

STEAK & SHAKE CO  
Form 10-Q/A  
May 20, 2005

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SECURITIES AND EXCHANGE COMMISSION  
Washington, D. C. 20549

**FORM 10-Q / A**  
**[Amendment No. 1]**

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE  
ACT OF 1934 FOR THE TWELVE WEEKS ENDED DECEMBER 22, 2004

OR

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

Commission file number 0-8445

THE STEAK N SHAKE COMPANY

(Exact name of registrant as specified in its charter)

INDIANA

37-0684070

(State or other jurisdiction  
of incorporation or organization)

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

36 S. Pennsylvania Street, Suite 500

Indianapolis, Indiana 46204

(317) 633-4100

(Address, including zip code, and telephone number,  
including area code, of registrant's principal executive offices)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act rule 12b-2).

Yes  No

Number of shares of Common Stock outstanding at January 17, 2005: 27,637,818

Explanatory Note

The purpose of this amendment on Form 10-Q/A of The Steak n Shake Company ("the Company") for the fiscal quarter ended December 22, 2004 is to restate the Company's consolidated financial statements for the quarters ended December 22, 2004 and December 17, 2003 and related disclosures as described in the notes to the consolidated financial statements. Additional information about the decision to restate these financial statements can be found in the Company's Current Report on Form 8-K, filed with the SEC on May 16, 2005.

For the convenience of the reader, this Form 10-Q/A includes all of the information contained in the original report on Form 10-Q, and no attempt has been made in this Form 10-Q/A to modify or update the disclosures presented in the original report on Form 10-Q except as required to reflect the effects of the restatement. This Form 10-Q/A does not reflect events occurring after the filing of the Form 10-Q or modify or update those disclosures, including the exhibits to the Form 10-Q affected by subsequent events. Information not affected by the restatement is unchanged and reflects the disclosures made at the time of the original filing of the Form 10-Q on January 28, 2004. Accordingly, the Form 10-Q/A should be read in conjunction with the Company's filings made with the Securities and Exchange Commission subsequent to the filing of the original Form 10-Q, including amendments to those filings. The following items have been amended as a result of the restatement:

- Part I - Item 1 - Financial Statements
- Part I - Item 2 - Management's Discussion and Analysis of Financial Condition and Results of Operations
- Part I - Item 4 - Controls and Procedures

We have not amended and do not intend to amend the Company's previously filed Annual Reports on Form 10-K or Quarterly Reports on Form 10-Q for periods affected by the restatement other than the Form 10-K for the fiscal year ended September 29, 2004 and the Form 10-Q for the fiscal quarter ended December 22, 2004. For this reason, the consolidated financial statements, reports of independent registered accounting firms, and related financial information for the affected periods contained in any other prior reports, should no longer be relied upon.

**Description of Restatement**

Historically, when accounting for ground leases with renewal options, the Company depreciated its buildings over a period of 25 years (estimated economic life of buildings). In certain cases, the term of 25 years included both the initial lease term and certain renewal option periods under the lease. The Company recorded rent expense from the rent commencement date through the initial term of the lease. The restatement reflects rent expense being recognized on a straight-line basis over the lease term, including any additional cancelable option periods where failure to exercise such options would have resulted in an economic penalty.

Additionally, the Company had recognized rent expense for its operating leases using a lease term that commenced when rent payments began, which generally coincided with a point in time near the date the Company's restaurants opened. This generally had the effect of excluding the restaurant build-out period (during which the Company typically made no rent payments) from the calculation of the period over which rent was expensed. The Company has determined that, under GAAP, it should have recognized rent expense over a lease term that included the build-out period, which, in most cases, will cause rent expense to be recognized sooner than previously reported. The restatement reflects rent expense beginning in the build-out period.

The Company has also determined that certain build-to-suit leases should have been treated as sale leaseback transactions to more fully reflect the provisions of Statement of Financial Accounting Standards No. 98, "Accounting

for Leases" and Emerging Issues Task Force 97-10, "The Effect of Lessee Involvement in Asset Construction." Under an interpretation of the statement, the Company was determined to have continued involvement in the property, which required the proceeds from these build-to-suit leases to have been accounted for as a "finance obligations," reflected as a liability and amortized over the life of the related lease. The related assets should be depreciated over their estimated useful lives. The restatement reflect lease payments on the above mentioned leases being recorded as interest expense and debt repayment, as opposed to rent expense. In addition, the Company recorded additional depreciation expense for the related assets.

The total impact of the adjustments reduced the Company's net income for the fiscal years ended September 29, 2004, September 24, 2003, and September 25, 2002 by \$71,000, \$78,000 and \$97,000 respectively. Additionally, beginning retained earnings for the fiscal year ended September 25, 2002 were reduced by \$537,000. For the quarter ended December 22, 2004 and the quarter ended December 17, 2003, net income was reduced by \$19,000 and \$17,000 respectively.

