

Edgar Filing: TRIARC COMPANIES INC - Form SC 13D/A

TRIARC COMPANIES INC  
Form SC 13D/A  
July 01, 2003

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
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SCHEDULE 13D

Under the Securities Exchange Act of 1934  
(Amendment No. 13)\*  
-----

TRIARC COMPANIES, INC.  
(Name of Issuer)

CLASS A COMMON STOCK, PAR VALUE \$.10 PER SHARE  
(Title of Class of Securities)

895927 10 1  
(CUSIP Number)

PETER W. MAY  
C/O TRIARC COMPANIES, INC.  
280 PARK AVENUE  
NEW YORK, NEW YORK 10017  
TEL. NO.: (212) 451-3000  
(Name, Address and Telephone Number of  
Person Authorized to Receive Notices  
and Communications)  
-----

JULY 1, 2003  
(Date of Event which Requires Filing  
of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition which is the subject of this Schedule 13D, and is filing this schedule because of Rule 13d-1(e), 1(f) or 1(g), check the following box .

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-1(a) for other parties to whom copies are to be sent.

\*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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1 NAME OF REPORTING PERSON  
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

DWG ACQUISITION GROUP, L.P.

-----  
2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)   
(b)

-----  
3 SEC USE ONLY

-----  
4 SOURCE OF FUNDS

Not applicable

-----  
5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO  
ITEMS 2(d) or 2(e)

-----  
6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

-----  
7 SOLE VOTING POWER  
-0- (See Item 5)

-----  
8 SHARED VOTING POWER  
5,343,662 (See Item 5)

-----  
9 SOLE DISPOSITIVE POWER  
-0- (See Item 5)

-----  
10 SHARED DISPOSITIVE POWER  
5,343,662 (See Item 5)

-----  
11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

5,343,662 (See Item 5)

-----  
12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

-----  
13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

25.5%\*

-----  
14 TYPE OF REPORTING PERSON

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PN

\* As of April 30, 2003, there were 20,947,333 shares of Class A Common Stock outstanding, based on Triarc Companies, Inc.'s Form 10-Q for the Quarterly Period Ended March 30, 2003. All ownership percentages provided in this Schedule 13D are based on this number of shares outstanding.

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1 NAME OF REPORTING PERSON  
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

NELSON PELTZ

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)   
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

Not applicable

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO  
ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

United States

	7	SOLE VOTING POWER	
			1,707,506 (See Item 5)
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	8	SHARED VOTING POWER	
			5,343,662 (See Item 5)
	9	SOLE DISPOSITIVE POWER	
			1,707,506 (See Item 5)
	10	SHARED DISPOSITIVE POWER	
			5,343,662 (See Item 5)

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

7,051,168 (See Item 5)

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

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[ ]

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

31.7% (See Item 5)

14 TYPE OF REPORTING PERSON

IN

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1 NAME OF REPORTING PERSON  
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

PETER W. MAY

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) [ ]  
(b) [ ]

3 SEC USE ONLY

4 SOURCE OF FUNDS

Not applicable

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO  
ITEMS 2(d) or 2(e) [ ]

6 CITIZENSHIP OR PLACE OF ORGANIZATION

United States

	7	SOLE VOTING POWER	
			1,079,148 (See Item 5)
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	8	SHARED VOTING POWER	
			5,343,662 (See Item 5)
	9	SOLE DISPOSITIVE POWER	
			1,079,148 (See Item 5)
	10	SHARED DISPOSITIVE POWER	
			5,343,662 (See Item 5)

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

6,422,810 (See Item 5)

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12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

[ ]

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

29.6% (See Item 5)

14 TYPE OF REPORTING PERSON

IN

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AMENDMENT NO. 13 TO SCHEDULE 13D

