

Texas Roadhouse, Inc.  
Form 10-Q  
November 05, 2010  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

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

**For the quarterly period ended September 28, 2010**

**OR**

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

**For the transition period from                      to**

**Commission File Number 000-50972**

**Texas Roadhouse, Inc.**

(Exact name of registrant specified in its charter)

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**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**20-1083890**  
(IRS Employer  
Identification Number)

**6040 Dutchmans Lane, Suite 200**

**Louisville, Kentucky 40205**

(Address of principal executive offices) (Zip Code)

**(502) 426-9984**

(Registrant's telephone number, including area code)

Indicate by check mark whether registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No .

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulations S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No .

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer", "accelerated filer", and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

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

The number of shares of common stock outstanding were 71,767,290 on October 29, 2010.

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Table of Contents**PART I FINANCIAL INFORMATION****ITEM 1 FINANCIAL STATEMENTS****Texas Roadhouse, Inc. and Subsidiaries****Condensed Consolidated Balance Sheets****(in thousands, except share and per share data)**

	(unaudited)	
	September 28, 2010	December 29, 2009
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 55,425	\$ 46,858
Receivables, net of allowance for doubtful accounts of \$255 at September 28, 2010 and \$911 at December 29, 2009	12,027	12,312
Inventories, net	7,549	8,004
Prepaid expenses	4,569	5,611
Deferred tax assets	3,022	1,531
Total current assets	82,592	74,316
Property and equipment, net	456,473	456,281
Goodwill	113,465	113,465
Intangible asset, net	10,387	11,194
Fair value of derivative financial instruments		31
Other assets	7,630	6,786
Total assets	\$ 670,547	\$ 662,073
<b>Liabilities and Stockholders Equity</b>		
Current liabilities:		
Current maturities of long-term debt and obligations under capital leases	\$ 267	\$ 247
Accounts payable	24,597	27,882
Deferred revenue gift cards/certificates	14,611	34,443
Accrued wages	20,664	20,186
Income tax payable	4,646	6,194
Accrued taxes and licenses	12,198	8,579
Other accrued liabilities	11,683	10,672
Total current liabilities	88,666	108,203
Long-term debt and obligations under capital leases, excluding current maturities	61,977	101,179
Stock option and other deposits	3,906	3,653
Deferred rent	13,834	12,089
Deferred tax liabilities	7,564	6,660
Fair value of derivative financial instruments	4,365	
Other liabilities	9,410	7,339
Total liabilities	189,722	239,123
Texas Roadhouse, Inc. and subsidiaries stockholders equity:		
Preferred stock (\$0.001 par value, 1,000,000 shares authorized; no shares issued or outstanding)		

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Common stock, (\$0.001 par value, 100,000,000 shares authorized, 71,727,456 and 70,384,915 shares issued and outstanding at September 28, 2010 and December 29, 2009, respectively)	72	70
Additional paid in capital	243,784	231,564
Retained earnings	236,948	188,719
Accumulated other comprehensive (loss) gain	(2,681)	19
Total Texas Roadhouse, Inc. and subsidiaries stockholders' equity	478,123	420,372
Noncontrolling interests	2,702	2,578
Total equity	480,825	422,950
Total liabilities and equity	\$ 670,547	\$ 662,073

See accompanying notes to condensed consolidated financial statements.

Table of Contents**Texas Roadhouse, Inc. and Subsidiaries****Condensed Consolidated Statements of Income****(in thousands, except per share data)****(unaudited)**

	13 Weeks Ended		39 Weeks Ended	
	September 28, 2010	September 29, 2009	September 28, 2010	September 29, 2009
<b>Revenue:</b>				
Restaurant sales	\$ 243,405	\$ 224,417	\$ 753,582	\$ 708,808
Franchise royalties and fees	2,208	2,050	6,817	6,155
<b>Total revenue</b>	<b>245,613</b>	<b>226,467</b>	<b>760,399</b>	<b>714,963</b>
<b>Costs and expenses:</b>				
<b>Restaurant operating costs:</b>				
Cost of sales	79,101	74,489	244,560	237,844
Labor	71,835	67,630	221,241	210,203
Rent	5,329	5,029	15,886	14,870
Other operating	43,476	38,778	128,841	119,450
Pre-opening	2,150	1,194	4,562	4,411
Depreciation and amortization	10,262	10,395	30,861	31,482
Impairment and closures	44	(201)	302	(273)
General and administrative	11,968	11,872	39,263	35,918
<b>Total costs and expenses</b>	<b>224,165</b>	<b>209,186</b>	<b>685,516</b>	<b>653,905</b>
<b>Income from operations</b>	<b>21,448</b>	<b>17,281</b>	<b>74,883</b>	<b>61,058</b>
Interest expense, net	644	784	2,078	2,517
Equity income from investments in unconsolidated affiliates	(155)	(36)	(355)	(185)
<b>Income before taxes</b>	<b>20,959</b>	<b>16,533</b>	<b>73,160</b>	<b>58,726</b>
Provision for income taxes	6,478	5,431	23,133	18,582
<b>Net income including noncontrolling interests</b>	<b>\$ 14,481</b>	<b>\$ 11,102</b>	<b>\$ 50,027</b>	<b>\$ 40,144</b>
Less: Net income attributable to noncontrolling interests	529	407	1,798	1,374
<b>Net income attributable to Texas Roadhouse, Inc. and subsidiaries</b>	<b>\$ 13,952</b>	<b>\$ 10,695</b>	<b>\$ 48,229</b>	<b>\$ 38,770</b>
<b>Net income per common share attributable to Texas Roadhouse, Inc. and subsidiaries:</b>				
<b>Basic</b>	<b>\$ 0.19</b>	<b>\$ 0.15</b>	<b>\$ 0.68</b>	<b>\$ 0.56</b>
<b>Diluted</b>	<b>\$ 0.19</b>	<b>\$ 0.15</b>	<b>\$ 0.66</b>	<b>\$ 0.54</b>
<b>Weighted-average shares outstanding:</b>				
<b>Basic</b>	<b>71,660</b>	<b>70,204</b>	<b>71,273</b>	<b>69,847</b>

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Diluted	73,002	71,550	72,727	71,151
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See accompanying notes to condensed consolidated financial statements.

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**Texas Roadhouse, Inc. and Subsidiaries**

**Condensed Consolidated Statements of Stockholders' Equity and Comprehensive Income**

(in thousands, except share data)

(unaudited)

	Shares	Par Value	Paid in Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Texas Roadhouse, Inc. and subsidiaries	Noncontrolling Interests	Total
Balance, December 29, 2009	70,384,915	\$ 70	\$ 231,564	\$ 188,719	\$ 19	\$ 420,372	\$ 2,578	\$ 422,950
Comprehensive income:								
Unrealized loss on derivatives, net of tax of \$1.7 million					(2,700)	(2,700)		(2,700)
Net income				48,229		48,229	1,798	50,027
Total comprehensive income						45,529		47,327
Distributions to noncontrolling interests								
Shares issued under stock option plan including tax effects	970,155	1	8,744			8,745		8,745
Settlement of restricted stock units, net of tax	372,386	1	(2,229)			(2,228)		(2,228)
Share-based compensation			5,705			5,705		5,705
Balance, September 28, 2010	71,727,456	\$ 72	\$ 243,784	\$ 236,948	\$ (2,681)	\$ 478,123	\$ 2,702	\$ 480,825

See accompanying notes to condensed consolidated financial statements.



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## Texas Roadhouse, Inc. and Subsidiaries

## Condensed Consolidated Statements of Cash Flows

(in thousands)

(unaudited)

	39 Weeks Ended	
	September 28, 2010	September 29, 2009
<b>Cash flows from operating activities:</b>		
Net income including noncontrolling interests	\$ 50,027	\$ 40,144
Depreciation and amortization	30,861	31,482
Deferred income taxes	1,109	3,526
Loss on disposition of assets	1,036	918
Impairment and closures	141	(305)
Equity income from investments in unconsolidated affiliates	(355)	(185)
Distributions received from investments in unconsolidated affiliates	299	261
Provision for doubtful accounts	(656)	286
Share-based compensation expense	5,705	5,642
Excess tax benefits from share-based compensation	(2,326)	(1,671)
Changes in operating working capital:		
Receivables	941	1,165
Inventories	455	1,094
Prepaid expenses and other current assets	1,042	2,160
Other assets	(760)	(1,860)
Accounts payable	(3,285)	(12,367)
Deferred revenue gift cards/certificates	(19,832)	(18,962)
Accrued wages	478	3,572
Prepaid income taxes and income taxes payable	976	8,288
Accrued taxes and licenses	3,619	2,590
Other accrued liabilities	1,011	(740)
Deferred rent	1,745	1,614
Other liabilities	2,071	1,644
Net cash provided by operating activities	\$ 74,302	\$ 68,296
<b>Cash flows from investing activities:</b>		
Capital expenditures property and equipment	(31,598)	(34,814)
Acquisitions of franchise restaurants, net of cash acquired		25
Proceeds from sale of property and equipment, including insurance proceeds	175	2,329
Net cash used in investing activities	\$ (31,423)	\$ (32,460)
<b>Cash flows from financing activities:</b>		
Repayments of revolving credit facility, net	(39,000)	(6,000)
Investments in unconsolidated affiliates	(28)	(19)
Distributions to noncontrolling interest holders	(1,674)	(1,656)
Excess tax benefits from share-based compensation	2,326	1,671
Repayments of stock option and other deposits	(694)	(1,182)
Proceeds from stock option and other deposits	947	925
Settlement of restricted stock units, net of tax	(2,229)	(1,366)
Principal payments on long-term debt and capital lease obligations	(182)	(227)