**THE STEAK N SHAKE COMPANY****INDEX**

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**PART I. FINANCIAL INFORMATION****ITEM 1. FINANCIAL STATEMENTS****Condensed Consolidated Statements of Financial Position**

The Steak n Shake Company

(Amounts in \$000s except share and per share data)

	<b>December 22, 2004</b> <b>(Unaudited, as restated)</b>	September 29, 2004
<b>Current Assets</b>		
Cash, including cash equivalents of \$25,720 in fiscal 2005 and \$23,590 in fiscal 2004	\$ 28,731	\$ 25,150
Short-term investments	466	466
Receivables, net	4,391	4,123
Inventories	6,167	6,204
Deferred income taxes	2,891	2,755
Assets held for sale	1,756	1,756
Other current assets	5,904	4,946
<b>Total current assets</b>	<b>50,306</b>	<b>45,400</b>
<b>Net Property and Equipment</b>	<b>391,930</b>	<b>385,258</b>
<b>Other Assets</b>	<b>5,239</b>	<b>5,195</b>
<b>Total assets</b>	<b>\$ 447,475</b>	<b>\$ 435,853</b>
<b>Liabilities and Shareholders' Equity:</b>		
<b>Current Liabilities</b>		
Accounts payable	\$ 23,596	\$ 18,563
Accrued expenses	31,122	29,379
Current portion of senior note	6,775	6,775
Current portion of obligations under leases	3,931	3,887
<b>Total current liabilities</b>	<b>65,424</b>	<b>58,604</b>
<b>Deferred Income Taxes</b>	<b>2,816</b>	<b>2,969</b>
<b>Other Long-term Liabilities</b>	<b>1,407</b>	<b>1,272</b>
<b>Obligations Under Leases</b>	<b>143,708</b>	<b>144,647</b>
<b>Senior Note</b>	<b>9,429</b>	<b>9,429</b>
<b>Commitments and Contingencies</b>		
<b>Shareholders' Equity:</b>		
Common stock — \$.50 stated value, 50,000,000 shares authorized — shares issued: 30,332,839 in fiscal 2005 and in fiscal 2004	15,166	15,166
Additional paid-in capital	123,887	123,787
Retained earnings	120,105	114,993
Less: Unamortized value of restricted shares	(3,252)	(1,393)

Treasury stock — at cost: 2,695,021 shares in fiscal 2005;				
2,846,560 shares in fiscal 2004		<b>(31,215)</b>		(33,621)
Total shareholders' equity		<b>224,691</b>		218,932
Total liabilities and shareholders' equity	\$	<b>447,475</b>	\$	435,853

*See accompanying notes.*

**Condensed Consolidated Statements of Earnings**

The Steak n Shake Company

(Unaudited)

(Amounts in thousands, except share and per share data)

	<b>Twelve Weeks Ended</b>	
	<b>December 22, 2004 (as restated)</b>	<b>December 17, 2003 (as restated)</b>
<b>Revenues</b>		
Net sales	\$ 125,504	\$ 113,516
Franchise fees	1,023	957
Total revenues	126,527	114,473
<b>Costs and Expenses</b>		
Cost of sales	29,626	26,571
Restaurant operating costs	62,522	57,133
General and administrative	10,831	9,135
Depreciation and amortization	5,735	5,587
Marketing	5,090	4,224
Interest	2,845	3,065
Rent	2,057	1,831
Pre-opening costs	559	380
Other income, net	(482)	(514)
Total costs and expenses	118,783	107,412
<b>Earnings Before Income Taxes</b>	<b>7,744</b>	<b>7,061</b>
<b>Income Taxes</b>	<b>2,632</b>	<b>2,488</b>
<b>Net Earnings</b>	<b>\$ 5,112</b>	<b>\$ 4,573</b>
<b>Net Earnings Per Common and Common Equivalent Share:</b>		
Basic	\$ .19	\$ .17
Diluted	\$ .18	\$ .17
<b>Weighted Average Shares and Equivalents:</b>		
Basic	27,355,272	27,190,222
Diluted	27,886,772	27,498,629

*See accompanying notes.*



**Condensed Consolidated Statements of Cash Flows**

The Steak n Shake Company

(Unaudited)

(Amounts in \$000's)

	<b>Twelve Weeks Ended</b>	
	<b>December 22, 2004</b>	<b>December 17, 2003</b>
	(as restated)	(as restated)
<b>Operating Activities</b>		
Net earnings	\$ 5,112	\$ 4,573
Adjustments to reconcile net earnings to net cash provided by operating activities:		
Depreciation and amortization	5,735	5,587
Deferred income tax provision (benefit)	(289)	479
Loss on disposal of property and equipment	331	45
Changes in receivables and inventories	(231)	482
Changes in other assets	(1,321)	(841)
Changes in accounts payable and accrued expenses	7,327	(1,029)
Net cash provided by operating activities	<b>16,664</b>	<b>9,296</b>
<b>Investing Activities</b>		
Additions of property and equipment	(12,773)	(7,412)
Purchase of short-term investments	-	(160)
Proceeds from disposal of property and equipment	354	1
Net cash used in investing activities	<b>(12,419)</b>	<b>(7,571)</b>
<b>Financing Activities</b>		
Principal payments on lease obligations	(895)	(820)
Principal payments on long-term debt	-	(2,179)
Proceeds from exercise of stock options	231	281
Net cash used in financing activities	<b>(664)</b>	<b>(2,718)</b>
<b>Increase (Decrease) in Cash and Cash Equivalents</b>	<b>3,581</b>	<b>(993)</b>
<b>Cash and Cash Equivalents at Beginning of Period</b>	<b>25,150</b>	<b>24,795</b>
<b>Cash and Cash Equivalents at End of Period</b>	<b>\$ 28,731</b>	<b>\$ 23,802</b>

*See accompanying notes.*

**Notes to Condensed Consolidated Financial Statements**

The Steak n Shake Company

(Unaudited)

*(Amounts in \$000's, except share and per share data)***Basis of Presentation**

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP") for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and notes required by GAAP for complete financial statements.

