed's be exercising their rights?

A: Our officers, directors and greater than 5% beneficial stockholders may participate in this offering, but none of our officers, directors or greater than 5% beneficial stockholders are obligated to so participate.

However, to the extent that stockholder participation in this offering would cause Christopher J. Reed, our Chief Executive Officer and President, to beneficially own less than 25% of our capital stock, Mr. Reed would then have an obligation under our Loan and Security Agreement with First Capital Western Region, LLC to preserve his beneficial ownership of at least 25% of our capital stock. Mr. Reed's failure to beneficially own at least 25% of our capital stock would constitute an "event of default" under the Loan and Security Agreement, which is secured by all

of our assets.

Q: Will the subscription rights and the shares of common stock that I receive upon exercise of my rights be tradable on the NASDAQ Capital Market?

A: Yes. Our common stock is currently traded on the NASDAQ Capital Market. The subscription rights are transferable and will be listed for trading under the symbol "REEDR" during the course of the subscription period. As a result, you may transfer or sell your subscription rights if you do not want to purchase any shares.

3

Q: How do I exercise my basic subscription right?

A: You may exercise your subscription rights by properly completing and signing your subscription rights certificate. Your subscription rights certificate, together with full payment of the subscription price, must be received by Continental Stock Transfer & Trust Company, the subscription agent for this rights offering, on or prior to the expiration date of the rights offering. We sometimes refer to Continental Stock Transfer & Trust Company in this prospectus as the subscription agent. Continental Stock Transfer & Trust Company is not the transfer agent and registrar for our common stock.

If you use the mail, we recommend that you use insured, registered mail, return receipt requested. We will not be obligated to honor your exercise of subscription rights if the subscription agent receives the documents relating to your exercise after the rights offering expires, regardless of when you transmitted the documents.

Q: How do I exercise my over-subscription right?

A: In order to properly exercise your over-subscription right, you must: (i) indicate on your subscription rights certificate that you submit with respect to the exercise of the rights issued to you how many additional shares you are willing to acquire pursuant to your over-subscription right and (ii) concurrently deliver the subscription payment related to your over-subscription right at the time you make payment for your basic subscription right. All funds from over-subscription rights that are not honored will be promptly returned to investors, without interest or deduction.

Q: Am I required to subscribe in the rights offering?

A: No.

Q: What happens if I choose not to exercise my subscription rights?

A: You will retain your current number of shares of common stock even if you do not exercise your basic subscription rights. However, if you do not exercise your basic subscription right in full, the percentage of our common stock that you own will decrease, and your voting and other rights will be diluted to the extent that other stockholders exercise their subscription rights. Unless our board of directors waives the maximum offering amount, will we raise no more than \$10,000,000 in this offering.

Q: When will the rights offering expire?

A: The subscription rights will expire, if not exercised, at 5:00 p.m., New York City time, on [], 2009, unless we decide to terminate the rights offering earlier or extend the expiration date for up to an additional 30 trading days in our sole discretion. If we extend the expiration date, you will have at least ten trading days during which to exercise your rights. Any rights not exercised at or before that time will expire without any payment to the holders of those unexercised rights. See "The Rights Offering — Expiration Date and Extensions." The subscription agent must actually receive all required documents and payments before that time and date.

Q: Will Reed's be requiring a minimum dollar amount of subscriptions to consummate the rights offering?

A: No. There is no minimum subscription requirement to consummate the rights offering. As such, proceeds from this rights offering may not be sufficient to meet the objectives we state in this prospectus, other corporate milestones that we may set, or to avoid a "going concern" modification in future reports of our auditors as to uncertainty with respect to our ability to continue as a going concern.

Q: Is exercising my subscription rights risky?

A: The exercise of your subscription rights and over-subscription rights (and the resulting ownership of our common stock) involves a high degree of risk. Exercising your subscription rights means buying additional shares of our common stock and should be considered as carefully as you would consider any other equity investment. You should carefully consider the information under the heading "Risk Factors" and all other information included in this prospectus before deciding to exercise your subscription rights.

Q: After I exercise my subscription rights, can I change my mind and cancel my purchase?

A: No. Once you send in your subscription rights certificate and payment, you cannot revoke the exercise of either your basic or over-subscription rights, even if the market price of our common stock is below the \$[] per share subscription price. You should not exercise your subscription rights unless you are certain that you wish to purchase additional shares of our common stock at the proposed subscription price. Any rights not exercised at or before that time will expire worthless without any payment to the holders of those unexercised rights.

Q: Can the board of directors cancel or terminate the rights offering?

A: Yes. Our board of directors may decide to cancel or terminate the rights offering at any time and for any reason before the expiration date. If our board of directors cancels or terminates the rights offering, we will issue a press release notifying stockholders of the cancellation or termination, and any money received from subscribing stockholders will be promptly returned, without interest or deduction.

Q: What should I do if I want to participate in the rights offering but my shares are held in the name of my broker, dealer, custodian bank, trustee or other nominee?

A: Beneficial owners of our shares whose shares are held by a nominee, such as a broker, dealer custodian bank or trustee, must contact that nominee to exercise their rights. In that case, the nominee will complete the subscription rights certificate on behalf of the beneficial owner and arrange for proper payment by one of the methods described above.

Q: What should I do if I want to participate in the rights offering, but I am a stockholder with a foreign address?

A: Subscription rights certificates will not be mailed to foreign stockholders whose address of record is outside the United States and Canada, or is an Army Post Office (APO) address or Fleet Post Office (FPO). If you are a foreign stockholder, you will be sent written notice of this offering. The subscription agent will hold your rights, subject to you making satisfactory arrangements with the subscription agent for the exercise of your rights, and follow your instructions for the exercise of the rights if such instructions are received by the subscription agent at or before 11:00 a.m., New York City time, on [], 2009, three business days prior to the expiration date (or, if this offering is extended, on or before three business days prior to the extended expiration date). If no instructions are received by the subscription agent by that time, your rights will expire worthless without any payment to you of those unexercised rights.

Q: Will I be charged a sales commission or a fee if I exercise my subscription rights?

A: We will not charge a brokerage commission or a fee to subscription rights holders for exercising their subscription rights. However, if you exercise your subscription rights and/or sell any underlying shares of our common stock through a broker, dealer, custodian bank, trustee or other nominee, you will be responsible for any fees charged by your broker, dealer, custodian bank, trustee or other nominee.

Q: What is the recommendation of the board of directors regarding the rights offering?

A: Neither we, our board of directors, the dealer-manager, the information agent nor the subscription agent are making any recommendation as to whether or not you should exercise your subscription rights. You are urged to make your decision in consultation with your own advisors as to whether or not you should participate in the rights offering or otherwise invest in our securities and only after considering all of the information included in this prospectus, including the "Risk Factors" section that follows.

Q: How was the \$[] per share subscription price established?

A: The subscription price per share for the rights offering was set by our board of directors. In determining the subscription price, our board of directors considered, among other things, our cash needs, the historical and current market price of our common stock, the fact that holders of rights will have an over-subscription right, the terms and expenses of this offering relative to other alternatives for raising capital (including fees payable to the dealer-manager and our advisors), the size of this offering and the general condition of the securities market. Based upon the factors described above, our board of directors determined that the subscription price per share represented an appropriate subscription price.

Q: If I also own shares of Reed's Series A convertible preferred stock, will I receive rights on those shares?

A: No, unless you convert one or more shares of your Series A convertible preferred stock, or Series A preferred stock, into shares of our common stock before [], 2009, the record date for this rights offering. If you elect to convert any or all of your shares of Series A preferred stock, you would no longer be entitled to dividends or other rights incident to the shares of Series A preferred stock that you converted.

Q: What are the U.S. federal income tax consequences of receiving or exercising my subscription rights?

A: A holder should not recognize income or loss for U.S. federal income tax purposes in connection with the receipt or exercise of subscription rights in the rights offering. You should consult your own tax advisor as to the particular consequences to you of the rights offering. See "Material U.S. Federal Income Tax Considerations."