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Proceeds from exercise of stock options		6,222		2,593
Net cash used in financing activities	\$	(34,312)	\$	(5,261)
Net increase in cash and cash equivalents		8,567		30,575
Cash and cash equivalents beginning of period		46,858		5,258
Cash and cash equivalents end of period	\$	55,425	\$	35,833
Supplemental disclosures of cash flow information:				
Interest, net of amounts capitalized	\$	2,035	\$	2,603
Income taxes, net of refunds	\$	21,048	\$	6,784

See accompanying notes to condensed consolidated financial statements.

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**Texas Roadhouse, Inc. and Subsidiaries**

**Notes to Condensed Consolidated Financial Statements**

**(Tabular dollar amounts in thousands, except per share data)**

**(unaudited)**

**(1) Basis of Presentation**

The accompanying unaudited condensed consolidated financial statements include the accounts of Texas Roadhouse, Inc. (the Company, we and/or our), our wholly-owned subsidiaries and subsidiaries in which we own more than 50 percent interest, as of and for the 13 and 39 weeks ended September 28, 2010 and September 29, 2009. Our wholly-owned subsidiaries include: Texas Roadhouse Holdings LLC (Holdings), Texas Roadhouse Development Corporation (TRDC), Texas Roadhouse Management Corp. (Management Corp.) and Aspen Creek, LLC (Aspen Creek). We and our subsidiaries operate restaurants under the names Texas Roadhouse and Aspen Creek. Holdings also provides supervisory and administrative services for certain other franchise and license restaurants. TRDC sells franchise rights and collects the franchise royalties and fees. Management Corp. provides management services to the Company, Holdings, Aspen Creek and certain other license and franchise restaurants. All material balances and transactions between the consolidated entities have been eliminated.

As of September 28, 2010 and September 29, 2009, we owned 5.0% to 10.0% equity interest in 21 franchise restaurants. While we exercise significant control over these franchise restaurants, we do not consolidate their financial position, results of operations or cash flows as it is immaterial to our consolidated financial position, results of operations and/or cash flows. Our investment in these unconsolidated affiliates is included in Other assets in our condensed consolidated balance sheets and we record our percentage share of net income earned by these unconsolidated affiliates on our condensed consolidated statements of income under Equity income from investments in unconsolidated affiliates.

We have made a number of estimates and assumptions relating to the reporting of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements and the reporting of revenue and expenses during the period to prepare these condensed consolidated financial statements in conformity with U.S. generally accepted accounting principles (GAAP). Significant items subject to such estimates and assumptions include the carrying amount of property and equipment, goodwill, obligations related to insurance reserves, income taxes and share-based compensation expense. Actual results could differ from those estimates.

In the opinion of management, the accompanying unaudited financial statements reflect all adjustments, consisting only of normal recurring adjustments, necessary to present fairly our financial position, results of operations and cash flows for the periods presented. The financial statements have been prepared in accordance with GAAP, except that certain information and footnotes have been condensed or omitted pursuant to rules and regulations of the Securities and Exchange Commission (SEC). Operating results for the 39 weeks ended September 28, 2010 are not necessarily indicative of the results that may be expected for the year ending December 28, 2010. The financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 29, 2009.

Our significant interim accounting policies include the recognition of income taxes using an estimated annual effective tax rate.

**(2) Share-based Compensation**

We may grant incentive and non-qualified stock options to purchase shares of common stock, stock bonus awards (restricted stock unit awards ( RSUs )) and restricted stock awards under the Texas Roadhouse, Inc. 2004 Equity Incentive Plan (the Plan ). Beginning in 2008, we changed the method by which we provide share-based compensation to our employees by eliminating stock option grants and, instead, granting RSUs as a form of share-based compensation. An RSU is the conditional right to receive one share of common stock upon satisfaction of the vesting requirement.

The following table summarizes the share-based compensation recorded in the accompanying condensed consolidated statements of income:

	13 Weeks Ended		39 Weeks Ended	
	September 28, 2010	September 29, 2009	September 28, 2010	September 29, 2009
Labor expense	\$ 876	\$ 694	\$ 2,479	\$ 2,116
General and administrative expense	1,093	1,134	3,226	3,526
Total share-based compensation expense	\$ 1,969	\$ 1,828	\$ 5,705	\$ 5,642

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A summary of share-based compensation activity by type of grant as of September 28, 2010 and changes during the period then ended is presented below.

#### *Summary Details for Plan Share Options*

	Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (years)	Aggregate Intrinsic Value
Outstanding at December 29, 2009	5,439,030	\$ 10.86		
Granted				
Forfeited	(32,266)	14.30		
Exercised	(970,155)	6.41		
Outstanding at September 28, 2010	4,436,609	\$ 11.81	4.83	\$ 13,669
Exercisable at September 28, 2010	4,223,984	\$ 11.72	4.74	\$ 13,401

No stock options were granted during the 39 weeks ended September 28, 2010.

The total intrinsic value of options exercised during the 13 weeks ended September 28, 2010 and September 29, 2009 was \$0.6 million and \$0.8 million, respectively. The total intrinsic value of options exercised during the 39 weeks ended September 28, 2010 and September 29, 2009 was \$7.2 million and \$4.9 million, respectively. As of September 28, 2010, with respect to unvested stock options, there was an immaterial amount of unrecognized compensation cost that is expected to be recognized over a weighted-average period of less than a year. The total grant date fair value of stock options vested for both 13 week periods ended September 28, 2010 and September 29, 2009 was \$0.1 million and \$0.2 million, respectively. The total grant date fair value of stock options vested for the 39 week periods ended September 28, 2010 and September 29, 2009 was \$1.1 million and \$1.0 million, respectively.

#### *Summary Details for RSUs*

	Shares	Weighted-Average Grant Date Fair Value
Outstanding at December 29, 2009	1,362,427	\$ 9.90
Granted	419,244	13.88
Forfeited	(20,841)	10.66
Vested	(546,385)	9.87
Outstanding at September 28, 2010	1,214,445	\$ 11.23

As of September 28, 2010, with respect to unvested RSUs, there was \$7.9 million of unrecognized compensation cost that is expected to be recognized over a weighted-average period of 1.5 years. The vesting terms of the RSUs range from approximately 1.0 to 5.0 years. The total grant date fair value of RSUs vested for the 13 week periods ended September 28, 2010 and September 29, 2009 was \$1.2 million and \$0.8

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million, respectively. The total grant date fair value of RSUs vested for the 39 week periods ended September 28, 2010 and September 29, 2009 was \$5.4 million and \$4.2 million, respectively.

### (3) Long-term Debt and Obligations Under Capital Leases

Long-term debt and obligations under capital leases consisted of the following:

	September 28, 2010		December 29, 2009	
Installment loans, due 2010 - 2020	\$	1,907	\$	2,030
Obligations under capital leases		337		396
Revolver		60,000		99,000
		62,244		101,426
Less current maturities		267		247
	\$	61,977	\$	101,179

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The weighted-average interest rate for installment loans outstanding at September 28, 2010 and December 29, 2009 was 10.58%. The debt is secured by certain land and buildings.

We have a \$250.0 million five-year revolving credit facility with a syndicate of commercial lenders led by Bank of America, N.A., Banc of America Securities LLC and PNC Bank. The facility expires on May 31, 2012. The terms of the facility require us to pay interest on outstanding borrowings at LIBOR plus a margin of 0.50% to 0.875%, depending on our leverage ratio, or the Base Rate, which is the higher of the issuing bank's prime lending rate or the Federal Funds rate plus 0.50%. We are also required to pay a commitment fee of 0.10% to 0.175% per year on any unused portion of the facility, depending on our leverage ratio. The weighted-average interest rate for the revolver at September 28, 2010 and December 29, 2009 was 3.24% and 2.36%, respectively, including interest rate swaps. At September 28, 2010, we had \$60.0 million outstanding under the credit facility and \$186.4 million of availability, net of \$3.6 million of outstanding letters of credit.