In the opinion of the Company, all adjustments considered necessary to present fairly the consolidated statement of financial position as of December 22, 2004, and the consolidated statements of earnings and cash flows for the twelve weeks ended December 22, 2004 and December 17, 2003, have been included.

The consolidated statements of earnings for the twelve weeks ended December 22, 2004 and December 17, 2003 are not necessarily indicative of the consolidated statements of earnings for the entire year. For further information, refer to the consolidated financial statements and notes thereto included in the Company's Annual Report on Form 10-K / A for the fiscal year ended September 29, 2004.

The Company recently reviewed its lease accounting and determined it was appropriate to restate its consolidated financial statements for the fiscal years 2002 through 2004 and for the first quarter of fiscal 2005. See restatement footnote for more information. The notes to the condensed consolidated financial statements give effect to such restatement.

**Seasonal Aspects**

The Company has substantial fixed costs, which do not decline as a result of a decline in sales. The Company's first and second fiscal quarters, which include the winter months, usually reflect lower average weekly unit volumes as compared to the third and fourth fiscal quarters. The Company may also be negatively affected by adverse weather during the first and fourth fiscal quarters as hurricanes and tropical storms may impact the Southeastern portion of the United States, where the Company has a significant number of restaurants.

**Stock-Based Compensation**

The Company accounts for its Stock Option and Employee Stock Purchase Plans under the recognition and measurement principles of Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees*. No stock-based employee compensation is reflected in net earnings, as all options granted under those plans had an exercise price equal to the market value of the underlying common stock on the date of grant. The following table illustrates the effect on net earnings and earnings per share if the Company had applied the fair value recognition provisions of Statement of Financial Accounting Standards ("SFAS") No. 123, *Accounting for Stock-Based Compensation*, to stock-based employee compensation.

	<b>Twelve Weeks Ended</b>	
	<b>December 22, 2004</b>	December 17, 2003
Net earnings, as reported	\$ 5,112	\$ 4,573

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Less pro forma compensation expense, net of tax		<b>(476)</b>		(373)
Proforma net earnings	\$	<b>4,636</b>	\$	4,200
Basic earnings per share, as reported	\$	<b>.19</b>	\$	.17
Pro forma basic earnings per share	\$	<b>.17</b>	\$	.15
Diluted earnings per share, as reported	\$	<b>.18</b>	\$	.17
Pro forma diluted earnings per share	\$	<b>.17</b>	\$	.15

In December of 2004, the Financial Accounting Standards Board ("FASB") reissued SFAS No. 123 as SFAS No. 123R, *Share Based Compensation*. Under the revised SFAS, public entities will be required to measure the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award and recognize the cost over the period during which an employee is required to render services in exchange for the award. Additionally, the SFAS will require entities to record compensation expense for employee stock purchase plans that may not have previously been considered compensatory under the existing rules. The Company will be required to adopt the SFAS during the Company's fourth quarter of fiscal 2005. The Company has not yet determined the impact that adopting this SFAS will have on its results of operations.

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## Financial Instruments

The fair value of cash and cash equivalents and short-term investments approximate their carrying value due to their short-term maturities.

## Earnings Per Share

Earnings per share of common stock is based on the weighted average number of shares outstanding during the year. The following table presents a reconciliation of the basic and diluted weighted average common shares as required by SFAS No. 128, *Earnings Per Share*:

	<b>Twelve Weeks Ended</b>	
	<b>December 22, 2004</b>	<b>December 17, 2003</b>
Basic earnings per share:		
Weighted average common shares	27,355,272	27,190,222
Diluted earnings per share:		
Weighted average common shares	27,355,272	27,190,222
Diluted effect of stock options	531,500	308,407
Weighted average common and incremental shares	27,886,772	27,498,629

Options to purchase 138,010 and 50,234 shares of common stock were excluded from the calculations of diluted earnings per share for the twelve weeks ended December 22, 2004 and December 17, 2003, respectively, as the options' exercise prices were greater than the average market price of the Company's common stock.

## Shareholders' Equity

During the twelve weeks ended December 22, 2004, the Company issued 125,500 shares of restricted common stock under its Capital Appreciation Plan to certain employees. The shares are restricted for a period of three years. The total value of the stock grant (based upon market value at the date of grant) of \$2,205 is deferred and amortized to compensation expense ratably over the three-year period.

## Net Property and Equipment

Net property and equipment consists of the following:

	<b>December 22, 2004</b>	<b>September 29, 2004</b>
Land	\$ 150,131	\$ 144,818
Buildings	148,862	148,802
Land and leasehold improvements	98,751	95,234
Equipment	156,181	153,409
Construction in progress	11,127	11,048
	565,052	553,311

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Less accumulated depreciation and amortization	(173,122)	(168,053)
Net property and equipment	\$ 391,930	\$ 385,258

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**Other Assets**

Other assets consists of the following:

	December 22, 2004	September 29, 2004
Other Assets	\$ 4,072	\$ 4,000
Intangible Assets	1,167	1,195
	\$ 5,239	\$ 5,195

Other assets include capitalized software costs as well as deposits. Intangible assets are subject to amortization pursuant to SFAS No. 142, *Goodwill and Other Intangible Assets*, and consist of "a right to operate." Amortization expense for the twelve week period ended December 22, 2004 was \$28.