Q: How many shares of our common stock will be outstanding after the rights offering?

A: The number of shares of our common stock that will be outstanding on a non-fully diluted basis immediately after the completion of the rights offering will be [] shares, assuming full participation in the rights offering.

Q: If I exercise my subscription rights, when will I receive shares of common stock purchased in the rights offering?

A: If your shares are held of record by Cede & Co. or by any other depository or nominee through the facilities of DTC on your behalf or on behalf of your broker, dealer, custodian bank, trustee or other nominee, you will have any shares that you acquire credited to the account of Cede & Co. or the other depository or nominee. With respect to all other stockholders, stock certificates for all shares acquired will be mailed promptly after payment for all the shares subscribed for has cleared.

Q: Who is the subscription agent for the rights offering?

A: The subscription agent is Continental Stock Transfer & Trust Company. The address for delivery to the subscription agent is as follows:

By Mail/Commercial Courier/Hand Delivery:
Continental Stock Transfer & Trust Company
Attn: Reorganization Department
17 Battery Place, 8th Floor
New York, NY 10004

Your delivery to an address other than the address set forth above will not constitute valid delivery and, accordingly, may be rejected by us.

Q: What should I do if I have other questions?

A: If you have any questions or need further information about this rights offering, please call MacKenzie Partners, Inc., our information agent for the rights offering, at (212) 929-5500 (call collect) or (800) 322-2885 (toll-free).

In addition, Maxim Group LLC will act as dealer-manager for the rights offering. Under the terms and subject to the conditions contained in the dealer-manager agreement, the dealer-manager will provide marketing assistance and advice to our company in connection with this offering. We have agreed to pay Maxim Group LLC 8% of the gross proceeds of this offering in cash and 10% of the shares of common stock sold in this offering in warrants priced at 110% of the subscription price. The warrants will not be redeemable. The warrants will be non-transferable for a period of six months following the expiration date of the offering, except that they may be transferred in accordance with the rules of the Financial Industry Regulatory Authority, Inc., or FINRA (formerly the NASD). The warrants may be exercised in full or in part as of the date of issuance and provide for cashless exercise, customary anti-dilution rights and contain provisions for one demand registration of the sale of the underlying shares of common stock for a period of five years after the expiration date of the offering at our expense, an additional demand registration at the warrant holder's expense and piggyback registration rights for a period of five years after the expiration date of the offering at our expense. In addition, we have agreed to pay Maxim Group LLC a non-accountable expense allowance of 2% of the gross proceeds in this offering and reimburse Maxim Group LLC for legal fees and other expenses. We have also agreed to indemnify Maxim Group LLC and their respective affiliates against certain liabilities arising under the Securities Act of 1933, as amended. Maxim Group LLC is not underwriting or placing any of the securities (including the rights) issued in this offering and does not make any recommendation with respect to such securities

PROSPECTUS SUMMARY

This summary highlights selected information from this prospectus. It does not contain all of the information that is important to you. We encourage you to carefully read this entire prospectus and the documents to which we refer you. The following summary is qualified in its entirety by reference to the detailed information appearing elsewhere in this registration statement.

Our Company

We develop, manufacture, market and sell natural non-alcoholic and “New Age” beverages, candies and ice creams. “New Age Beverages” is a category that includes natural soda, fruit juices and fruit drinks, ready-to-drink teas, sports drinks and water. We currently offer 16 beverages, including diet beverages, three candies and three ice creams. We sell most of our products in specialty gourmet and natural food stores, supermarket chains, retail stores and restaurants in the United States and, to a lesser degree, in Canada.

We primarily sell our products through a network of natural, gourmet and independent distributors. We also maintain an organization of in-house sales managers who work mainly in the stores serviced by our natural, gourmet and mainstream distributors and with our distributors. We also work with regional, independent sales representatives who maintain store and distributor relationships in a specified territory. In Southern California, we have in the past maintained our own direct distribution in addition to other local distributors and are presently in the process of discontinuing our direct distribution and redirecting our customers to local distributors.

Our current business strategy is to maintain our marketing focus in the natural food marketplace while expanding sales of our products in mainstream markets and distribution channels.

We produce certain of our soda products for the western half of the United States at an 18,000 square foot warehouse facility owned by us in an unincorporated area of Los Angeles County near downtown Los Angeles, known as The Brewery.

We also contract with The Lion Brewery, Inc., a packing, or co-pack, facility in Pennsylvania, to supply us with soda products for the eastern half of the United States and nationally for soda products that we do not produce at The Brewery. Our ice creams are co-packed for us at Ronnybrooke Dairy in upstate New York on a purchase order basis. We pack our candy products at the Brewery.

We have not been profitable during our last two fiscal years and there is no assurance that we will develop profitable operations in the future. Our net loss attributable to common stockholders for the years ended December 31, 2007 and 2006 was \$5,578,999 and \$2,243,079, respectively. Our net loss attributable to common stockholders for the nine months ended September 30, 2008 and 2007 was \$2,678,907 and \$2,734,722, respectively. We cannot assure you that we will have profitable operations in the future.

Our principal executive offices are at the Brewery, which is located at 13000 South Spring Street, Los Angeles, California 90061. Our telephone number is 310-217-9400. Our Internet address is www.reedsgingerbrew.com. Information contained on our website or that is accessible through our website should not be considered to be part of this prospectus.

The Rights Offering

Securities Offered	We are distributing at no charge to the holders of our common stock on [], 2009, which we refer to as the record date, subscription rights to purchase up to an aggregate of [] shares of our common stock. We will distribute one right to the holder of record of every share of common stock that is held by the holder of record on the record date. We expect the total purchase price for the securities offered in this rights offering to be \$10,000,000 assuming full participation in the rights offering, of which no assurances can be given.
Basic Subscription Right	Each right entitles the holder to purchase one share of common stock at the subscription price of \$[] per share, which we refer to as the basic subscription right.
Over-Subscription Right	Holders who fully exercise their basic subscription rights will be entitled to subscribe for additional shares that remain unsubscribed as a result of any unexercised basic subscription rights, which we refer to as the over-subscription right. The over-subscription right allows a holder to subscribe for an additional amount equal to up to 400% of the shares for which such holder was otherwise entitled to subscribe. Rights may only be exercised for whole numbers of shares; no fractional shares of common stock will be issued in this offering. The percentage of remaining shares each over-subscribing rights holder may acquire will be rounded down to result in delivery of whole shares.
Record Date	Close of business on [], 2009.
Commencement Date of Subscription Period	[], 2009.
Expiration Date of Subscription Period	5:00 p.m., New York City time, on [], 2009, unless extended by us as described in this summary below under “—Extension, termination and cancellation.” Any rights not exercised at or before that time will have no value and expire without any payment to the holders of those unexercised rights.
Subscription Price	

Edgar Filing: REEDS INC - Form S-1

\$ _____ per share, payable in immediately available funds [which will be between 90% of the five day volume weighted average price per share of our common stock, or VWAP, prior to the date of this prospectus and 115% of the 20 day VWAP prior to the date of this prospectus, but in no event less than \$2.25 unless waived by our board of directors].