The lenders' obligation to extend credit under the facility depends on us maintaining certain financial covenants, including a minimum consolidated fixed charge coverage ratio of 2.00 to 1.00 and a maximum consolidated leverage ratio of 3.00 to 1.00. The credit facility permits us to incur additional secured or unsecured indebtedness outside the facility, except for the incurrence of secured indebtedness that in the aggregate exceeds 20% of our consolidated tangible net worth or circumstances where the incurrence of secured or unsecured indebtedness would prevent us from complying with our financial covenants. We were in compliance with all covenants as of September 28, 2010.

**(4) Derivative and Hedging Activities**

We enter into derivative instruments for risk management purposes only, including derivatives designated as hedging instruments under Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 815, *Derivatives and Hedging* (ASC 815). We use interest rate-related derivative instruments to manage our exposure to fluctuations of interest rates. By using these instruments, we expose ourselves, from time to time, to credit risk and market risk. Credit risk is the failure of the counterparty to perform under the terms of the derivative contract. When the fair value of a derivative contract is positive, the counterparty owes us, which creates credit risk for us. We minimize the credit risk by entering into transactions with high-quality counterparties whose credit rating is evaluated on a quarterly basis. Our counterparty in the interest rate swaps is J.P. Morgan Chase, N.A. Market risk is the adverse effect on the value of a financial instrument that results from a change in interest rates, commodity prices or the market price of our common stock. We minimize market risk by establishing and monitoring parameters that limit the types and degree of market risk that may be taken.

*Interest Rate Swaps*

On October 22, 2008, we entered into an interest rate swap, starting on November 7, 2008, with a notional amount of \$25.0 million to hedge a portion of the cash flows of our variable rate credit facility. We have designated the interest rate swap as a cash flow hedge of our exposure to variability in future cash flows attributable to interest payments on a \$25.0 million tranche of floating rate debt borrowed under our revolving credit facility. Under the terms of the swap, we pay a fixed rate of 3.83% on the \$25.0 million notional amount and receive payments from the counterparty based on the 1-month LIBOR rate for a term ending on November 7, 2015, effectively resulting in a fixed rate LIBOR component of the \$25.0 million notional amount.

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On January 7, 2009, we entered into an interest rate swap, starting on February 7, 2009, with a notional amount of \$25.0 million to hedge a portion of the cash flows of our variable rate credit facility. We have designated the interest rate swap as a cash flow hedge of our exposure to variability in future cash flows attributable to interest payments on a \$25.0 million tranche of floating rate debt borrowed under our revolving credit facility. Under the terms of the swap, we pay a fixed rate of 2.34% on the \$25.0 million notional amount and receive payments from the counterparty based on the 1-month LIBOR rate for a term ending on January 7, 2016, effectively resulting in a fixed rate LIBOR component of the \$25.0 million notional amount.

We entered into the above interest rate swaps with the objective of eliminating the variability of our interest cost that arises because of changes in the variable interest rate for the designated interest payments. Changes in the fair value of the interest rate swap will be reported as a component of accumulated other comprehensive income. We will reclassify any gain or loss from accumulated other comprehensive income, net of tax, on our consolidated balance sheet to interest expense on our consolidated statement of income when the interest rate swap expires or at the time we choose to terminate the swap. See note 10 for fair value discussion of these interest rate swaps.



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The following table summarizes the fair value and presentation in the condensed consolidated balance sheets for derivatives designated as hedging instruments under FASB ASC 815:

	Balance Sheet Location	Derivative Assets		Derivative Liabilities	
		September 28, 2010	December 29, 2009	September 28, 2010	December 29, 2009
Derivative Contracts Designated as Hedging Instruments under ASC 815	(1)				
Interest rate swaps		\$	\$	31	\$ 4,365
Total Derivative Contracts		\$	\$	31	\$ 4,365

(1) Derivative assets and liabilities are included in fair value of derivative financial instruments on the condensed consolidated balance sheets.

The following table summarizes the effect of derivative instruments on the condensed consolidated statements of income for the 39 weeks ended September 28, 2010 and September 29, 2009:

	Amount of (Loss) Gain Recognized in AOCI (effective portion)		Location of Gain (Loss) Reclassified from AOCI Income	Amount of Gain (Loss) Reclassified from AOCI to Income (effective portion)		Location of Gain (Loss) Recognized in Income (ineffective portion)	Amount of Gain (Loss) Recognized in Income (ineffective portion)	
	2010	2009		2010	2009		2010	2009
Interest rate swaps	\$ (2,700)	\$ 1,203						

**(5) Recent Accounting Pronouncements*****Fair Value Measures and Disclosures***

*(Accounting Standards Update ( ASU ) 2010-06)*

In January 2010, the FASB issued ASU 2010-06 which amends Accounting Standards Codification ( ASC ) topic 820, *Fair Value Measures and Disclosures*. ASU No. 2010-06 amends the ASC to require disclosure of transfer into and out of Level 1 and Level 2 fair value measurements, and also requires more detailed disclosure about the activity within Level 3 fair value measurements. The changes as a result of this update are effective for annual and interim reporting periods beginning after December 15, 2009 (our 2010 fiscal year), except for requirements related to Level 3 disclosures, which are effective for annual and interim reporting periods beginning after December 15, 2010 (our 2011 fiscal year). This guidance requires new disclosures only, and will have no impact on our consolidated financial position, results of operations or cash flows.

**Consolidation of Variable Interest Entities Amended**

*(To be included in ASC 810, Consolidation, previously SFAS 167, Amendments to FASB Interpretation No. 46(R))*

ASC 810 provides guidance for determining the primary beneficiary of a variable interest entity. In addition, ASC 810 requires ongoing assessments of whether an enterprise is the primary beneficiary of a variable interest entity. ASC 810 is effective for the first annual and interim reporting periods that begin after November 15, 2009 (our fiscal year 2010). The adoption of ASC 810 had no impact on our consolidated financial position, results of operations and cash flows.

**(6) Commitments and Contingencies**

The estimated cost of completing capital project commitments at September 28, 2010 and December 29, 2009 was approximately \$24.1 million and \$18.5 million, respectively.

We entered into real estate lease agreements for franchise restaurants located in Everett, MA, Longmont, CO, Montgomeryville, PA, Fargo, ND and Logan, UT before granting franchise rights for those restaurants. We have subsequently assigned the leases to the franchisees, but remain contingently liable if a franchisee defaults under the terms of a lease. The Longmont lease was assigned in October 2003 and expires in May 2014, the Everett lease was assigned in September 2002 and expires in February 2018, the Montgomeryville lease was assigned in October 2004 and expires in June 2021, the Fargo lease was assigned in February 2006 and expires in July 2016 and the Logan lease was assigned in January 2009 and expires in August 2019. As the fair value of the guarantees is not considered significant, no liability has been recorded. As discussed in note 7, the Everett, MA, Longmont, CO, and Fargo, ND restaurants are owned, in whole or part, by certain of our officers, directors or 5% shareholders.

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We currently buy most of our beef from two to four suppliers. Although there are a limited number of beef suppliers, management believes that other suppliers could provide a similar product on comparable terms. A change in suppliers, however, could cause supply shortages and a possible loss of sales, which would affect operating results adversely. We have no material minimum purchase commitments with our vendors that extend beyond a year.

On October 8, 2010, the U.S. Equal Employment Opportunity Commission ( EEOC ) for the Boston Area Office issued a determination letter in Charge No. 523-2009-00643 alleging that we engaged in a pattern and practice of age discrimination in hiring for certain restaurant positions in violation of the Age Discrimination in Employment Act. The determination alleges that applicants over the age of 40 were denied employment in our restaurants in host, server and server assistant positions solely due to their age. The EEOC is seeking remedial actions and the payment of damages to the disaffected applicants. We have denied the allegation and intend to vigorously defend against the charge. The EEOC has invited us to participate in its conciliation process, and we have agreed to do so. Based on the preliminary status of this matter, we cannot estimate the possible amount or range of loss, if any, associated with this matter.

We are involved in various other claims and legal actions arising in the normal course of business. In the opinion of management, the ultimate disposition of these matters will not have a material effect on our consolidated financial position, results of operations or cash flows.

**(7) Related Party Transactions**

The Longview, Texas restaurant, which was acquired by us in connection with the completion of our initial public offering, leases the land and restaurant building from an entity controlled by Steven L. Ortiz, our Chief Operating Officer. The lease term is 15 years and will terminate in November 2014. The lease can be renewed for two additional terms of five years each. Rent is approximately \$19,000 per month. The lease can be terminated if the tenant fails to pay the rent on a timely basis, fails to maintain the insurance specified in the lease, fails to maintain the building or property or becomes insolvent. Total rent payments were approximately \$55,000 and \$50,000 for the 13 week periods ending September 28, 2010 and September 29, 2009, respectively. For the 39 week periods ended September 28, 2010 and September 29, 2009, rent payments were \$0.2 million and \$0.1 million, respectively.