This Amendment No. 13 amends and supplements the Schedule 13D dated October 13, 1992 (the "Original Statement"), as amended and restated by Amendment No. 6 dated May 3, 1993, as amended by Amendment No. 7 dated February 14, 1996, as amended by Amendment No. 8 dated October 13, 1998, as amended by Amendment No. 9 dated March 12, 1999, as amended by Amendment No. 10 dated May 4, 1999, as amended by Amendment No. 11 dated November 12, 2002 and as amended by Amendment No. 12 dated April 25, 2003 (the Original Statement, as so amended shall be known as the "Statement"), with respect to the Class A Common Stock, par value \$.10 per share (the "Common Stock"), of Triarc Companies, Inc., a Delaware corporation and successor by merger to Triarc Companies, Inc., an Ohio corporation formerly named DWG Corporation (the "Company"). Unless otherwise indicated, all capitalized terms used herein shall have the same meaning as set forth in the Statement.

Except as set forth below, there are no changes to the information set forth in the Statement.

ITEM 5. INTEREST IN SECURITIES OF THE ISSUER.

Item 5 of the Statement is amended by deleting the fourteenth paragraph thereof and substituting in its place the following paragraph:

DWG Acquisition Group, L.P., Mr. Peltz and Mr. May may be deemed to beneficially own an aggregate of 5,343,662, 7,051,168 and 6,422,810 shares of Common Stock, respectively, representing approximately 25.5%, 31.7% and 29.6% of the outstanding shares of Common Stock, respectively.

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ITEM 6. CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS OR RELATIONSHIPS WITH RESPECT TO THE ISSUER.

Item 6 of the Statement is amended by deleting the second paragraph and substituting in place the following paragraph:

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On December 21, 1995, all shares of Common Stock previously pledged by the Purchaser to Citibank were released. On January 19, 1996, the Custodial Loans were repaid in full and all shares of Common Stock previously pledged by the Purchaser to Custodial Trust Company were released. As of January 18, 1996, January 25, 1996, January 31, 1996, April 2, 2001 and April 2, 2003, Messrs. Peltz and May each entered into separate loan documentation with respect to certain loans that are secured by shares of Common Stock (the "BOA Loans") made to each of them in the ordinary course of business by Bank of America, N.A., formerly known as NationsBank, N.A. ("BOA"). Each of the BOA Loans are revolving demand loans and bear interest at a rate based upon the London interbank offered rate. The BOA Loans made to Mr. Peltz are effectively secured by 21,200 shares of Common Stock owned by the Peltz L.P. and 3,562,415 shares of Common Stock owned by the Purchaser. The BOA Loans made to Mr. May are effectively secured by the 255,682 shares of Common Stock owned by Mr. May and 1,781,207 shares of Common Stock owned by the Purchaser. The loan documentation in connection with each of the BOA Loans contains standard default provisions and other provisions with respect to the shares of Common Stock pledged pursuant thereto. The Pledge and Security Agreement entered into by the Purchaser with respect to the Common Stock owned by it in favor of BOA and the amendment thereto are included in the documents filed as Exhibit 20 hereto and are incorporated herein by reference. The Pledge Agreement entered into by the Peltz L.P. with respect to the Common Stock owned by it and the Pledge and Security Agreement entered into by Mr. May with respect

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to the Common Stock owned by him are filed as Exhibits 26 and 27, respectively, hereto and are incorporated herein by reference.

Item 6 of the Statement is amended by replacing the words "which are filed respectively as Exhibits 1, 2, 3, 8, 20 and 25" in the first sentence of the fourth paragraph with the following:

"Which are filed as Exhibits 1, 2, 3, 8, 20 and 25-27."

ITEM 7. MATERIALS TO BE FILED AS EXHIBITS.

The following documents are included in this Statement as exhibits thereto:

- 26. Pledge Agreement dated as of April 2, 2001, made by Peltz Family Limited Partnership in favor of Bank of America, N.A.
- 27. Pledge and Security Agreement dated April 2, 2003, made by Peter W. May, in favor of Bank of America, N.A.

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SIGNATURES

After reasonable inquiry and to the best of its knowledge and

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belief, each of the undersigned certifies that the information set forth in this Statement is true, complete and correct.

Dated: July 1, 2003

DWG ACQUISITION GROUP, L.P.