Annual amortization expense for each of the next four fiscal years is estimated to be approximately \$120.

**Deferred Credits and Other Liabilities**

Other liabilities included deferred amounts related to the Company's Non-Qualified Savings Plan. During the first fiscal quarter of 2005, the Company adopted a Non-Qualified Savings Plan for its highly compensated employees. The plan allows for the highly compensated employees to withhold amounts out of their salaries for retirement savings. The plan includes an employee match equal to the amount of the match the employee would have received in the Company's 401(k) plan. In addition, the amount includes the balance of deferred rent expense for escalating rent payments.

**Provision for Restaurant Closings**

During the fourth quarter of fiscal year 2003, the Company identified nine under-performing restaurants for disposal. In connection with the decision to dispose of these restaurants, the Company recorded a charge of \$5,200 for property and equipment write-downs, lease termination costs, and closing costs. During fiscal year 2004, the Company disposed of five of these restaurants. The Company is currently seeking buyers for the remaining four properties, which are classified as assets held for sale, and anticipates completing the disposal of these properties within the next six to nine months.

Activity related to the provision for restaurant closings is as follows:

	Balance at September 29, 2004	Non-cash charges during twelve weeks ended December 22, 2004	Cash charges during twelve weeks ended December 22, 2004	Adjustments to estimates during twelve weeks ended December 22, 2004	Balance at December 22, 2004
Asset write-downs	\$ 3,058	(5)	-	-	\$ 3,053
Lease termination costs	-	-	-	-	-
Closing costs	24	-	(11)	-	13
Total	\$ 3,082	\$ (5)	\$ (11)	-	\$ 3,066

		<b>Non-cash charges during twelve weeks ended</b>	<b>Cash charges during twelve weeks ended</b>	<b>Adjustments to estimates during twelve weeks ended</b>	
	<b>Balance at September 24, 2003</b>	<b>December 17, 2003</b>	<b>December 17, 2003</b>	<b>December 17, 2003</b>	<b>Balance at December 17, 2003</b>
Asset write-downs	\$ 4,860	(112)	-	-	\$ 4,748
Lease termination costs	225	-	-	-	225
Closing costs	115	-	(14)	-	101
Total	\$ 5,200	\$ (112)	\$ (14)	-	\$ 5,074

### Assets Held for Sale

Assets held for sale consist of property and equipment related to the under-performing restaurants identified for disposal in fiscal 2003, and are comprised of the following: Land and Buildings - \$1,546; Land and Leasehold Improvements - \$146; and Equipment - \$64.

### Revolving Credit Agreement

The Company's Revolving Credit Agreement expires on January 30, 2005. The Company has agreed in principal to renew its Revolving Credit Agreement for \$50,000 for an additional three years and is finalizing documentation. The Company believes the agreement will be in place prior to the expiration of the existing agreement.

### Supplemental Cash Flow Information

During the twelve-week period ended December 22, 2004, the Company issued 125,500 shares of restricted stock under its Capital Appreciation Plan with a market value of \$2,205. During the twelve-week period ended December 17, 2003, the Company issued 122,500 shares of restricted stock under its Capital Appreciation Plan with a market value of \$1,844.

### **Subsequent Event**

On December 29, 2004 the Company completed the acquisition of Kelley Restaurants, Inc. for approximately \$17,500, which includes adjustments for debt repayment, working capital and other items. Kelley Restaurants Inc, was the Company's largest franchisee and operates restaurants in the Atlanta, Georgia and Charlotte, North Carolina markets. Due to the acquisition, 17 franchised restaurants became Company-owned. The President of Kelley Restaurants, Inc. is a member of the Company's Board of Directors.

This subsidiary is not expected to be a significant subsidiary, and accordingly, pro forma financial information has not been provided.

### **Reclassifications**

Certain amounts in the fiscal 2004 financial statements have been reclassified to conform to the fiscal 2005 presentation.

### **Restatement**

Historically, when accounting for ground leases with renewal options, the Company depreciated its buildings over a period of 25 years (estimated economic life of buildings). In certain cases, the term of 25 years included both the initial lease term and certain renewal option periods under the lease. The Company recorded rent expense from the rent commencement date through the initial term of the lease. The restatement reflects rent expense being recognized on a straight-line basis over the lease term, including any additional cancelable option periods where failure to exercise such options would have resulted in an economic penalty.

Additionally, the Company had recognized rent expense for its operating leases using a lease term that commenced when rent payments began, which generally coincided with a point in time near the date the Company's restaurants opened. This generally had the effect of excluding the restaurant build-out period (during which the Company typically made no rent payments) from the calculation of the period over which rent was expensed. The Company has determined that, under GAAP, it should have recognized rent expense over a lease term that included the build-out period, which, in most cases, will cause rent expense to be recognized sooner than previously reported. The restatement reflects rent expense beginning recognized in the build-out period.