The Bossier City, Louisiana restaurant, of which Steven L. Ortiz owns 65.0% and we own 5.0%, leases the land and building from an entity owned by Mr. Ortiz. The lease term is 15 years and will terminate on March 31, 2020. The lease can be renewed for three additional terms of five years each. Rent is approximately \$16,600 per month and escalates 10% each five year period during the term. The next rent escalation is in the second quarter of 2015. The lease can be terminated if the tenant fails to pay rent on a timely basis, fails to maintain insurance, abandons the property or becomes insolvent. Total rent payments were approximately \$50,000 and \$45,000 for the 13 week periods ended September 28, 2010 and September 29, 2009, respectively. For each of the 39 week periods ended September 28, 2010 and September 29, 2009, rent payments were \$0.1 million.

We have 14 franchise and license restaurants owned, in whole or part, by certain of our officers, directors or 5% shareholders at September 28, 2010 and September 29, 2009. These entities paid us fees of approximately \$0.5 million during each of the 13 week periods ended September 28, 2010 and September 29, 2009, respectively. For each of the 39 week periods ended September 28, 2010 and September 29, 2009, these entities paid us fees of \$1.5 million. As disclosed in note 6, we are contingently liable on leases which are related to three of these restaurants.

**(8) Earnings Per Share**

The share and net income per share data for all periods presented are based on the historical weighted-average shares outstanding. The diluted earnings per share calculations show the effect of the weighted-average stock options, RSUs and restricted stock awards outstanding from our equity incentive plan as discussed in note 2.

The following table summarizes the options and nonvested stock that were outstanding but not included in the computation of diluted earnings per share because their inclusion would have had an anti-dilutive effect:

	13 Weeks Ended		39 Weeks Ended	
	September 28, 2010	September 29, 2009	September 28, 2010	September 29, 2009
Options	2,175,208	2,841,558	2,188,869	3,057,085
Nonvested stock	7,957	20,027	1,713	30,345
Total	2,183,165	2,861,585	2,190,582	3,087,430

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The following table sets forth the calculation of weighted-average shares outstanding (in thousands) as presented in the accompanying condensed consolidated statements of income:

	13 Weeks Ended		39 Weeks Ended	
	September 28, 2010	September 29, 2009	September 28, 2010	September 29, 2009
Net income attributable to Texas Roadhouse, Inc. and subsidiaries	\$ 13,952	\$ 10,695	\$ 48,229	\$ 38,770
<b>Basic EPS:</b>				
Weighted-average common shares outstanding	71,660	70,204	71,273	69,847
Basic EPS	\$ 0.19	\$ 0.15	\$ 0.68	\$ 0.56
<b>Diluted EPS:</b>				
Weighted-average common shares outstanding	71,660	70,204	71,273	69,847
Dilutive effect of stock options and restricted stock	1,342	1,346	1,454	1,304
Shares diluted	73,002	71,550	72,727	71,151
Diluted EPS	\$ 0.19	\$ 0.15	\$ 0.66	\$ 0.54

**(9) Acquisitions**

During the fourth quarter of 2009, we terminated our franchise agreement with a franchisee which operated one restaurant. Pursuant to the terms of the franchise agreement, we acquired the restaurant from the franchisee for an immaterial amount. As a result, there was no purchase price allocation or subsequent goodwill associated with this acquisition. We now operate the restaurant as a joint venture.

**(10) Fair Value Measurement**

ASC 820, *Fair Value Measurements and Disclosures* ( ASC 820 ), establishes a framework for measuring fair value and expands disclosures about fair value measurements. ASC 820 establishes a three-level hierarchy, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs in measuring fair value. The valuation hierarchy is based upon the transparency of inputs to the valuation of an asset or liability on the measurement date.

Level 1	Inputs based on quoted prices in active markets for identical assets.
Level 2	Inputs other than quoted prices included within Level 1 that are observable for the assets, either directly or indirectly.
Level 3	Inputs that are unobservable for the asset.

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There were no transfers among levels within the fair value hierarchy during the 13 and 39 week periods ended September 28, 2010.

The following table presents the fair values for our financial assets and liabilities measured on a recurring basis:

	Level	Fair Value Measurements	
		September 28, 2010	December 29, 2009
Interest rate swaps	2	\$ (4,365)	\$ 31
Deferred compensation plan assets	1	4,829	3,390
Deferred compensation plan - liabilities	1	(4,802)	(3,389)
<b>Total</b>		<b>\$ (4,338)</b>	<b>\$ 32</b>

The fair value of our interest rate swaps were determined based on the present value of expected future cash flows considering the risks involved, including nonperformance risk, and using discount rates appropriate for the duration. See note 4 for discussion of our interest rate swaps.

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The Second Amended and Restated Deferred Compensation Plan of Texas Roadhouse Management Corp., as amended, (the "Deferred Compensation Plan") is a nonqualified deferred compensation plan which allows highly compensated employees to defer receipt of a portion of their compensation and contribute such amounts to one or more investment funds held in a rabbi trust. We report the accounts of the rabbi trust in our condensed consolidated financial statements. These investments are considered trading securities and are reported at fair value based on third-party broker statements. The realized and unrealized holding gains and losses related to these investments, as well as the offsetting compensation expense, are recorded in general and administrative expense on the condensed consolidated statements of income.

The following table presents the fair values for our financial assets and liabilities measured on a nonrecurring basis:

	Level	Fair Value Measurements	
		September 28, 2010	December 29, 2009
Long-lived assets held for sale	2	\$ 1,598	\$ 1,598
Long-lived assets held for use	2	1,145	1,230
Goodwill	3	651	651
<b>Total</b>		<b>\$ 3,394</b>	<b>\$ 3,479</b>

Long-lived assets held for sale include land and building and are valued using Level 2 inputs, primarily an independent third party appraisal. These assets are included in Property and equipment in our condensed consolidated balance sheets as we do not expect to sell these assets in the next 12 months. Costs to market and/or sell the assets are factored into the estimates of fair value.

Long-lived assets held for use include building, equipment and furniture and fixtures and are valued using Level 2 inputs, primarily independent third party appraisal. These assets are included in Property and equipment in our condensed consolidated balance sheets.

Goodwill in the table above relates to two underperforming restaurants in which the carrying value of the associated goodwill was reduced to fair value, based on their historical results and anticipated future trends of operations.

At September 28, 2010 and December 29, 2009, the fair value of cash and cash equivalents, accounts receivable and accounts payable approximated their carrying value based on the short-term nature of these instruments. The fair value of our long-term debt is estimated based on the current rates offered to us for instruments of similar terms and maturities. The carrying amounts and related estimated fair values for our debt are as follows:

	September 28, 2010		December 29, 2009	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Installment loans	\$ 1,907	\$ 1,949	\$ 2,030	\$ 2,592
Revolver	60,000	60,000	99,000	99,000

**(11) Stock Repurchase Program**

On February 14, 2008, our Board of Directors approved a stock repurchase program under which it authorized us to repurchase up to \$25.0 million of our common stock. On July 8, 2008, our Board of Directors approved a \$50.0 million increase in our stock repurchase program. Our total stock repurchase authorization increased to \$75.0 million. Under this program, we were authorized to repurchase outstanding shares of our common stock from time to time in open market transactions through February 14, 2010. On November 19, 2009, the Board of Directors extended the expiration date on the stock repurchase program to February 14, 2011. The timing and the amount of any repurchases will be determined by management under parameters established by our Board of Directors, based on its evaluation of our stock price, market conditions and other corporate considerations.

For the 39 weeks ended September 28, 2010 and September 29, 2009, we did not repurchase any shares of our common stock. The approximate dollar value of shares that may yet be purchased under the plan is \$18.2 million.



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

**OVERVIEW**

Texas Roadhouse is a growing, moderately priced, full-service restaurant chain. Our founder and chairman, W. Kent Taylor, started the business in 1993. Our mission statement is "Legendary Food, Legendary Service®". Our operating strategy is designed to position each of our restaurants as the local hometown destination for a broad segment of consumers seeking high quality, affordable meals served with friendly, attentive service. As of September 28, 2010, there were 338 restaurants operating in 46 states, including:

- 267 company restaurants, of which 256 were wholly-owned and 11 were majority-owned. The results of operations of company restaurants are included in our condensed consolidated statements of income. The portion of income attributable to minority interests in company restaurants that are not wholly-owned is reflected in the line item entitled "Net income attributable to noncontrolling interests" in our condensed consolidated statements of income.
- 71 franchise restaurants, of which 68 were franchise restaurants and three were license restaurants. We have a 5.0% to 10.0% ownership interest in 21 franchise restaurants. The income derived from our minority interests in these franchise restaurants is reported in the line item entitled "Equity income from investments in unconsolidated affiliates" in our condensed consolidated statements of income. Additionally, we provide various management services to these franchise restaurants, as well as five additional franchise restaurants in which we have no ownership interest.