By: /s/ Nelson Peltz

-----  
Name: Nelson Peltz  
Title: General Partner

By: /s/ Peter W. May

-----  
Name: Peter W. May  
Title: General Partner

/s/ Nelson Peltz

-----  
Nelson Peltz

/s/ Peter W. May

-----  
Peter W. May

-----  
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EXHIBIT INDEX  
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EXHIBIT -----	DESCRIPTION -----	PAGE NO. -----
1	Stock Purchase Agreement dated as of October 1, 1992 by and between the Purchaser, Posner, Posner Trust and Security Management.	Filed with Original Statement
2	Exchange Agreement dated as of October 12, 1992 between the Company and Security Management.	Filed with Original Statement
3	Agreement dated as of October 1, 1992 between the Company and the Purchaser.	Filed with Original Statement
4	Agreement of Limited Partnership of the Purchaser dated as of September 25, 1992.	Filed with Original Statement
5	Joint Filing Agreement of the Purchaser, Peltz and May.	Filed with

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		Original Statement
6	Memorandum of Understanding, dated January 21, 1993, by and between the Purchaser and William A. Ehrman, individually and derivatively on behalf of SEPSCO.	Filed with Amendment No. 2
7	Letter dated January 25, 1993 from Steven Posner to the Purchaser (including proposed terms and conditions of Consulting Agreement to be entered into between the Company and Steven Posner).	Filed with Amendment No. 2
8	Undertaking and Agreement, dated February 9, 1993, executed by the Purchaser.	Filed with Amendment No. 3
9	Amendment No. 3 dated as of April 14, 1993 to Agreement of Limited Partnership of the Purchaser.	Filed with Amendment No. 4
10	Citibank Loan Documents (Exhibits and Schedule omitted).	Filed with Amendment No. 4
11	Republic Loan Documents (Exhibits and Schedules omitted).	Filed with Amendment No. 4
12	Pledge and Security Agreement, dated as of April 5, 1993, between the Purchaser and Citibank.	Filed with Amendment No. 5
13	Custodial Loan Documents.	Filed with Amendment No. 5

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EXHIBIT -----	DESCRIPTION -----	PAGE NO. -----
14	Agreement, dated May 2, 1994 among Nelson Peltz, Peter W. May and Leon Kalvaria.	Filed with Amendment No. 6
15	Amended and Restated Pledge and Security Agreement, dated as of July 25, 1994 between the Purchaser and Citibank.	Filed with Amendment No. 6
16	Amendment No. 1 dated as of November 15, 1992 to Agreement of Limited Partnership of the Purchaser.	Filed with Amendment No. 7
17	Amendment No. 2 dated as of March 1, 1993 to Agreement of Limited Partnership of the Purchaser.	Filed with Amendment



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		No. 7
18	Amendment No. 4 dated a January 1, 1995 to Agreement of Limited Partnership of the Purchaser.	Filed with Amendment No. 7
19	Amendment No. 5 dated as of January 1, 1996 to Agreement of Limited Partnership of the Purchaser.	Filed with Amendment No. 7
20	BoA Loan documents (Exhibits and Schedules omitted).	Filed with Amendment No. 7
21	Letter, dated October 12, 1998, from Messrs. Nelson Peltz and Peter W. May to the Company.	Filed with Amendment No. 8
22	Press release, issued by the Company, dated October 12, 1998.	Filed with Amendment No. 8
23	Letter, dated October 12, 1998, from the Company to Messrs. Nelson Peltz and Peter W. May.	Filed with Amendment No. 8
24	Press release issued by the Company, dated March 10, 1999.	Filed with Amendment No. 9
25	Amended and Restated Agreement of Limited Partnership of the Purchaser, amended and restated as of November 11, 2002.	Filed with Amendment No. 11
26	Pledge Agreement dated April 2, 2001, made by Peltz Family Limited Partnership, in favor of Bank of America, N.A.	Filed herewith
27	Pledge and Security Agreement dated April 2, 2003, made by Peter W. May, in favor of Bank of America, N.A. (Schedule II omitted).	Filed herewith