Use of Proceeds	The proceeds from the rights offering, less fees and expenses incurred in connection with the rights offering, will be used primarily for production of inventory and marketing, as well as for general working capital purposes.
Transferability	The rights being distributed to the holders are transferable and will be listed on the NASDAQ Capital Market under the symbol "REEDR" during the term of this offering.
No Recommendation	Neither our board of directors nor the dealer-manager of this offering makes any recommendation to you about whether you should exercise any rights. You are urged to consult your own financial advisors in order to make an independent investment decision about whether to exercise your rights. Please see the section of this prospectus entitled "Risk Factors" for a discussion of some of the risks involved in investing in our securities.
No Minimum Subscription Requirement	There is no minimum subscription requirement. We will consummate the rights offering regardless of the amount raised from the exercise of basic and over-subscription rights by the expiration date.
Maximum Offering Size	Unless our board of directors waives the maximum offering amount, we will raise no more than \$10,000,000 in this offering.
No Revocation	If you exercise any of your basic or over-subscription rights, you will not be permitted to revoke or change the exercise or request a refund of monies paid.
U.S. Federal Income Tax Considerations	A holder should not recognize income, gain, or loss for U.S. federal income tax purposes in connection with the receipt or exercise of subscription rights in the rights offering. You should consult your own tax advisor as to the particular consequences to you of the rights offering. For a detailed discussion, see "Material U.S. Federal Income Tax Considerations."
Extension, Termination and Cancellation	Extension. Our board of directors may extend the expiration date for exercising your subscription rights for up to an additional 30 trading days in their sole discretion. If we extend the expiration

date, you will have at least ten trading days during which to exercise your rights. Any extension of this offering will be followed as promptly as practicable by an announcement, and in no event later than 9:00 a.m., New York City time, on the next business day following the previously scheduled expiration date.

Termination; Cancellation. We may cancel or terminate the rights offering at any time and for any reason prior to the expiration date. Any termination or cancellation of this offering will be followed as promptly as practicable by announcement thereof, and in no event later than 9:00 a.m., New York City time, on the next business day following the termination or cancellation.

Procedure for Exercising Rights

If you are the record holder of shares of our common stock, to exercise your rights you must complete the subscription rights certificate and deliver it to the subscription agent, Continental Stock Transfer & Trust Company, together with full payment for all the subscription rights (pursuant to both the basic subscription right and the over-subscription right) you elect to exercise. The subscription agent must receive the proper forms and payments on or before the expiration date. You may deliver the documents and payments by mail or commercial courier. If regular mail is used for this purpose, we recommend using registered mail, properly insured, with return receipt requested. If you are a beneficial owner of shares of our common stock, you should instruct your broker, dealer, custodian bank, trustee or other nominee in accordance with the procedures described in the section of this prospectus entitled “The Rights Offering—Record Date Stockholders Whose Shares are Held by a Nominee.”

Subscription Agent

Continental Stock Transfer & Trust Company

Information Agent

MacKenzie Partners, Inc.

Dealer-manager

Maxim Group LLC

Questions

If you have any questions or need further information about this rights offering, please call MacKenzie Partners, Inc., our information agent for the rights offering, at (212) 929-5500 (call collect) or (800) 322-2885 (toll-free).

Shares Outstanding on the Date Hereof

8,979,341 shares as of the date of this prospectus (which excludes outstanding options, warrants and preferred stock convertible into or exercisable for shares of common stock).

Shares Outstanding after
Completion of the Rights Offering

Up to [] shares of our common stock will be outstanding, assuming full participation in the rights offering. These amounts exclude outstanding options, warrants and preferred stock convertible into or exercisable for shares of common stock.

Issuance of our common stock

If you purchase shares pursuant to the basic or over-subscription right, we will issue certificates representing the shares of common stock to you or DTC on your behalf, as the case may be, promptly after receipt of payment for all the shares subscribed for has cleared.

Risk Factors	Investing in our securities involves a high degree of risk. Stockholders considering making an investment in our securities should consider the risk factors described in the section of this prospectus entitled “Risk Factors.”
Fees and Expenses	We will bear the fees and expenses relating to the rights offering.
Trading Symbol	Our common stock is quoted on the NASDAQ Capital Market under the ticker symbol “REED.” The subscription rights are transferable and will be listed for trading under the NASDAQ ticker symbol “REEDR” during the course of this offering.
Insider Lock-Ups	Our officers and directors, who beneficially own an aggregate of 36% of the outstanding shares of our common stock on the date of this prospectus, have agreed to enter into a lock-up agreement with the dealer-manager of this offering which prevents each of them from buying or selling the rights in the open market or otherwise during the subscription period and pendency of the offering.
Distribution Arrangements	Maxim Group LLC will act as dealer-manager for this rights offering. Under the terms and subject to the conditions contained in the dealer-manager agreement, the dealer-manager will provide marketing assistance in connection with this offering. We have agreed to pay Maxim Group LLC certain fees for acting as dealer-manager and to reimburse the dealer-manager for its reasonable expenses incurred in connection with this offering. Maxim Group LLC is not underwriting or placing any of the rights or the shares of our common stock being sold in this offering and does not make any recommendation with respect to such rights or shares (including with respect to the exercise of such rights). Maxim Group LLC will not be subject to any liability to us in rendering the services contemplated by the dealer-manager agreement except for any act of bad faith or gross negligence by Maxim Group LLC.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements. The forward-looking statements are contained principally in, but not limited to, the sections entitled “Risk Factors,” “Management’s Discussion and Analysis or Plan of Operation” and “Business.” Forward-looking statements provide our current expectations or forecasts of future events. Forward-looking statements include statements about our expectations, beliefs, plans, objectives, intentions, assumptions and other statements that are not historical facts. Words or phrases such as “anticipate,” “believe,” “continue,” “ongoing,” “estimate,” “expect,” “intend,” “may,” “plan,” “potential,” “predict,” “project” or similar words or phrases, or the use of those words or phrases, may identify forward-looking statements, but the absence of these words does not necessarily mean that a statement is not forward-looking.

Forward-looking statements are subject to known and unknown risks and uncertainties and are based on potentially inaccurate assumptions that could cause actual results to differ materially from those expected or implied by the forward-looking statements. Our actual results could differ materially from those anticipated in forward-looking statements for many reasons, including the factors described in the section entitled “Risk Factors” in this prospectus. Accordingly, you should not unduly rely on these forward-looking statements, which speak only as of the date of this prospectus.

Unless required by law, we undertake no obligation to publicly revise any forward-looking statement to reflect circumstances or events after the date of this prospectus or to reflect the occurrence of unanticipated events. You should, however, review the factors and risks we describe in the reports we will file from time to time with the Securities and Exchange Commission (the “SEC”) after the date of this prospectus.

Management cautions that these statements are qualified by their terms and/or important factors, many of which are outside of our control, and involve a number of risks, uncertainties and other factors that could cause actual results and events to differ materially from the statements made, including, but not limited to, the following:

- Our ability to generate sufficient cash flow to support capital expansion plans and general operating activities,
 - Decreased demand for our products resulting from changes in consumer preferences,
- Competitive products and pricing pressures and our ability to gain or maintain our share of sales in the marketplace,
 - The introduction of new products,
- Our being subject to a broad range of evolving federal, state and local laws and regulations including those regarding the labeling and safety of food products, establishing ingredient designations and standards of identity for certain foods, environmental protections, as well as worker health and safety. Changes in these laws and regulations could have a material effect on the way in which we produce and market our products and could result in increased costs,

- Changes in the cost and availability of raw materials and the ability to maintain our supply arrangements and relationships and procure timely and/or adequate production of all or any of our products,
 - Our ability to penetrate new markets and maintain or expand existing markets,
 - Maintaining existing relationships and expanding the distributor network of our products,
- The marketing efforts of distributors of our products, most of whom also distribute products that are competitive with our products,
 - Decisions by distributors, grocery chains, specialty chain stores, club stores and other customers to discontinue carrying all or any of our products that they are carrying at any time,
 - The availability and cost of capital to finance our working capital needs and growth plans,
 - The effectiveness of our advertising, marketing and promotional programs,
 - Changes in product category consumption,
 - Economic and political changes,
 - Consumer acceptance of new products, including taste test comparisons,
 - Possible recalls of our products, and
 - Our ability to make suitable arrangements for the co-packing of any of our products.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance, or achievements. We caution investors that actual results or business conditions may differ materially from those projected or suggested in forward-looking statements as a result of various factors including, but not limited to, those described above and in the Risk Factors section of this prospectus. We cannot assure you that we have identified all the factors that create uncertainties. Moreover, new risks emerge from time to time and it is not possible for our management to predict all risks, nor can we assess the impact of all risks on our business or the extent to which any risk, or combination of risks, may cause actual results to differ from those contained in any forward-looking statements. Readers should not place undue reliance on forward-looking statements.