We have contractual arrangements which grant us the right to acquire at pre-determined valuation formulas (i) the remaining equity interests in nine of the 11 majority-owned company restaurants, and (ii) 65 of the franchise restaurants.

**Presentation of Financial and Operating Data**

Throughout this report, the 13 weeks ended September 28, 2010 and September 29, 2009 are referred to as Q3 2010 and Q3 2009, respectively, and the 39 weeks ended September 28, 2010 and September 29, 2009 are referred to as 2010 YTD and 2009 YTD.

**Long-term Strategies to Grow Earnings Per Share**

Our long-term strategies with respect to increasing net income and earnings per share include the following:

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*Expanding Our Restaurant Base.* We will continue to evaluate opportunities to develop Texas Roadhouse restaurants in existing and new domestic and international markets. Domestically, we will remain focused primarily on mid-sized markets where we believe a significant demand for our restaurants exists because of population size, income levels, the presence of shopping and entertainment centers and a significant employment base. Our ability to expand our restaurant base is influenced by many factors beyond our control and therefore we may not be able to achieve our anticipated growth. We moderated our restaurant development plans for 2009 and 2010 due, in part, to increasing restaurant development costs, particularly during 2006 to 2009. Throughout 2010, we have focused on reducing our average capital investment for developing our prototype restaurant by making building design modifications and lowering site work costs. As a result of these changes, we expect our average capital investment for developing our prototype restaurant to decrease by \$0.2 million to \$0.4 million from our \$4.0 million average in 2009. Based on the decreased restaurant development costs we are experiencing and improving sales through 2010 YTD, we are increasing our restaurant development plans for 2011 to approximately 20 restaurants from 14 planned restaurants in 2010. Additionally, we will also be evaluating a slightly smaller prototype late in the fourth quarter of 2010 and possibly more in 2011, which could further reduce our restaurant development costs.

We may, at our discretion, add franchise restaurants, domestically and/or internationally, primarily with franchisees who have demonstrated prior success with the Texas Roadhouse or other restaurant concepts and in markets in which the franchisee demonstrates superior knowledge of the demographics and restaurant operating conditions. In conjunction with this strategy, we signed our first international franchise agreement on April 26, 2010 for the development of Texas Roadhouse restaurants in eight countries in the Middle East over the next ten years, the first of which is expected to open in 2011. We may also look to acquire franchise restaurants under terms favorable to us and our stockholders. Additionally, from time to time, we may evaluate potential mergers, acquisitions, joint ventures or other strategic initiatives to acquire or develop additional concepts. Of the 267 restaurants we owned and operated at September 28, 2010, 265 operated as Texas Roadhouse restaurants, while two operated under the name of Aspen Creek. The majority of our restaurant growth in 2010 will be Texas Roadhouse restaurants; however, we plan to open one additional Aspen Creek restaurant during the fourth quarter of 2010 as we continue testing the viability of the concept.

*Maintaining and/or Improving Restaurant Level Profitability.* We plan to maintain, or possibly increase, restaurant level profitability through a combination of increased comparable restaurant sales and operating cost management.

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*Leveraging Our Scalable Infrastructure.* To support our growth, we continue to make investments in our infrastructure. Over the past several years, we have made significant investments in our infrastructure, including information systems, real estate, human resources, legal, marketing and operations. Historically, general and administrative costs have increased at a slower growth rate than our revenue. Whether we are able to leverage our infrastructure in the future will depend, in part, on our new restaurant openings and our comparable restaurant sales growth rate going forward.

*Stock Repurchase Program.* We continue to look at opportunities to repurchase our common stock at favorable market prices under our stock repurchase program. Currently, our Board of Directors has authorized us to repurchase up to \$75.0 million of our common stock. As of September 28, 2010, \$18.2 million worth of common stock remains authorized for repurchase. We made no purchases of our common stock during the 39 weeks ended September 28, 2010.

**Key Measures We Use to Evaluate Our Company**

Key measures we use to evaluate and assess our business include the following:

*Number of Restaurant Openings.* Number of restaurant openings reflects the number of restaurants opened during a particular fiscal period. For company restaurant openings we incur pre-opening costs, which are defined below, before the restaurant opens. Typically new restaurants open with an initial start-up period of higher than normalized sales volumes, which decrease to a steady level approximately three to six months after opening. However, although sales volumes are generally higher, so are initial costs, resulting in restaurant operating margins that are generally lower during the start-up period of operation and increase to a steady level approximately three to six months after opening.

*Comparable Restaurant Sales Growth.* Comparable restaurant sales growth reflects the change in year-over-year sales for all company restaurants for the comparable restaurant base. We define the comparable restaurant base to include those restaurants open for a full 18 months before the beginning of the current interim period excluding restaurants closed during the period. Comparable restaurant sales growth can be impacted by changes in guest traffic counts or by changes in the per person average check amount. Menu price changes and the mix of menu items sold can affect the per person average check amount.

*Average Unit Volume.* Average unit volume represents the average annual restaurant sales for all company restaurants open for a full six months before the beginning of the period measured. Average unit volume excludes sales on restaurants closed during the period. Growth in average unit volumes in excess of comparable restaurant sales growth is generally an indication that newer restaurants are operating with sales levels in excess of the company average. Conversely, growth in average unit volumes less than growth in comparable restaurant sales growth is generally an indication that newer restaurants are operating with sales levels lower than the company average.

*Store Weeks.* Store weeks represent the number of weeks that our company restaurants were open during the reporting period.

**Other Key Definitions**

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*Restaurant Sales.* Restaurant sales include gross food and beverage sales, net of promotions and discounts. Sales taxes collected from customers and remitted to governmental authorities are accounted for on a net basis and therefore are excluded from restaurant sales in the condensed consolidated statements of income.

*Franchise Royalties and Fees.* Domestic franchisees typically pay a \$40,000 initial franchise fee for each new restaurant and a one-time fee payable for each renewal period equal to the greater of 30% of the then-current initial franchise fee or \$10,000 to \$15,000. Franchise royalties consist of royalties in an amount up to 4.0% of gross sales, as defined in our franchise agreement, paid to us by our domestic franchisees.

*Restaurant Cost of Sales.* Restaurant cost of sales consists of food and beverage costs.

*Restaurant Labor Expenses.* Restaurant labor expenses include all direct and indirect labor costs incurred in operations except for profit sharing incentive compensation expenses earned by our restaurant managers. These profit sharing expenses are reflected in restaurant other operating expenses. Restaurant labor expenses also include share-based compensation expense related to restaurant-level employees.

*Restaurant Rent Expense.* Restaurant rent expense includes all rent associated with the leasing of real estate and includes base, percentage and straight-line rent expense.

*Restaurant Other Operating Expenses.* Restaurant other operating expenses consist of all other restaurant-level operating costs, the major components of which are utilities, supplies, advertising, repair and maintenance, property taxes, credit card fees and general liability insurance. Profit sharing allocations to managing partners and market partners are also included in restaurant other operating expenses.

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*Pre-opening Expenses.* Pre-opening expenses, which are charged to operations as incurred, consist of expenses incurred before the opening of a new restaurant and are comprised principally of opening team and training salaries, travel expenses, rent, and food, beverage and other initial supplies and expenses.

*Depreciation and Amortization Expenses.* Depreciation and amortization expenses ( D&A ) includes the depreciation of fixed assets and amortization of intangibles with definite lives.

*Impairment and closure costs.* Impairment and closure costs include any impairment of long-lived assets associated with restaurants where the carrying amount of the asset is not recoverable and exceeds the fair value of the asset and expenses associated with the closure of a restaurant. Closure costs also include any gains or losses associated with the sale of a closed restaurant and/or assets held for sale.

*General and Administrative Expenses.* General and administrative expenses ( G&A ) are comprised of expenses associated with corporate and administrative functions that support development and restaurant operations and provide an infrastructure to support future growth. Supervision and accounting fees received from certain franchise restaurants and license restaurants are offset against G&A. G&A also includes share-based compensation expense related to executive officers, support center employees and area managers, including market partners.

*Interest Expense, Net.* Interest expense includes the cost of our debt obligations including the amortization of loan fees, reduced by interest income and capitalized interest. Interest income includes earnings on cash and cash equivalents.

*Equity Income from Unconsolidated Affiliates.* As of September 28, 2010 and September 29, 2009, we owned a 5.0% to 10.0% equity interest in 21 franchise restaurants. Equity income from unconsolidated affiliates represents our percentage share of net income earned by these unconsolidated affiliates.