The Company has also determined that certain build-to-suit leases should have been treated as sale leaseback transactions to more fully reflect the provisions of Statement of Financial Accounting Standards No. 98, "Accounting for Leases" and Emerging Issues Task Force 97-10, "The Effect of Lessee Involvement in Asset Construction." Under an interpretation of the statement, the Company was determined to have continued involvement in the property, which required the proceeds from these build-to-suit leases to have been accounted for as a "finance obligations," reflected as a liability and amortized over the life of the related lease. The related assets should be depreciated over their estimated useful lives. The restatement reflects lease payments on the above mentioned leases being recorded as interest expense and debt repayment, as opposed to rent expense. In addition, the Company recorded additional depreciation expense for the related assets.

The total impact of the above reduced the Company's net income for the fiscal years ended September 29, 2004, September 24, 2003, and September 25, 2002 by \$71, \$78 and \$97 respectively. Additionally, beginning retained earnings for the fiscal year ended September 25, 2002 were reduced by \$537. For the quarter ended December 22, 2004 and the quarter ended December 17, 2003, net income was reduced by \$19 and \$17 respectively. The following table indicates the impact on the current presentation:



**Consolidated Statement of Financial Position****Summary of Restatement Impacts**

The Steak n Shake Company

*(As of December 22, 2004)**(Amounts in \$000s)*

	As Previously Reported	As Restated
Net property and equipment	\$ 389,574	\$ 391,930
Total assets	\$ 445,119	\$ 447,475
Accrued expenses	\$ 31,610	\$ 32,408
Current portion of obligations under leases	3,770	3,931
Total current liabilities	65,751	66,710
Deferred Income Taxes	3,248	2,816
Other Long-term Liabilities	121	1,407
Obligations Under Leases	141,077	143,708
Retained earnings	120,907	120,105
Total shareholders' equity	225,493	224,691
Total liabilities and shareholders' equity	\$ 445,119	\$ 447,475

**Consolidated  
Statement of Earnings  
Summary of  
Restatement Impacts**

The Steak n Shake  
Company

*(Twelve Weeks Ended  
December 22, 2004 and  
December 17, 2003)*

*(Amounts in \$000s  
except share and per  
share data)*

For the twelve weeks  
ended:

	<b>December 22, 2004</b>		December 17, 2003	
	As	As	As	As
	Previously	Restated	Previously	Restated
	Reported		Reported	
Depreciation and Amortization	\$ 5,701	\$ 5,735	\$ 5,553	\$ 5,587
Interest	2,790	2,845	3,007	3,065
Rent	2,117	2,057	1,897	1,831
Total costs and expenses	118,754	118,783	107,386	107,412
Earnings Before Income Taxes	7,773	7,744	7,087	7,061
Income Taxes	2,642	2,632	2,497	2,488
Net Earnings	\$ 5,131	\$ 5,112	\$ 4,590	\$ 4,573
Basic Earnings Per Common and Common Equivalent Share	\$ 0.19	\$ 0.19	\$ 0.17	\$ 0.17
Diluted Earnings Per Common and Common Equivalent Share	\$ 0.18	\$ 0.18	\$ 0.17	\$ 0.17

**Consolidated Statements  
of Cash Flows  
Summary of Restatement  
Impacts**

The Steak n Shake  
Company  
(Twelve Weeks Ended  
December 22, 2004 and  
December 17, 2003)  
(Amounts in \$000s except  
share and per share data)

For the twelve weeks  
ended:

	December 22, 2004		December 17, 2003	
	As Previously Reported	As Restated	As Previously Reported	As Restated
Operating Activities:				
Net earnings	\$5,131	\$5,112	\$4,590	\$20,861
Depreciation and amortization	5,701	5,735	5,553	24,318
Provision for deferred income taxes	(279)	(289)	488	(1,934)
Changes in accounts payable and accrued expenses	7,292	7,322	(1,052)	(1,029)
Net cash provided by operating activities	16,624	16,659	9,265	9,296
Financing Activities:				
Principal payments on lease obligations	(855)	(890)	(789)	(820)
Net cash used in financing activities	\$(624)	\$(659)	\$(2,687)	\$(2,718)

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

(Amounts in \$000's, except share and per share data)

In the following discussion, the term "same store sales" refers to the sales of only those units open eighteen months as of the beginning of the current fiscal period being discussed and which remained open through the end of the fiscal period.

### Overview

The Company recently reviewed its lease accounting and determined it was appropriate to restate its consolidated financial statements for the fiscal years 2002 through 2004 and for the first quarter of fiscal 2005. See the notes to the accompanying consolidated financial statements for more information. The following management's discussion and analysis gives effect to such restatements.

The Steak n Shake Company reported higher revenues, net income, and diluted earnings per share in the twelve weeks ended December 22, 2004 as compared to the twelve weeks ended December 17, 2003. The Company's revenues increased by 10.5% to \$126,527 compared to \$114,473 for the same period last year. Net earnings increased 11.8% to \$5,112 from \$4,573, while diluted earnings per share increased to \$0.18 from \$0.17.

The key to the Company's revenue growth was a 7.8% increase in same store sales. The same store sales growth is primarily attributable to increasing guest counts of 4.4% and menu price increases of 3.1%, which helped offset higher food costs in beef, dairy and tomato products.