RISK FACTORS

An investment in our common stock is very risky. Our financial condition is unsound. You should not invest in our common stock unless you can afford to lose your entire investment. You should carefully consider the risk factors described below, together with all other information in this prospectus, before making an investment decision. If an active market is ever established for our common stock, the trading price of our common stock could decline due to any of these risks, and you could lose all or part of your investment. You also should refer to the other information set forth in this prospectus, including our financial statements and the related notes.

Risks Related to the Rights Offering

Your interest in our company may be diluted as a result of this offering.

Common stockholders who do not fully exercise their respective rights should expect that they will, at the completion of this offering, own a smaller proportional interest in our company than would otherwise be the case had they fully exercised their basic subscription rights.

Completion of this offering is not subject to us raising a minimum offering amount and therefore proceeds may be insufficient to meet our objectives, thereby increasing the risk to investors in this offering.

Completion of this offering is not subject to us raising a minimum offering amount. As such, proceeds from this rights offering may not be sufficient to meet the objectives we state in this prospectus, other corporate milestones that we may set, or to avoid a “going concern” modification in future reports of our auditors as to uncertainty with respect to our ability to continue as a going concern. Investors should not rely on the success of this offering to address our need for funding. If we fail to raise capital by the end of February 2009, we would expect to have to significantly decrease operating expenses, which will curtail the growth of our business.

None of our officers, directors or significant stockholders are obligated to exercise their subscription right and, as a result, the offering may be undersubscribed.

Christopher J. Reed, our President, Chief Executive Officer and Chairman of the Board beneficially owns approximately 36% of our common stock. As a group, our officers and directors beneficially own approximately 36% of our common stock. None of our officers, directors or significant stockholders are obligated to participate in this offering. None of our officers or directors may exercise their basic or over-subscription rights to purchase any shares issued in connection with this offering. As a result, the offering may be undersubscribed and proceeds may not be sufficient to meet the objectives we state in this prospectus or other corporate milestones that we may set, or to avoid a “going concern” modification in future reports of our auditors as to uncertainty with respect to our ability to continue as a going concern. However, to the extent that stockholder participation in this offering would cause Christopher J. Reed, our Chief Executive Officer and President, to beneficially own less than 25% of our capital stock, Mr. Reed would then have an obligation under our Loan and Security Agreement with First Capital Western Region, LLC to preserve his beneficial ownership of at least 25% of our capital stock. Mr. Reed’s failure to beneficially own at least 25% of our capital stock would constitute an “event of default” under the Loan and Security Agreement, which is secured by all of our assets.

If Christopher J. Reed, our chief executive officer, president and chairman of the board, does not continue to beneficially own at least 25% of our capital stock, our assets may be foreclosed upon.

Christopher J. Reed, our chief executive officer, president and chairman of the board, currently beneficially owns approximately 36% of our common stock. Pursuant to the current terms of our loan and security agreement with First

Capital Western Region, LLC, Christopher Reed is required to beneficially own at least 25% of our capital stock while the loan is outstanding. Failure to meet this ownership threshold would result in an event of default under the loan, which is secured by all of our assets. Although Mr. Reed has no obligation to participate in this offering, in the event that this offering is fully subscribed to at the minimum offering price, Mr. Reed may then beneficially own less than 25% of our capital stock. Therefore, if Mr. Reed elects not to participate in this offering, and the subscriptions cause Mr. Reed's beneficial ownership of our capital stock to fall below 25%, we will be in default of our obligations under our loan agreement. Upon such a default, our lender may accelerate the loan, and, to the extent we cannot readily pay back all amounts due under the loan and security agreement, foreclose upon our assets.

This offering may cause the price of our common stock to decrease.

The subscription price, together with the number of shares of common stock we propose to issue and ultimately will issue if this offering is completed, may result in an immediate decrease in the market value of our common stock. This decrease may continue after the completion of this offering. If that occurs, you may have committed to buy shares of common stock in the rights offering at a price greater than the prevailing market price. Further, if a substantial number of rights are exercised and the holders of the shares received upon exercise of those rights choose to sell some or all of those shares, the resulting sales could depress the market price of our common stock. Following the exercise of your rights you may not be able to sell your common stock at a price equal to or greater than the subscription price.

You could be committed to buying shares of common stock above the prevailing market price.

Once you exercise your basic and any over-subscription rights, you may not revoke such exercise even if you later learn information that you consider to be unfavorable to the exercise of your rights. The market price of our shares of common stock may decline prior to the expiration of this offering or a subscribing rights holder may not be able to sell shares of common stock purchased in this offering at a price equal to or greater than the subscription price.

If we terminate this offering for any reason, we will have no obligation other than to return subscription monies promptly.

We may decide, in our discretion and for any reason, to cancel or terminate the rights offering at any time prior to the expiration date. If this offering is terminated, we will have no obligation with respect to rights that have been exercised except to return promptly, without interest or deduction, the subscription monies deposited with the subscription agent. If we terminate this offering and you have not exercised any rights, such rights will expire worthless.

Our common stock price may be volatile as a result of this rights offering.

The trading price of our common stock may fluctuate substantially. The price of the common stock that will prevail in the market after this offering may be higher or lower than the subscription price depending on many factors, some of which are beyond our control and may not be directly related to our operating performance. These factors include, but are not limited to, the following:

- price and volume fluctuations in the overall stock market from time to time, including increased volatility due to the worldwide credit and financial markets crisis;
- significant volatility in the market price and trading volume of our securities, including increased volatility due to the worldwide credit and financial markets crisis;
 - actual or anticipated changes or fluctuations in our operating results;
- material announcements by us regarding business performance, financings, mergers and acquisitions or other transactions;
 - general economic conditions and trends;
 - competitive factors;
 - loss of key supplier or distribution relationships; or
 - departures of key personnel.

The subscription price determined for this offering is not an indication of the value of our common stock.

The subscription price for the shares in this offering was set by our board of directors and does not necessarily bear any relationship to the book value of our assets, results of operations, cash flows, losses, financial condition or any other established criteria for value. You should not consider the subscription price as an indication of the value of our common stock. After the date of this prospectus, our common stock may trade at prices above or below the subscription price.

We will have broad discretion in the use of the net proceeds from this offering and may not use the proceeds effectively.

Although we plan to use the proceeds of this offering primarily for production of inventory, marketing and working capital, we will not be restricted to such use and will have broad discretion in determining how the proceeds of this offering will be used. Our discretion is not substantially limited by the uses set forth in this prospectus in the section entitled "Use of Proceeds." While our board of directors believes the flexibility in application of the net proceeds is prudent, the broad discretion it affords entails increased risks to the investors in this offering. Investors in this offering have no current basis to evaluate the possible merits or risks of any application of the net proceeds of this offering. Our stockholders may not agree with the manner in which we choose to allocate and spend the net proceeds.

If you do not act on a timely basis and follow subscription instructions, your exercise of rights may be rejected.

Holders of shares of common stock who desire to purchase shares of our common stock in this offering must act on a timely basis to ensure that all required forms and payments are actually received by the subscription agent prior to 5:00 p.m., New York City time, on the expiration date, unless extended. If you are a beneficial owner of shares of common stock and you wish to exercise your rights, you must act promptly to ensure that your broker, dealer, custodian bank, trustee or other nominee acts for you and that all required forms and payments are actually received by your broker, dealer, custodian bank, trustee or other nominee in sufficient time to deliver such forms and payments to the subscription agent to exercise the rights granted in this offering that you beneficially own prior to 5:00 p.m., New York City time on the expiration date, as may be extended. We will not be responsible if your broker, dealer, custodian bank, trustee or other nominee fails to ensure that all required forms and payments are actually received by the subscription agent prior to 5:00 p.m., New York City time, on the expiration date, as may be extended.