*Net Income Attributable to Noncontrolling Interests.* Net income attributable to noncontrolling interests represents the portion of income attributable to the other owners of the majority-owned or controlled restaurants. Our consolidated subsidiaries at September 28, 2010 and September 29, 2009 included 11 and 10 majority-owned restaurants, respectively, all of which were open.

*Managing Partners and Market Partners.* Managing partners are single unit operators who have primary responsibility for the day-to-day operations of the entire restaurant and are responsible for maintaining the standards of quality and performance we establish. Market partners, generally, have supervisory responsibilities for up to 12 to 15 restaurants. In addition to supervising the operations of our restaurants, they are also responsible for the hiring and development of each restaurant's management team and assist in the new restaurant site selection process.

Table of Contents**Results of Operations**

(\$ in thousands)	13 Weeks Ended				39 Weeks Ended			
	September 28, 2010		September 29, 2009		September 28, 2010		September 29, 2009	
	\$	%	\$	%	\$	%	\$	%
<b>Revenue:</b>								
Restaurant sales	243,405	99.1	224,417	99.1	753,582	99.1	708,808	99.1
Franchise royalties and fees	2,208	0.9	2,050	0.9	6,817	0.9	6,155	0.9
<b>Total revenue</b>	<b>245,613</b>	<b>100.0</b>	<b>226,467</b>	<b>100.0</b>	<b>760,399</b>	<b>100.0</b>	<b>714,963</b>	<b>100.0</b>
<b>Costs and expenses:</b>								
<i>(As a percentage of restaurant sales)</i>								
<b>Restaurant operating costs:</b>								
Cost of sales	79,101	32.5	74,489	33.2	244,560	32.5	237,844	33.6
Labor	71,835	29.5	67,630	30.1	221,241	29.4	210,203	29.7
Rent	5,329	2.2	5,029	2.2	15,886	2.1	14,870	2.1
Other operating	43,476	17.9	38,778	17.3	128,841	17.1	119,450	16.9
<i>(As a percentage of total revenue)</i>								
Pre-opening	2,150	0.9	1,194	0.5	4,562	0.6	4,411	0.6
Depreciation and amortization	10,262	4.2	10,395	4.6	30,861	4.1	31,482	4.4
Impairment and closure	44	NM	(201)	NM	302	NM	(273)	NM
General and administrative	11,968	4.9	11,872	5.2	39,263	5.2	35,918	5.0
<b>Total costs and expenses</b>	<b>224,165</b>	<b>91.3</b>	<b>209,186</b>	<b>92.4</b>	<b>685,516</b>	<b>90.2</b>	<b>653,905</b>	<b>91.5</b>
<b>Income from operations</b>	<b>21,448</b>	<b>8.7</b>	<b>17,281</b>	<b>7.6</b>	<b>74,883</b>	<b>9.8</b>	<b>61,058</b>	<b>8.5</b>
Interest expense, net	644	0.3	784	0.3	2,078	0.3	2,517	0.4
Equity income from investments in unconsolidated affiliates	(155)	(0.1)	(36)	NM	(355)	NM	(185)	NM
<b>Income before taxes</b>	<b>20,959</b>	<b>8.5</b>	<b>16,533</b>	<b>7.3</b>	<b>73,160</b>	<b>9.6</b>	<b>58,726</b>	<b>8.2</b>
Provision for income taxes	6,478	2.6	5,431	2.4	23,133	3.0	18,582	2.6
<b>Net income including noncontrolling interests</b>	<b>14,481</b>	<b>5.9</b>	<b>11,102</b>	<b>4.9</b>	<b>50,027</b>	<b>6.6</b>	<b>40,144</b>	<b>5.6</b>
Net income attributable to noncontrolling interests	529	0.2	407	0.2	1,798	0.2	1,374	0.2
<b>Net income attributable to Texas Roadhouse, Inc. and subsidiaries</b>	<b>13,952</b>	<b>5.7</b>	<b>10,695</b>	<b>4.7</b>	<b>48,229</b>	<b>6.3</b>	<b>38,770</b>	<b>5.4</b>

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 NM Not meaningful
**Restaurant Unit Activity**

	Company	Franchise	Total
Balance at December 29, 2009	261	70	331
Openings	7	1	8

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Acquisitions (Dispositions)			
Closures	(1)		(1)
Balance at September 28, 2010	267	71	338

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**Q3 2010 (13 weeks) Compared to Q3 2009 (13 weeks) and 2010 YTD (39 weeks) Compared to 2009 YTD (39 weeks)**

*Restaurant Sales.* Restaurant sales increased by 8.5% in Q3 2010 as compared to Q3 2009 and by 6.3% in 2010 YTD compared to 2009 YTD. These increases were primarily attributable to the opening of new restaurants and an increase in average unit volumes and comparable restaurant sales.

The following table summarizes certain key drivers and/or attributes of restaurant sales at company restaurants for the periods presented.

	Q3 2010	Q3 2009	2010 YTD	2009 YTD
Increase in store weeks	3.6%	11.0%	4.1%	16.8%
Increase/(decrease) in average unit volumes	4.5%	(5.7)%	1.6%	(4.4)%
Other(1)	0.4%	(1.3)%	0.6%	(1.5)%
Total increase in restaurant sales	8.5%	4.0%	6.3%	10.9%
Store weeks	3,450	3,331	10,294	9,893
Comparable restaurant sales growth	4.3%	(4.6)%	2.1%	(3.0)%
Average unit volume (in thousands)	\$ 913	\$ 874	\$ 2,836	\$ 2,792

(1) Includes the impact of the year-over-year change in sales volume of restaurants open less than six months before the beginning of the period measured and, if applicable, the impact of restaurants closed during the period.

The increases in store weeks for Q3 2010 and 2010 YTD were primarily attributable to the opening of new restaurants. The increases in store weeks for Q3 2009 and 2009 YTD were primarily attributable to the opening of new restaurants and the acquisition of franchise restaurants in 2008 YTD.

The increases in average unit volumes for Q3 2010 compared to Q3 2009 and 2010 YTD compared to 2009 YTD were primarily driven by a combination of positive comparable restaurant sales and higher year-over-year sales at newer restaurants. For Q3 2010 and Q3 2009, comparable restaurants sales increased 4.3% and decreased 4.6%, respectively. The increase in Q3 2010 was generated by an increase in guest traffic counts, partially offset by a slight decline in our per person average check. The decrease in Q3 2009 was generated primarily by a decrease in guest traffic counts, while our per person average check remained fairly constant.

We have implemented certain menu pricing increases to partially offset impacts from higher operating costs and other inflationary pressures. The following table summarizes our menu pricing actions for the periods shown.

	Increased Menu Pricing
April 2009	1.4%
May/June 2008	1.5%



As some guests are purchasing fewer alcoholic beverages and/or shifting their selections to lower priced menu items, average guest check has not increased in line with the menu price increases above. While we have not taken any pricing increases in 2010 due to the favorable commodities environment, we will continue to evaluate the need for and test further menu price increases as we assess the current inflationary and competitive environment.

In 2010, we plan to open 14 company restaurants, seven of which opened during 2010 YTD. We have begun construction for all of the remaining restaurants. In addition, we will continue to evaluate opportunities for international development and possibly acquire additional franchise restaurants in the future.

*Franchise Royalties and Fees.* Franchise royalties and fees increased by \$0.2 million, or by 7.7% in Q3 2010 from Q3 2009 and by \$0.7 million, or by 10.8% in 2010 YTD from 2009 YTD. These increases were primarily attributable to an increase in average unit volumes, increasing royalty rates in conjunction with the renewal of certain franchise agreements, and the opening of a new restaurant in the second quarter of fiscal 2010. Franchise comparable restaurant sales increased 4.4% and 2.4% in Q3 2010 and 2010 YTD, respectively. Franchise restaurant count activity is shown in the restaurant unit activity table above.

*Restaurant Cost of Sales.* Restaurant cost of sales, as a percentage of restaurant sales, decreased to 32.5% in Q3 2010 from 33.2% in Q3 2009 and to 32.5% in 2010 YTD from 33.6% in 2009 YTD. These decreases were primarily attributable to the benefit of lower beef costs and lower food costs on items such as wheat and oil-based ingredients. We expect commodity cost deflation of approximately 2.5% in 2010. For the remainder of 2010, we have fixed price contracts for approximately 75% of our overall food costs with the remainder subject to fluctuating market prices. We expect commodity cost inflation of approximately 2.0%-3.0% in 2011.