Management continues to prepare the Company for expansion while strengthening the foundation of the Company. The Company has now had eight consecutive quarters of positive same store sales as a result of efforts to strengthen the brand through the "virtuous cycle." The components of the virtuous cycle include: developing effective field leaders, improving associate satisfaction and training, growing guest counts, improving margins, and expanding the brand.

### Critical Accounting Policies

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to use its judgment to make estimates and assumptions that can have a material impact on the results of operations and reported amounts of assets and liabilities. The Company evaluates its assumptions and estimates on an ongoing basis based on historical experience and various other factors that are believed to be relevant under the circumstances. Actual results may differ from these estimates under different assumptions or conditions.

The Company believes that, of its significant accounting policies, the following policies involve a higher degree of risk, judgement and/or complexity.

#### *Property and Equipment*

Property and equipment are recorded at cost with depreciation and amortization being recognized on the straight-line method over the estimated useful lives of the assets (15 to 25 years for building and land improvements, 3 to 10 years for equipment, and the shorter of the estimated useful life or the lease term for leasehold improvements). The Company reviews its restaurants for impairment on a restaurant-by-restaurant basis when events or circumstances indicate a possible impairment. The Company tests for impairment by comparing the carrying value of the asset to the future cash flows expected to be generated by the asset. If the total estimated future cash flows are less than the carrying amount of the asset, the carrying amount is written down to the estimated fair value, and a loss is recognized in earnings. Because depreciation and amortization expense is based upon useful lives of assets and the net salvage value at the end of their lives, significant judgment is required in estimating this expense. Additionally, the future cash flows expected to be generated by an asset requires significant judgment regarding future performance of the asset, fair market value if the asset were to be sold, and other financial and economic assumptions. Accordingly, management believes that accounting estimates related to property and equipment are critical.

#### *Insurance Reserves*

The Company self-insures a significant portion of expected losses under its workers' compensation, general liability, and auto liability insurance programs. The Company purchases reinsurance for individual and aggregate claims that exceed predetermined limits. The Company records a liability for all unresolved claims and its estimate of incurred but not reported ("IBNR") claims at the anticipated cost to the Company. The liability estimate is based on information received from insurance companies, combined with management's judgments regarding frequency and severity of claims, claims development history, and settlement practices. Significant judgment is required to estimate IBNR claims as parties have yet to assert a claim and therefore the degree to which injuries have been incurred, and the related costs, have not yet been determined. Additionally, estimates about future costs involve significant judgment regarding legislation, case jurisdictions and other matters. Accordingly, management believes that estimates related to self-insurance reserves are critical.

*Income Taxes*

The Company records deferred tax assets or liabilities based on differences between financial reporting and tax bases of assets and liabilities using currently enacted rates and laws that will be in effect when the differences are expected to reverse. Management records deferred tax assets to the extent it believes there will be sufficient future taxable income to utilize those assets prior to their expiration. To the extent deferred tax assets would be unable to be utilized, management would record a valuation allowance against the unrealizable amount, and record that amount as a charge against earnings. Due to changing tax laws and state income tax rates, significant judgment is required to estimate the effective tax rate expected to apply to tax differences that are expected to reverse in the future. Management must also make estimates about the sufficiency of taxable income in future periods to offset any deductions related to deferred tax assets currently recorded. Accordingly, management believes estimates related to income taxes are critical.

**Results of Operations**

The following table sets forth the percentage relationship to total revenues, unless otherwise indicated, of items included in the Company's condensed consolidated statements of earnings for the periods indicated:

	<b>Twelve Weeks Ended</b>	
	<b>December 22, 2004</b>	<b>December 17, 2003</b>
<b>Revenues</b>		
Net sales	99.2 %	99.2 %
Franchise fees	.8	.8
	<b>100.0</b>	<b>100.0</b>
<b>Costs and Expenses</b>		
Cost of sales	23.6 <sup>(1)</sup>	23.4 <sup>(1)</sup>
Restaurant operating costs	49.8 <sup>(1)</sup>	50.3 <sup>(1)</sup>
General and administrative	8.6	8.0
Depreciation and amortization	4.5	4.9
Marketing	4.0	3.7
Interest	2.2	2.7
Rent	1.6	1.6
Pre-opening costs	.4	.3
Other income, net	(.4)	(.4)
Total costs and expenses	<b>93.9</b>	<b>93.8</b>
<b>Earnings Before Income Taxes</b>	<b>6.1</b>	<b>6.2</b>
<b>Income Taxes</b>	<b>2.1</b>	<b>2.2</b>
<b>Net Earnings</b>	<b>4.0 %</b>	<b>4.0 %</b>

(1) Cost of sales and restaurant operating costs are expressed as a percentage of net sales.



**Comparison of Twelve Weeks Ended December 22, 2004 to Twelve Weeks Ended December 17, 2003**

(Amounts in \$000's, except share and per share data)

*Revenues*

Net sales increased \$11,988 (10.6%) to \$125,504 primarily due to a 7.8% increase in same store sales. The 7.8% increase in same store sales reflects a continuation of the growth experience in the prior fiscal year when same store sales increased by 11.2%. This increase is due to both an increased guest count of 4.4% and increased check averages of 3.4%. The increase in check averages is due primarily to a weighted average price increase of 3.1%. Additionally, the Company's shake sales have increased by 24% in response to the Company's new shake flavors. The number of Company-owned Steak n Shake restaurants increased to 368 at December 22, 2004 compared to 353 at December 17, 2003.