If you fail to complete and sign the required subscription forms, send an incorrect payment amount, or otherwise fail to follow the subscription procedures that apply to your exercise in this offering, the subscription agent may, depending on the circumstances, reject your subscription or accept it only to the extent of the payment received. Neither we nor the subscription agent undertakes to contact you concerning an incomplete or incorrect subscription form or payment, nor are we under any obligation to correct such forms or payment. We have the sole discretion to determine whether a subscription exercise properly follows the subscription procedures.

You may not receive any or all of the amount of shares for which you over-subscribed.

Holders who fully exercise their basic subscription rights will be entitled to subscribe for an additional amount of shares equal to up to 400% of the shares for which such holder was otherwise entitled to subscribe. Over-subscription rights will be allocated pro rata among rights holders who over-subscribed, based on the number of over-subscription shares to which they subscribed. You may not receive any or all of the amount of shares for which you over-subscribed. If the pro rated amount of shares allocated to you in connection with your over-subscription right is less than your over-subscription request, then the excess funds held by the subscription agent on your behalf will be returned to you promptly without interest or deduction and we will have no further obligations to you.

If you make payment of the subscription price by uncertified check, your check may not clear in sufficient time to enable you to purchase shares in this rights offering.

Any uncertified check used to pay for shares to be issued in this rights offering must clear prior to the expiration date of this rights offering, and the clearing process may require five or more business days. If you choose to exercise your subscription rights, in whole or in part, and to pay for shares by uncertified check and your check has not cleared prior to the expiration date of this rights offering, you will not have satisfied the conditions to exercise your subscription rights and will not receive the shares you wish to purchase.

The receipt of rights may be treated as a taxable distribution to you.

The distribution of the rights in this offering should be a non-taxable distribution under Section 305(a) of the Internal Revenue Code of 1986, as amended (the "Code"). Please see the discussion on the "Material U.S. Federal Income Tax Considerations" below. This position is not binding on the IRS, or the courts, however. If this offering is part of a "disproportionate distribution" under Section 305 of the Code, your receipt of rights in this offering may be treated as the receipt of a taxable distribution to you equal to the fair market value of the rights. Any such distribution would be treated as dividend income to the extent of our current and accumulated earnings and profits, if any, with any excess being treated as a return of capital to the extent thereof and then as capital gain. Each holder of common stock is urged to consult his, her or its own tax advisor with respect to the particular tax consequences of this offering.

The dealer-manager is not underwriting, nor acting as a placement agent of, the rights or the securities underlying the rights.

Maxim Group LLC, as the dealer-manager of this rights offering, is not an underwriter, nor acting as a placement agent, of the rights or the shares of common stock issuable upon exercise of the basic subscription or over subscription rights. Under our agreement with the dealer-manager, Maxim Group LLC is solely providing marketing assistance and advice to our company in connection with this offering. Its services to us in this connection cannot be construed as any assurance that this offering will be successful. Maxim Group LLC does not make any recommendation with respect to whether you should exercise the basic subscription or over subscription rights or to otherwise invest in our company.

Risks Relating to Our Business

We have a history of operating losses, which negatively impacts our liquidity, our ability to operate our business and our public stock price.

As of September 30, 2008, we had an accumulated deficit of \$13,760,048. For the years ended December 31, 2007 and 2006, we incurred losses from operations of \$5,488,889 and \$1,806,590, respectively. We also incurred losses from operations of \$2,457,692 and \$2,642,160 during the nine months ended September 30, 2008 and 2007, respectively.

As of December 31, 2008, we had outstanding borrowings of \$1,353,742 under our secured line of credit agreement with First Capital Western Region LLC. We are currently borrowing near the maximum on our line of credit. We had approximately \$282,218 of available cash and cash equivalents and approximately \$250,000 in excess inventory over our normal inventory levels as of December 31, 2008. If we fail to raise capital by the end of February 2009, we would expect to have to significantly decrease operating expenses which will curtail the growth of our business.

Operating losses negatively impact liquidity and our public stock price. In light of our continuing losses, we need to raise funds from outside sources, which may not be available to us on satisfactory terms, if at all. Moreover, if we continue to suffer losses from operations, the proceeds from our financings (including this offering) may be insufficient to support our ability to expand our business operations as rapidly as we would deem necessary at any time, unless we are able to obtain additional financing. If adequate funds are not available or are not available on acceptable terms, we may not be able to pursue our business objectives and would be required to reduce our level of operations, including reducing infrastructure, promotions, personnel and other operating expenses. These events could adversely affect our business, results of operations and financial condition.

We are currently in default under our secured line of credit agreement with First Capital Western Region, LLC, which agreement is secured by all of our assets, for failure to meet three month financial results for November 30, 2008. We are currently negotiating either an amendment to the agreement or a waiver of the November 30, 2008 financial covenants. If we are unable to successfully negotiate such an amendment or waiver our lender may accelerate the loan, and, to the extent we cannot readily pay back all amounts due under the Loan and Security Agreement, foreclose upon our assets.

As part of our financial covenants with regards to our secured line of credit agreement with First Capital Western Region, LLC, we are required to meet certain three month financial requirements, including maintaining a certain minimum tangible net worth and producing certain minimum three month financial results in order to avoid a default. The loan is secured by all of our assets. We have previously renegotiated the terms of these covenants in order to cure "events of default" under the agreement. Most recently, the lender waived the requirement that we be in compliance with the fixed charge coverage ratio and minimum net worth requirement for the three month period ending October 31, 2008 and extended the due date for financial statements due by December 30, 2008 to January 15, 2009. We are currently negotiating either an amendment to the agreement or a waiver of the November 30, 2008 financial covenants. If we are unable to successfully negotiate such an amendment or waiver our lender may accelerate the loan, and, to the extent we cannot readily pay back all amounts due under the Loan and Security Agreement, foreclose upon our assets.

We have generated insufficient revenues to date, and we may never generate sufficient revenues to achieve profitability.

We may not generate sufficient revenues from product sales in the future to achieve profitable operations. If we are not able to achieve profitable operations at some point in the future, we eventually may have insufficient working capital to maintain our operations as we presently intend to conduct them or to fund our expansion and marketing and product development plans. In addition, a lack of revenue generation would likely lead to increased losses in the future as we seek to expand our manufacturing capabilities and fund our marketing plans and product development. This lack of sufficient revenues, among other things, has had and will continue to have an adverse effect on our working capital, total assets and stockholders' equity. If we are unable to achieve profitability, the market value of our common stock will decline and there would be a material adverse effect on our financial condition.

Additional financing to expand our business may be unavailable to us.

Some or all of the elements of our expansion plan may have to be curtailed or delayed unless we are able to find alternative external sources of working capital. We would need to raise additional funds to respond to business contingencies, which may include the need to:

- fund more rapid expansion,
- fund additional marketing expenditures,
- enhance our operating infrastructure,
- respond to competitive pressures, and
- acquire other businesses or engage in other strategic initiatives.

If we need to raise additional financing to support our operations, we cannot assure you that additional financing will be available on terms favorable to us, or at all. If adequate funds are not available or if they are not available on acceptable terms, our ability to fund the growth of our operations, take advantage of opportunities, develop products or services or otherwise respond to competitive pressures, could be significantly limited.

We may not be able to develop new beverage products which are important to our growth.

An important part of our strategy is to increase our sales through the development of new beverage products. We cannot assure you that we will be able to continue to develop, market and distribute future beverage products that will enjoy market acceptance. Our failure to continue to develop new beverage products that gain market acceptance could have an adverse impact on our growth and materially adversely affect our financial condition. We may have higher obsolescent product expense if new products fail to perform as expected due to the need to write off excess inventory of the new products.