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*Restaurant Labor Expenses.* Restaurant labor expenses, as a percentage of restaurant sales, decreased to 29.5% in Q3 2010 from 30.1% in Q3 2009 and to 29.4% in 2010 YTD from 29.7% in 2009 YTD. These decreases were primarily attributable to an increase in average unit volumes and lower state unemployment tax expense, partially offset by higher average wage rates. Additionally, lower workers' compensation claims experience resulted in lower year-over-year workers' compensation expense for Q3 2010. Higher average hourly wage rates resulted from several state-mandated increases in minimum and tip wage rates throughout 2009, including increases in federal minimum wage rate in July 2009. While we have experienced lower state unemployment tax expense throughout 2010 YTD compared to 2009 YTD, we expect to experience higher expense in the fourth quarter of 2010 compared to the fourth quarter of 2009, due to a credit of \$1.2 million recorded in the fourth quarter of 2009 related to refunds of unemployment taxes related to fiscal 2009 for various states. We anticipate our labor costs will continue to be pressured by inflation, which is primarily caused by federal and state-mandated increases in minimum and tip wage rates. These increases may or may not be offset by additional menu price adjustments.

*Restaurant Rent Expense.* Restaurant rent expense, as a percentage of restaurant sales, remained the same at 2.2% in Q3 2010 compared to Q3 2009 and 2.1% in 2010 YTD compared to 2009 YTD. The benefit from an increase in average unit volumes was offset by the impact of leasing more land and buildings than we have in the past.

*Restaurant Other Operating Expenses.* Restaurant other operating expenses, as a percentage of restaurant sales, increased to 17.9% in Q3 2010 from 17.3% in Q3 2009 and to 17.1% in 2010 YTD from 16.9% in 2009 YTD. The increase in Q3 2010 was primarily attributable to higher general liability insurance costs and higher costs for managing partner and market partner bonuses, as a percentage of sales, partially offset by an increase in average unit volumes. In 2010 YTD, higher costs for managing partner and market partner bonuses, as a percentage of sales, and higher general liability insurance costs were offset by an increase in average unit volumes and lower costs for utilities and supplies. Managing partner and market partner bonus expenses were higher in Q3 2010 and 2010 YTD as a result of improved restaurant sales and margins. General liability insurance costs were \$0.8 million higher in Q3 2010 primarily due to changes in our claims development history based on our Q3 2010 actuarial report.

*Restaurant Pre-opening Expenses.* Pre-opening expenses increased to \$2.2 million in Q3 2010 from \$1.2 million in Q3 2009 and increased to \$4.6 million in 2010 YTD from \$4.4 million in 2009 YTD. These increases were primarily attributable to more restaurants in the development pipeline during the third quarter of 2010 as compared to the third quarter of 2009, primarily driven by our plan to open approximately 20 company restaurants in 2011 as compared to 14 company restaurants in 2010. Pre-opening costs will fluctuate from period to period based on the number and timing of restaurant openings and the number and timing of restaurant managers hired. Based on our increased restaurant development plans, we expect pre-opening expense to be higher in 2011.

*Depreciation and Amortization Expense ( D&A ).* D&A, as a percentage of total revenue, decreased to 4.2% in Q3 2010 from 4.6% in Q3 2009 and to 4.1% in 2010 YTD from 4.4% in 2009 YTD. These decreases were primarily attributable to an increase in average unit volumes and lower depreciation expense on older restaurants, partially offset by higher construction costs and other capital spending on new restaurants.

*Impairment and Closure Expenses.* Impairment and closure expenses increased to \$44,000 in Q3 2010 compared to (\$0.2) million in Q2 2009 and \$0.3 million in 2010 YTD compared to (\$0.3) million in 2009 YTD. The costs in Q3 2010 are primarily attributable to various restaurant closures, while 2010 YTD also includes impairment expense of \$0.1 million related to the write-down of equipment associated with one restaurant, which was closed in Q2 2010. In Q3 2009, we closed two restaurants and recorded a gain of \$0.6 million due to the sale of one of these restaurants, which was partially offset by closure costs of \$0.4 million related to the second restaurant.

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*General and Administrative Expenses ( G&A ).* G&A, as a percentage of total revenue, decreased to 4.9% in Q3 2010 from 5.2% in Q3 2009 and increased to 5.2% in 2010 YTD from 5.0% in 2009 YTD. The decrease in Q3 2010 was primarily attributable to lower performance-based bonus expense recorded in Q3 2010 compared to the performance-based bonus expense recorded in Q3 2009. We recorded additional bonus expense for executives and other support center employees of \$0.6 million in Q3 2010 compared to \$1.2 million in Q3 2009. For the remainder of 2010, we expect bonus expense to be more comparable to the same period in 2009. The increase in 2010 YTD was primarily attributable to higher costs related to our annual managing partner conference in Q2 2010. Costs associated with our annual conference were \$3.4 million in 2010 YTD compared to \$2.0 million in 2009 YTD. The majority of these costs were incurred during our second fiscal quarter in each year. We anticipate that the costs associated with our 2011 annual conference will be approximately \$2.0-\$2.5 million.

*Interest Expense, Net.* Interest expense decreased to \$0.6 million in Q3 2010 from \$0.8 million in Q3 2009 and \$2.1 million in 2010 YTD from \$2.5 million in 2009 YTD. These decreases were primarily attributable to the decrease in outstanding borrowings under our credit facility and lower interest rates, partially offset by lower capitalized interest. Lower capitalized interest was primarily due to slower restaurant development in 2010 YTD compared to 2009 YTD.

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*Income Tax Expense.* We account for income taxes in accordance with Financial Accounting Standards Board ( FASB ) Accounting Standards Codification ( ASC ) 740, *Income Taxes ( ASC 740 )*. Our effective tax rate decreased to 31.7% in Q3 2010 from 33.7% in Q3 2009, and remained the same at 32.4% in 2010 YTD compared to 2009 YTD.

The decrease in Q3 2010 was primarily attributable to higher work opportunity tax credits and lower non-deductible stock compensation expense. The decrease was partially offset by the impact of higher profitability, which led to a lower benefit, on a percentage basis, of federal tax credits and an increase in the non-deductibility of officer s compensation. The higher work opportunity tax credits resulted from the expansion of the federal program for disconnected youth.

In 2010 YTD, the increase in work opportunity tax credits and lower non-deductible stock compensation expense was offset by the impact of higher profitability, which led to a lower benefit, on a percentage basis, of federal tax credits and an increase in the non-deductibility of officer s compensation.

We expect the effective tax rate to be approximately 32.4% for fiscal 2010.

**Liquidity and Capital Resources**

The following table presents a summary of our net cash provided by (used in) operating, investing and financing activities:

	39 Weeks Ended	
	September 28, 2010	September 29, 2009
Net cash provided by operating activities	\$ 74,302	\$ 68,296
Net cash used in investing activities	(31,423)	(32,460)
Net cash used in financing activities	(34,312)	(5,261)
Net increase in cash and cash equivalents	\$ 8,567	\$ 30,575

Net cash provided by operating activities was \$74.3 million in 2010 YTD compared to \$68.3 million in 2009 YTD. This increase was primarily due to higher net income, partially offset by other changes in working capital and deferred income taxes. Net income was \$9.9 million higher as a result of having more restaurants open, average unit volume growth and higher margins.

Our operations have not required significant working capital and, like many restaurant companies, we have been able to operate with negative working capital. Sales are primarily for cash, and restaurant operations do not require significant inventories or receivables. In addition, we receive trade credit for the purchase of food, beverages and supplies, thereby reducing the need for incremental working capital to support growth.

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Net cash used in investing activities was \$31.4 million in 2010 YTD compared to \$32.5 million in 2009 YTD. This slight decrease was primarily due to spending on capital expenditures. While we opened seven company restaurants in 2010 YTD compared to 12 company restaurants in 2009 YTD, we have more restaurants in the development pipeline during 2010 YTD as compared to 2009 YTD. As a result, spending on capital expenditures only decreased slightly in 2010 YTD.

We require capital principally for the development of new company restaurants and the refurbishment of existing restaurants. We either lease our restaurant site locations under operating leases for periods of five to 30 years (including renewal periods) or purchase the land where it is cost effective. As of September 28, 2010, 117 of the 267 company restaurants had been developed on land which we owned.

Our future capital requirements will primarily depend on the number of new restaurants we open and the timing of those openings and the restaurant prototype developed in a given fiscal year. These requirements will include costs directly related to opening new restaurants and may also include costs necessary to ensure that our infrastructure is able to support a larger restaurant base. In fiscal 2010, we expect our capital expenditures to be approximately \$50.0 million, the majority of which will relate to planned restaurant openings. This amount excludes any cash used for franchise acquisitions. We intend to satisfy our capital requirements over the next 12 months with cash on hand, net cash provided by operating activities and, if needed, funds available under our credit facility. For 2010, we anticipate net cash provided by operating activities will exceed capital expenditures, which we currently plan to use to repay borrowings under our credit facility and/or increase our cash balance. Currently, our intent is to retain our future earnings, if any, primarily to finance the future development and operation of our business.