*Costs and Expenses*

Cost of sales increased \$3,055 (11.5%) to \$29,626 primarily due to increased net sales and higher food costs. Cost of sales as a percentage of net sales increased to 23.6% from 23.4%, primarily as a result of an increase in beef, dairy and tomatoes. These commodity increases were partially offset by menu price increases.

Restaurant operating costs increased \$5,389 (9.4%) due to increased net sales. Restaurant operating costs as a percentage of net sales decreased to 49.8% from 50.3%, primarily due to the leverage from same store sales gains and labor cost management.

General and administrative expenses increased \$1,696 (18.6%) to \$10,831 and increased 0.6% as a percentage of sales. The increase over the prior year was due primarily to initial investments related to accelerated expansion, annualization of prior year initiatives, new product development costs, implementation of an annual Company wide recognition program, as well as a store fire that substantially damaged a restaurant in Florida.

Depreciation and amortization expense increased \$148 (2.7%) to \$5,735 principally from property and equipment additions due to opening new restaurants.

Marketing expense increased \$866 (20.5%) to \$5,090, and as a percentage of revenue increased to 4.0% from 3.7% in the same period in the prior fiscal year. The increase is largely due to being on television in 16 additional markets in the current year versus the prior fiscal year quarter.

Interest expense decreased \$220 (7.1%) to \$2,845 due to decreased net borrowings under the Company's Senior Notes Agreement, combined with lower capital lease balances than the same period in the prior fiscal year.

Rent expense increased \$226 (11.6%) to \$2,057 as a result of an increase in the number of leased properties since the prior year quarter and increased percentage rents over the prior fiscal year as a result of the strong sales increases.



Pre-opening costs increased \$179 (47.1%) to \$559. This increase is due to the opening of three new restaurants and a rebuild unit in the current year versus three new units in the prior year. In addition, the Company incurred increased pre-opening costs for units opening in the second quarter compared to the prior fiscal year.

Other income of \$482 remained consistent with the prior year period of \$514.

*Income Taxes*

The Company's effective income tax rate decreased to 34.0% from 35.2% in the same period in the prior year, primarily due to increased FICA tax credits and Work Opportunity Tax Credits.

## **Liquidity and Capital Resources**

The Company opened three Company-owned Steak n Shake restaurants and one franchised restaurant, and rebuilt one restaurant during the twelve weeks ended December 22, 2004. Ten new restaurants are currently under construction. For the twelve weeks ended December 22, 2004, capital expenditures totaled \$12,773 as compared to \$7,412 for the same period in the prior year.

The Company anticipates opening 18 to 24 new Steak n Shake restaurants during fiscal year 2005. The new store openings will allow the Company to continue its expansion in newer markets such as Texas, while building its strong brand recognition and operating organization throughout the Midwest and Florida. The average cost of a new Company-operated Steak n Shake restaurant, including land, site improvements, building and equipment is approximately \$2,000. Total capital expenditures for fiscal year 2005 are estimated to be \$45,000 to \$55,000 which include corporate expenditures and existing location expenditures. The Company intends to fund future capital expenditures, and meet working capital needs using existing cash and investments and anticipated cash flows from operations.

During the twelve weeks ended December 22, 2004, cash provided by operations totaled \$16,659, compared to \$9,296 in the same period in the prior year.

This increase in cash provided by operations is attributable primarily to increased net earnings, coupled with the timing of invoice payments. Net cash used in financing activities for the twelve weeks ended December 22, 2004, totaled \$659 compared to \$2,718 in the comparable prior period. This decline was due to there being no scheduled debt payments in the current year period.

As of December 22, 2004, the Company had outstanding borrowings of \$16,204 under its Senior Note Agreement and Private Shelf Facility ("Senior Note Agreement") and \$75,000 of additional borrowing capacity available. Borrowings under the Senior Note Agreement bear interest at an average fixed rate of 7.6%.

The Company also maintains a \$30,000 Revolving Credit Agreement ("Revolving Credit Agreement") that bears interest based on LIBOR plus 75 basis points, or the prime rate, at the election of the Company, and matures on January 30, 2005. There were no borrowings under the Revolving Credit Agreement at December 22, 2004. The Company has agreed in principal to renew its Revolving Credit Agreement for \$50,000 for an additional three years and is finalizing documentation.

The Company's debt agreements contain restrictions which, among other things, require the Company to maintain certain financial ratios. The Company is in compliance with all restrictive covenants under these borrowing agreements at December 22, 2004.

## **Effects of Governmental Regulations and Inflation**

Most of the Company's employees are paid hourly rates related to federal and state minimum wage laws. Any increase in the legal minimum wage would directly increase the Company's operating costs. The Company is also subject to various federal, state and local laws related to zoning, land use, safety standards, working conditions and accessibility standards. Any changes in these laws that require improvements to our restaurants would increase their operating costs. In addition, the Company is subject to franchise registration requirements and certain related federal and state laws regarding franchise operations. Any changes in these laws could affect the Company's ability to attract and retain franchisees.