Our results of operations may be impacted in various ways by the introduction of new products, even if they are accepted in the market, including the following:

- Sales of new products could adversely impact sales of existing products,

- We may incur higher cost of goods sold and selling, general and administrative expenses in the periods when we introduce new products due to increased costs associated with the introduction and marketing of new products, most of which are expensed as incurred, and
- When we introduce new platforms and bottle sizes, we may experience increased freight and logistics costs as our co-packers adjust their facilities for the new products.

The beverage business is highly competitive.

The premium beverage and carbonated soft drink industries are highly competitive. Many of our competitors have substantially greater financial, marketing, personnel and other resources than we do. Competitors in the soft drink industry include bottlers and distributors of nationally advertised and marketed products, as well as chain store and private label soft drinks. The principal methods of competition include brand recognition, price and price promotion, retail space management, service to the retail trade, new product introductions, packaging changes, distribution methods, and advertising. We also compete for distributors, shelf space and customers primarily with other premium beverage companies. As additional competitors enter the field, our market share may fail to increase or may decrease. As a small company with a history of losses, we may be unable to respond to competitive pressures, which would have a material adverse effect on our business.

The growth of our revenues is dependent on acceptance of our products by mainstream consumers.

We have dedicated significant resources to introduce our products to the mainstream consumer. As such, we have increased our sales force and executed agreements with distributors who, in turn, distribute to mainstream consumers at grocery stores, club stores and other retailers. If our products are not accepted by the mainstream consumer, our business could suffer.

Our failure to accurately estimate demand for our products could adversely affect our business and financial results.

We may not correctly estimate demand for our products. Our ability to estimate demand for our products is imprecise, particularly with new products, and may be less precise during periods of rapid growth, particularly in new markets. If we materially underestimate demand for our products or are unable to secure sufficient ingredients or raw materials including, but not limited to, glass, labels, flavors or packing arrangements, we might not be able to satisfy demand on a short-term basis. Moreover, industry-wide shortages of certain juice concentrates and sweeteners have been and could, from time to time in the future, be experienced, which could interfere with and/or delay production of certain of our products and could have a material adverse effect on our business and financial results. We do not use hedging agreements or alternative instruments to manage this risk.

The loss of our largest customers would substantially reduce revenues.

Our customers are material to our ability to generate revenue. If we are unable to maintain good relationships with our existing customers, our business could suffer. Unilateral decisions could be taken by our distributors, and/or convenience chains, grocery chains, specialty chain stores, club stores and other customers to discontinue carrying all or any of our products that they are carrying at any time, which could cause our business to suffer.

United Natural Foods, the parent of certain of our retailers, accounted for approximately 32% of our sales for the nine months ended September 30, 2008 and 35% and 39% of our sales in each of 2007 and 2006. Trader Joe's accounted for approximately 13% of our sales for the nine months ended September 30, 2008, 14% of our 2007 sales and approximately 17% of our sales in 2006. As a result of this customer concentration, the loss of United Natural Foods or Trader Joe's as a retailer would substantially reduce our revenues unless and until we replaced that source of revenue.

The loss of our third-party distributors could impair our operations and substantially reduce our financial results.

We depend in large part on distributors to distribute our beverages and other products. Most of our outside distributors are not bound by written agreements with us and may discontinue their relationship with us on short notice. Most distributors handle a number of competitive products. In addition, our products are a small part of our distributors' businesses. As a result, such distributors may be more inclined to discontinue their relationship with us than with competitors.

We continually seek to expand distribution of our products by entering into distribution arrangements with regional bottlers or other direct store delivery distributors having established sales, marketing and distribution organizations. Many of our distributors are affiliated with and manufacture and/or distribute other soda and non-carbonated brands and other beverage products. In many cases, such products compete directly with our products.

The marketing efforts of our distributors are important for our ability to penetrate our markets and generate revenue. If our brands prove to be less attractive to our existing distributors and/or if we fail to attract additional distributors, and/or our distributors do not market and promote our products above the products of our competitors, our business, financial condition and results of operations could be adversely affected.

United Natural Foods, Inc. accounted for approximately 32% of our sales for the nine months ended September 30, 2008 and 35% and 39% of our sales in 2007 and 2006 respectively. The loss of this distributor may adversely affect sales in the short term and alternative distribution channels may not be found in a timely manner. The loss of our third-party beverage distributors could impair our operations and adversely affect our financial performance.

Price fluctuations in, and unavailability of, raw materials and packaging that we use could adversely affect us.

We do not enter into hedging arrangements for raw materials. Although the prices of raw materials that we use have not increased significantly in recent years, our results of operations would be adversely affected if the price of these raw materials were to rise and we were unable to pass these costs on to our customers.

We depend upon an uninterrupted supply of the ingredients for our products, a significant portion of which we obtain overseas, principally from China and Brazil. We obtain almost all of our crystallized ginger from Fiji and our Ginger Chews from Indonesia. Any decrease in the supply of these ingredients or increase in the prices of these ingredients as a result of any adverse weather conditions, pests, crop disease, interruptions of shipment or political considerations, among other reasons, could substantially increase our costs and adversely affect our financial performance.

We also depend upon an uninterrupted supply of packaging materials, such as glass for our bottles and kegs for our 5 liter party kegs. We obtain our bottles domestically and our kegs from Europe. Any decrease in supply of these materials or increase in the prices of the materials, as a result of decreased supply or increased demand, could substantially increase our costs and adversely affect our financial performance.

The loss of any of our co-packers could impair our operations and substantially reduce our financial results.

We rely on third parties, called co-packers in our industry, to produce some of our beverages, to produce our glass bottles and to bottle some of our beverages. Our co-packing agreement with our principal co-packer, The Lion Brewery, Inc., expires on November 1, 2011 and grants Reed's the option to extend the contract for an additional one year period. Our co-packing arrangements with other companies are on a short term basis and such co-packers may discontinue their relationship with us on short notice. Our co-packing arrangements expose us to various risks, including:

- Our largest co-packer, Lion Brewery, accounted for approximately 79% of our total case production for the nine months ended September 30, 2008 and 82% and 72% of our total case production in 2007 and 2006, respectively.
- if any of those co-packers were to terminate our co-packing arrangement or have difficulties in producing beverages for us, our ability to produce our beverages would be adversely affected until we were able to make alternative arrangements, and
- Our business reputation would be adversely affected if any of the co-packers were to produce inferior quality products.

We compete in an industry that is brand-conscious, so brand name recognition and acceptance of our products are critical to our ability to obtain market share and generate revenue.

Our business is substantially dependent upon awareness and market acceptance of our products and brands by our targeted consumers. In addition, our business depends on acceptance by our independent distributors of our brands as beverage brands that have the potential to provide incremental sales growth rather than reduce distributors' existing beverage sales. It may be too early in the product life cycle of our brands within the New Age Beverage Industry to determine whether our products and brands will achieve and maintain satisfactory levels of acceptance by independent distributors and retail consumers. We believe that the viability of our product name brands will also be substantially dependent upon acceptance of our product name brands. Accordingly, any failure of our brands to maintain or increase acceptance or market penetration would likely have a material adverse affect on our revenues and financial results.

If we are unable to maintain brand image and product quality, or if we encounter other product issues such as product recalls, our business may suffer.

Maintaining a good reputation is critical to our success. If we fail to maintain high standards for product quality, or if we fail to maintain high ethical, social and environmental standards for all of our operations and activities, our reputation could be jeopardized. In addition, we may be liable if the consumption of any of our products causes injury or illness, and we may be required to recall products if they become contaminated or are damaged or mislabeled. A significant product liability or other product-related legal judgment against us or a widespread recall of our products could have a material adverse effect on our business and financial results.

Adverse weather conditions could reduce the demand for our products.

Demand for our products is influenced to some extent by the weather conditions in the markets in which we operate. Unseasonably cool temperatures in these markets could have a material adverse effect on our sales volume and financial results.

We compete in an industry characterized by rapid changes in consumer preferences and public perception, so our ability to continue to market our existing products and develop new products to satisfy our consumers' changing preferences will determine our long-term viability.

Our future viability will depend, in part, upon our continued ability to develop and introduce different and innovative beverages. In order to retain and expand our market share, we must continue to develop and introduce different and innovative beverages and be competitive in the areas of quality and health, although there can be no assurance of our ability to do so. There is no assurance that consumers will continue to purchase our products in the future. Additionally, many of our products are considered premium products and to maintain market share during recessionary periods, we may have to reduce profit margins, which would adversely affect our results of operations. In addition, there is increasing awareness and concern for the health consequences of obesity. This may reduce demand for our non-diet beverages, which could affect our ability to generate revenue and profitability. Product lifecycles for some beverage brands and/or products and/or packages may be limited to a few years before consumers' preferences change. The beverages we currently market are in varying stages of their lifecycles and there can be no assurance that such beverages will become or remain profitable for us. The beverage industry is subject to changing consumer preferences and shifts in consumer preferences may adversely affect us if we misjudge such preferences. We may be unable to achieve volume growth through product and packaging initiatives. We also may be unable to penetrate new markets. If our revenues decline, our business, financial condition and results of operations will be materially and adversely affected.

Our quarterly operating results may fluctuate significantly because of the seasonality of our business.

Our highest revenues occur during the spring and summer, the second and third quarters of each fiscal year. These seasonality issues may cause our financial performance to fluctuate. In addition, beverage sales can be adversely affected by sustained periods of bad weather. These fluctuations in our business could have a material adverse effect on our financial performance and public stock price.

Our business is subject to many regulations and noncompliance is costly.

The production, marketing and sale of our beverages, including contents, labels, caps and containers, are subject to the rules and regulations of various federal, provincial, state and local health agencies. If a regulatory authority finds that a current or future product or production run is not in compliance with any of these regulations, we may be fined, or production may be stopped, thus adversely affecting our financial conditions and operations. Similarly, any adverse publicity associated with any noncompliance may damage our reputation and our ability to successfully market our products. Furthermore, the rules and regulations are subject to change from time to time and while we closely monitor developments in this area, we have no way of anticipating whether changes in these rules and regulations will impact our business adversely. Additional or revised regulatory requirements, whether labeling, environmental, tax or otherwise, could have a material adverse effect on our financial condition and results of operations.

Our west coast brewery facility is not running at capacity.

Our west coast brewery facility is currently running at 41% of capacity. We have had difficulties with the flavor of our Ginger Brew products produced at the Brewery. As a result, we continue to supply our Ginger Brew products at the Brewery from our east coast co-packing facility, thereby causing us to incur increased freight and warehousing expenses on our products.

Our manufacturing process is not patented.

None of the manufacturing processes used in producing our products are subject to a patent or similar intellectual property protection. Our only protection against a third party using our recipes and processes is confidentiality agreements with the companies that produce our beverages and with our employees who have knowledge of such processes. If our competitors develop substantially equivalent proprietary information or otherwise obtain access to our knowledge, we will have greater difficulty in competing with them for business, and our market share could decline.

We face risks associated with product liability claims and product recalls.

Other companies in the beverage industry have experienced product liability litigation and product recalls arising primarily from defectively manufactured products or packaging. We maintain product liability insurance insuring our operations from any claims associated with product liability and we believe that the amount of this insurance is sufficient to protect us. We do not maintain product recall insurance. In the event we were to experience additional product liability or product recall claim, our business operations and financial condition could be materially and adversely affected.

Our intellectual property rights are critical to our business, and the loss of such rights could materially, adversely affect our business.

We regard the protection of our trademarks, trade dress and trade secrets as critical to our company. We have registered our trademarks in the United States that are very important to our business. We regard our trademarks, copyrights and similar intellectual property as critical to our success and attempt to protect such property with registered and common law trademarks and copyrights, restrictions on disclosure and other actions to prevent infringement. Product packages, mechanical designs and artwork are important to our success and we would take action to protect against imitation of our packaging and trade dress and to protect our trademarks and copyrights, as necessary. We also rely on a combination of laws and contractual restrictions, such as confidentiality agreements, to establish and protect our proprietary rights, trade dress and trade secrets. However, laws and contractual restrictions may not be sufficient to protect the exclusivity of our intellectual property rights, trade dress or trade secrets. Furthermore, enforcing our rights to our intellectual property could involve the expenditure of significant management and financial resources. Third parties may infringe or misappropriate our trademarks and similar proprietary rights. Moreover, if we are found to have been deficient in policing our trademarks and proprietary rights, we may lose our rights to such intellectual property. If we lose some or all of our intellectual property rights, our business may be materially and adversely affected.

If we are not able to retain the full time services of our management team, including Christopher J. Reed, it will be more difficult for us to manage our operations and our operating performance could suffer.

Our business is dependent, to a large extent, upon the services of our management team, including Christopher J. Reed, our founder, Chairman of the Board, President and Chief Executive Officer and James Linsech, our Chief Financial Officer. We depend on our management team, but especially on Mr. Reed's creativity and leadership in running or supervising virtually all aspects of our day-to-day operations. We do not have a written employment agreement with Mr. Reed. In addition, we do not maintain key person life insurance on any of our management team or Mr. Reed. Therefore, in the event of the loss or unavailability of Mr. Reed, Mr. Linesch or any other member of the management team to us, there can be no assurance that we would be able to locate in a timely manner or employ qualified personnel to replace him. The loss of the services of any member of our management team or our failure to attract and retain other key personnel over time would jeopardize our ability to execute our business plan and could have a material adverse effect on our business, results of operations and financial condition.

We need to manage our growth and implement and maintain procedures and controls during a time of rapid expansion in our business.

The cost of manufacturing and packaging our products was approximately 85% and 80% of our aggregate revenues in 2007 and 2006, respectively, and 75% of our aggregate revenues for the nine months ended September 30, 2008. This gross margin places pressure upon our cash flow and cash reserves when our sales increase. If we are to expand our operations, such expansion would place a significant strain on our management, operational and financial resources. Such expansion would also require improvements in our operational, accounting and information systems, procedures and controls. If we fail to manage this anticipated expansion properly, it could divert our limited management, cash, personnel, and other resources from other responsibilities and could adversely affect our financial performance.

Our business may be negatively impacted by a slowing economy or by unfavorable economic conditions or developments in the United States and/or in other countries in which we operate.

A general slowdown in the economy in the United States or unfavorable economic conditions or other developments may result in decreased consumer demand, business disruption, supply constraints, foreign currency devaluation, inflation or deflation. The current slowdown in the economy or unstable economic conditions in the United States or in the countries in which we operate could have an adverse impact on our business results or financial condition. Our foreign sales (except for Canada) accounted for less than 1.0% of our sales for the years ended December 31, 2007 and 2006, respectively.

We have operated without independent directors in the past.

We have not had two independent directors through a large portion of our history. As a result, certain material agreements between related parties of our company have not been negotiated with the oversight of independent directors and were entered into at the absolute discretion of the majority stockholder, Christopher J. Reed. Although we believe that these agreements were entered into upon terms no less favorable than would have been obtained in an arm's length transaction, these agreements were not subject to independent review and consideration and could therefore be deemed not to have been undertaken on an arm's length basis. Please see the "Certain Relationships and Related Transactions" section for specific details of these transactions.

Risks Relating to Our Securities

We recently conducted a rescission offer for shares issued in our initial public offering. Although we have completed the rescission offer, we may continue to be subject to claims related to the circumstances related to the rescission offer.

From August 3, 2005 through April 7, 2006, we issued 333,156 shares of our common stock in connection with our initial public offering. The shares issued in connection with the initial public offering may have been issued in violation of either federal or state securities laws, or both, and may be subject to rescission. In order to address this issue, we made a rescission offer to the holders of these shares.