Inflation in food, labor, fringe benefits, and other operating costs directly affects the Company's operations. The Company's results of operations have not been significantly affected by inflation in the recent past.

### **Risks Associated with Forward-Looking Statements**

Certain statements contained in this report contain forward-looking information. In general, forward-looking statements include estimates of future revenues, cash flows, capital expenditures, or other financial items, and assumptions underlying any of the foregoing. Forward-looking statements reflect management's current expectations regarding future events and use words such as "anticipate", "believe", "expect", "may", "will", and other similar terminology. These statements speak only as of the date they were made and involve a number of risks and uncertainties that could cause actual results to differ materially from those expressed in forward-looking statements. Several factors, many beyond our control, could cause actual results to differ significantly from our expectations, such as the following: effectiveness of operating initiatives; changes in economic conditions; effectiveness of advertising and marketing initiatives; harsh weather conditions; availability and cost of qualified restaurant personnel; changes in consumer tastes; changes in consumer behavior based on publicity or concerns relating to food safety or food-borne illnesses; effectiveness of our expansion plans; changes in minimum wage rates; and changes in applicable accounting policies and practices. The foregoing list of important factors is not intended to be all-inclusive as other general market, industry, economic, and political factors may also impact our operations. Readers are cautioned not to place undue reliance on our forward-looking statements, as we assume no obligation to update forward-looking statements. For further information, refer to the Company's Annual Report on Form 10-K for the fiscal year ended September 29, 2004.

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

The Company's primary market risk exposure with regard to financial instruments is to changes in interest rates. Pursuant to the terms of the Senior Note Agreement, the Company may from time to time issue notes in increments of at least \$5,000,000. The interest rate on the notes is based upon market rates at the time of the borrowing. Once the interest rate is established at the time of the initial borrowing, the interest rate remains fixed over the term of the underlying note. The existing Revolving Credit Agreement bears interest at a rate based upon LIBOR plus 75 basis points or the prime rate, at the election of the Company. Historically, the Company has not used derivative financial instruments to manage exposure to interest rate changes. At December 22, 2004, a hypothetical 100 basis point increase in short-term rates would have an immaterial impact on the Company's earnings.

The Company purchases certain food products, which may be affected by volatility in commodity prices due to weather conditions, supply levels, and other market conditions. The Company utilizes various purchasing and contract pricing techniques to minimize volatility, but does not enter into financial derivative contracts.

### **ITEM 4. CONTROLS AND PROCEDURES**

Based on an evaluation of the Company's disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(c)), the Company's Chief Executive Officer and Chief Financial Officer have concluded that the Company's disclosure controls and procedures were effective as of December 22, 2004, in timely alerting the Company's management to material information required to be included in this Form 10-Q/A and other Exchange Act filings. There have been no changes in the Company's internal controls over financial reporting that occurred during the fiscal period ended December 22, 2004 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

The Company has made changes in its internal controls over financial reporting since the date of the original filing. In connection with correcting its lease accounting methodology, the Company has instituted the following procedures:

- Use of a consistent lease period (generally, the initial non-cancelable lease term plus certain option periods where failure to exercise such options would result in an economic penalty) when calculating depreciation of leasehold improvements, in determining straight-line rent expense and classification of its leases as either an operating lease or a capital lease;
- Commencement of the lease term and straight-line rent expense on the date when the Company takes possession and the right to control use of the leased premises;
  - Further review of leases to determine the appropriate treatment for financial reporting.

## **PART II. OTHER INFORMATION**

### **ITEM 1. LEGAL PROCEEDINGS**

There are no pending legal proceedings involving the Company other than routine litigation incidental to its business. In the opinion of the Company's management, these proceedings should not, individually or in the aggregate, have a material adverse effect on the Company's results of operations or financial condition.

## ITEM 5. OTHER INFORMATION

### (a) Non-audit Services

During the period covered by the Quarterly Report on Form 10-Q/A, the Audit Committee of the Board of Directors approved the engagement of Deloitte & Touche, LLP, the Company's registered independent public accounting firm, to perform the following non-audit services: engagement to perform certain services in connection with the Company's evaluation of the acquisition of Kelley Restaurants, Inc. This disclosure is made pursuant to Section 10A(i)(2) of the Securities Exchange Act of 1934, as added by Section 202 of the Sarbanes-Oxley Act of 2002.

## ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

### (a) Exhibits

10.1 Summary Compensation Sheet (Incorporated by reference to Exhibit 10.1 to the Registrants's Quarterly Report on Form 10 - Q for the fiscal quarter ended December 22, 2004 filed on January 28, 2005)

10.2 Steak n Shake Company NonQualified Savings Plan (Incorporated by reference to Exhibit 10.2 to the Registrants's Quarterly Report on Form 10 - Q for the fiscal quarter ended December 22, 2004 filed on January 28, 2005)

31.1 Rule 13a - 14(a) / 15d - 14(a) Certification of Chief Executive Officer.

31.2 Rule 13a - 14(a) / 15d - 14(a) Certification of Chief Financial Officer.

32 Section 1350 Certifications.

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on May 20, 2005.

THE STEAK N SHAKE COMPANY  
(Registrant)

By /s/ Jeffrey A. Blade

Jeffrey A. Blade  
Senior Vice President  
and Chief Financial Officer

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