Our rescission covered an aggregate of 333,156 shares of common stock issued in connection with our initial public offering. These securities represented all of the shares issued in connection with the initial public offering prior to October 11, 2006. We offered to rescind the shares of our common stock that were subject to the rescission offer for an amount equal to the price paid for the shares plus interest, calculated from the date of the purchase through the date on which the rescission offer expires, at the applicable statutory interest rate per year. If our rescission offer had been accepted by all offerees, we would have been required to make an aggregate payment to the holders of these shares of up to approximately \$1,332,624, plus statutory interest.

On August 12, 2006, we made a rescission offer to all holders of the outstanding shares that we believe are subject to rescission, pursuant to which we offered to repurchase these shares then outstanding from the holders. At the expiration of our rescission offer on September 18, 2006, the rescission offer was accepted by 32 of the offerees to the extent of 28,420 shares for an aggregate of \$118,711.57, including statutory interest. The shares that were tendered for rescission were agreed to be purchased by others and not from our funds.

Federal securities laws do not provide that a rescission offer will terminate a purchaser's right to rescind a sale of stock that was not registered as required or was not otherwise exempt from such registration requirements. Accordingly, although the rescission offer may have been accepted or rejected by some of the offerees, we may continue to be liable under federal and state securities laws for up to an amount equal to the value of all shares of common stock issued in connection with the initial public offering, plus any statutory interest we may be required to pay. If it is determined that we offered securities without properly registering them under federal or state law, or securing an exemption from registration, regulators could impose monetary fines or other sanctions as provided under these laws.

There has been a very limited public trading market for our securities and the market for our securities, may continue to be limited, and be sporadic and highly volatile.

There is currently a limited public market for our common stock. Since November 27, 2007, our common stock has been listed for trading on the NASDAQ Capital Market. Our common stock was previously quoted on the OTC Bulletin Board (the "OTCBB") from January 3, 2007 to November 26, 2007. An active market for our shares may not be established or maintained in the future. Holders of our common stock may, therefore, have difficulty selling their shares, should they decide to do so. In addition, if developed, such markets may not continue and any shares purchased may be sold incurring a loss. Any such market price of our shares may not necessarily bear any relationship to our book value, assets, past operating results, financial condition or any other established criteria of value, and may not be indicative of the market price for the shares in the future.

In addition, the market price of our common stock may be volatile, which could cause the value of our common stock to decline. Securities markets experience significant price and volume fluctuations. This market volatility, as well as general economic conditions, could cause the market price of our common stock to fluctuate substantially. Many factors that are beyond our control may significantly affect the market price of our shares. These factors include:

- price and volume fluctuations in the stock markets,
- changes in our revenues and earnings or other variations in operating results,
- any shortfall in revenue or increase in losses from levels expected by us or securities analysts,
 - changes in regulatory policies or law,
 - operating performance of companies comparable to us, and
 - general economic trends and other external factors.

Even if an active market for our common stock is established, stockholders may have to sell their shares at prices substantially lower than the price they paid for it or might otherwise receive than if a broad public market existed.

Future financings could adversely affect common stock ownership interest and rights in comparison with those of other security holders.

Our board of directors has the power to issue additional shares of common or preferred stock without stockholder approval. If additional funds are raised through the issuance of equity or convertible debt securities, the percentage ownership of our existing stockholders will be reduced, and these newly issued securities may have rights, preferences or privileges senior to those of existing stockholders.

If we issue any additional common stock or securities convertible into common stock, such issuance will reduce the proportionate ownership and voting power of each other stockholder. In addition, such stock issuances might result in a reduction of the book value of our common stock.

Because Christopher J. Reed controls a large portion of our stock, he can control the outcome, or greatly influence the outcome, of all matters on which stockholders vote.

Christopher J. Reed, our President, Chief Executive Officer and Chairman of the Board beneficially owns approximately 36% of our common stock. Therefore, Mr. Reed will be able to control the outcome, or greatly influence the outcome, on all matters requiring stockholder approval, including the election of directors, amendment of our certificate of incorporation, and any merger, consolidation or sale of all or substantially all of our assets or other transactions resulting in a change of control of our company. In addition, as our Chairman and Chief Executive Officer, Mr. Reed has and will continue to have significant influence over our strategy, technology and other matters. Mr. Reed's interests may not always coincide with the interests of other holders of our common stock.

A substantial number of our shares are available for sale in the public market and sales of those shares could adversely affect our stock price.

Sales of a substantial number of shares of common stock into the public market, or the perception that such sales could occur, could substantially reduce our stock price in the public market for our common stock, and could impair our ability to obtain capital through a subsequent financing of our securities. We have 8,979,341 shares of common stock outstanding as of the date of this prospectus. Of the shares of our common stock currently outstanding, 5,628,282 shares are “restricted securities” under the Securities Act. Some of these “restricted securities” will be subject to restrictions on the timing, manner, and volume of sales of such shares.

In addition, we have issued and outstanding options and warrants that may be exercised into 2,670,736 shares of common stock and 47,121 shares of Series A preferred stock that may be converted into 188,484 shares of common stock. In addition, our outstanding shares of Series A preferred stock bear a dividend of 5% per year, or approximately \$24,000 per year. We have the option to pay the dividend in shares of our common stock. In 2008 and 2007, we paid the dividend in an aggregate of 10,910 and 3,820 shares of common stock in each such year, respectively, and anticipate that we will be obligated to issue at least this many shares annually to the holders of the Series A preferred stock so long as such shares are issued and outstanding.

We identified material weaknesses in our system of internal control over financial reporting for the fiscal year ended December 31, 2007. If we fail to maintain an effective system of internal control over financial reporting, we may not be able to maintain effective disclosure controls and procedures and accurately report our financial results or prevent fraud.

We are subject to reporting obligations under the U.S. securities laws. The SEC, as required by Section 404 of the Sarbanes-Oxley Act of 2002, adopted rules requiring every public company to include a management report of such company’s system of internal control over financial reporting in its annual report, which contains management’s assessment of the effectiveness of our system of internal control over financial reporting. This requirement began to apply to us beginning with our annual report on Form 10-KSB for the year ended December 31, 2007.

Christopher J. Reed, our Chief Executive Officer and former Chief Financial Officer, conducted an evaluation of the effectiveness of the system of internal control over financial reporting based on the framework in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, our management concluded that our system of internal control over financial reporting was ineffective as of December 31, 2007. In October 2007, we engaged an internal control consultant to assist in our compliance with the Sarbanes-Oxley Act of 2002. Specifically, the consultant was engaged to document our system of internal control, identify material weaknesses, propose and implement remediation of the weaknesses, develop tests of our key controls, analyze the testing and train our personnel to maintain the system and tests. In December 2007, we received a report from our internal control consultant that stated that we have material weaknesses in our system of internal control over financial reporting. A material weakness, as defined in standards established by the Public Company Accounting Oversight Board (United States) is a deficiency in internal control over financial reporting that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected.

Based upon the report of the consultant and managements assessment, we identified the following material weaknesses as of December 31, 2007:

- Insufficient disaster recovery or backup of core business functions,
- Lack of segregation of duties,
- Lack of a purchase order system or procurement process,
- Lack of documented and reviewed system of internal control, and
- Timely accounting for the allowance for bad debts and the application of credit memos and chargebacks.

With regard to the identified material weakness, we did not restate any financial results for any prior periods and believe that the identified material weakness did not have any material effect on the accuracy of our financial statements prepared with respect to any prior fiscal period. Despite the identified weaknesses in our internal control procedures, our Chief Executive Officer and former Chief Financial Officer concluded that, as of December 31, 2007, such disclosure controls and procedures were effective to ensure that information required to be disclosed by us in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC, and accumulated and communicated to our management, including our Chief Executive Officer and former Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Beginning with the fourth quarter of 2007, we implemented remediation plans in order to eliminate these material weaknesses, including the following:

- we hired a consultant to evaluate our system of internal control over financial reporting,