Net cash used in financing activities was \$34.3 million in 2010 YTD as compared to \$5.3 million in 2009 YTD. This increase was primarily due to paying down more on borrowings under our credit facility.

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On February 14, 2008, our Board of Directors approved a stock repurchase program to repurchase up to \$25.0 million of common stock. On July 8, 2008, our Board of Directors approved a \$50.0 million increase in our stock repurchase program, thereby increasing our total stock repurchase authorization to \$75.0 million. Under this program, we were authorized to repurchase outstanding shares from time to time in open market transactions through February 14, 2010. On November 19, 2009, our Board of Directors approved the extension of this date to February 14, 2011. No repurchases were made during 2010 YTD or 2009 YTD. The timing and the amount of any repurchases will be determined by our management under parameters established by our Board of Directors, based on its evaluation of our stock price, market conditions and other corporate considerations. The approximate dollar value of shares that may yet be purchased under the plan is \$18.2 million.

In 2010 YTD, we paid distributions of \$1.7 million to equity holders of ten of our majority-owned company restaurants. In 2009 YTD, we paid distributions of \$1.7 million to equity holders of nine of our majority-owned company restaurants.

We have a \$250.0 million five-year revolving credit facility with a syndicate of commercial lenders led by Bank of America, N.A., Banc of America Securities LLC and PNC Bank. The facility expires on May 31, 2012. The terms of the facility require us to pay interest on outstanding borrowings at LIBOR plus a margin of 0.50% to 0.875%, depending on our leverage ratio, or the Base Rate, which is the higher of the issuing bank's prime lending rate or the Federal funds rate plus 0.50%. We are also required to pay a commitment fee of 0.10% to 0.175% per year on any unused portion of the facility, depending on our leverage ratio. The weighted-average interest rate for the revolver at September 28, 2010 and December 29, 2009 was 3.24% and 2.36%, respectively, including interest rate swaps.

The lenders' obligation to extend credit under the facility depends on us maintaining certain financial covenants, including a minimum consolidated fixed charge coverage ratio of 2.00 to 1.00 and a maximum consolidated leverage ratio of 3.00 to 1.00. The credit facility permits us to incur additional secured or unsecured indebtedness outside the facility, except for the incurrence of secured indebtedness that in the aggregate exceeds 20% of our consolidated tangible net worth or circumstances where the incurrence of secured or unsecured indebtedness would prevent us from complying with our financial covenants. We were in compliance with all covenants as of September 28, 2010.

At September 28, 2010, we had \$60.0 million of outstanding borrowings under our credit facility and \$186.4 million of availability net of \$3.6 million of outstanding letters of credit. In addition, we had various other notes payable totaling \$1.9 million with interest rates ranging from 10.46% to 10.80%. Each of these notes related to the financing of specific restaurants. Our total weighted-average effective interest rate at September 28, 2010 was 3.46%, including interest rate swaps.

On October 22, 2008, we entered into an interest rate swap, starting on November 7, 2008, with a notional amount of \$25.0 million to hedge a portion of the cash flows of our variable rate credit facility. We have designated the interest rate swap as a cash flow hedge of our exposure to variability in future cash flows attributable to interest payments on a \$25.0 million tranche of floating rate debt borrowed under our revolving credit facility. Under the terms of the swap, we pay a fixed rate of 3.83% on the \$25.0 million notional amount and receive payments from the counterparty based on the 1-month LIBOR rate for a term ending on November 7, 2015, effectively resulting in a fixed rate LIBOR component of the \$25.0 million notional amount. Our counterparty in this interest rate swap is J.P. Morgan Chase, N.A.

On January 7, 2009, we entered into another interest rate swap, starting on February 7, 2009, with a notional amount of \$25.0 million to hedge a portion of the cash flows of our variable rate credit facility. We have designated the interest rate swap as a cash flow hedge of our exposure to variability in future cash flows attributable to interest payments on a \$25.0 million tranche of floating rate debt borrowed under our revolving credit facility. Under the terms of the swap, we pay a fixed rate of 2.34% on the \$25.0 million notional amount and receive payments from the counterparty based on the 1-month LIBOR rate for a term ending on January 7, 2016, effectively resulting in a fixed rate LIBOR component of the \$25.0 million notional amount. Our counterparty in this interest rate swap is J.P. Morgan Chase, N.A.



Table of Contents**Contractual Obligations**

The following table summarizes the amount of payments due under specified contractual obligations as of September 28, 2010:

	Total	Payments Due by Period			
		Less than 1 year	1-3 Years (in thousands)	3-5 Years	More than 5 years
Long-term debt obligations	\$ 61,907	\$ 180	\$ 60,423	\$ 523	\$ 781
Capital lease obligations	337	87	202	48	
Interest (1)	12,270	2,406	4,071	3,940	1,853
Operating lease obligations	213,393	16,123	40,832	39,675	116,763
Capital obligations	24,098	24,098			
Total contractual obligations (2)	\$ 312,005	\$ 42,894	\$ 105,528	\$ 44,186	\$ 119,397

(1) Assumes constant rate until maturity for our fixed and variable rate debt and capital lease obligations.

Uses interest rates as of September 28, 2010 for our variable rate debt. Interest payments on our variable-rate revolving credit facility balance at September 28, 2010 are calculated based on the assumption that debt relating to the interest rate swaps covering notional amounts totaling \$50.0 million remains outstanding until the expiration of the respective swap arrangements. The interest rates used in determining interest payments to be made under the interest rate swap agreements were determined by taking the applicable fixed rate of each swap plus the 0.75% margin, which was in effect as of September 28, 2010. Additionally, we have assumed \$10.0 million in revolving credit facility borrowings not covered by interest rate swaps is outstanding until the end of the 2010 fiscal year and have calculated interest payments using the weighted average interest rate of 3.24%, which is the interest rate associated with our revolving credit facility as of September 28, 2010.

(2) This amount excludes approximately \$21,000 of unrecognized tax benefits under FASB ASC 740, *Income Taxes*.

The Company has no material minimum purchase commitments with its vendors that extend beyond a year. See note 6 to the condensed consolidated financial statements for details of contractual obligations.

**Off-Balance Sheet Arrangements**

Except for operating leases (primarily restaurant leases), we do not have any off-balance sheet arrangements.



## Guarantees

We entered into real estate lease agreements for franchise restaurants located in Everett, MA, Longmont, CO, Montgomeryville, PA, Fargo, ND and Logan, UT prior to our granting franchise rights for those restaurants. We have subsequently assigned the leases to the franchisees, but we remain contingently liable if a franchisee defaults under the terms of a lease. The Longmont lease expires in May 2014, the Everett lease expires in February 2018, the Montgomeryville lease expires in June 2021, the Fargo lease expires in July 2016 and the Logan lease expires in August 2019. As the fair value of these guarantees is not considered significant, no liability value has been recorded.

## Recently Issued Accounting Standards

### *Fair Value Measures and Disclosures*

*(Accounting Standards Update ( ASU ) 2010-06)*

In January 2010, the FASB issued ASU 2010-06 which amends Accounting Standards Codification ( ASC ) topic 820, *Fair Value Measures and Disclosures*. ASU No. 2010-06 amends the ASC to require disclosure of transfer into and out of Level 1 and Level 2 fair value measurements, and also require more detailed disclosure about the activity within Level 3 fair value measurements. The changes as a result of this update are effective for annual and interim reporting periods beginning after December 15, 2009 (our 2010 fiscal year), except for requirements related to Level 3 disclosures, which are effective for annual and interim reporting periods beginning after December 15, 2010 (our 2011 fiscal year). This guidance requires new disclosures only, and will have no impact on our consolidated financial position, results of operations or cash flows.

### *Consolidation of Variable Interest Entities Amended*

*(To be included in ASC 810, Consolidation , previously SFAS 167, Amendments to FASB Interpretation No. 46(R) )*

ASC 810 provides guidance for determining the primary beneficiary of a variable interest entity. In addition, ASC 810 requires ongoing assessments of whether an enterprise is the primary beneficiary of a variable interest entity. ASC 810 is effective for the first annual and interim reporting periods that begin after November 15, 2009 (our fiscal year 2010). The adoption of ASC 810 had no impact on our consolidated financial position, results of operations and cash flows.

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

We are exposed to market risk from changes in interest rates on debt and changes in commodity prices. Our exposure to interest rate fluctuations is limited to our outstanding bank debt and dependent on the interest rate option we choose to utilize under our revolving line of credit. Our options for the rate are the Base Rate, which is the higher of the issuing bank's prime lending rate or the Federal Funds rate plus 0.50%, or the London Interbank Offered Rate ( LIBOR ) plus an applicable margin. At September 28, 2010 there was \$60.0 million outstanding under our revolving line of credit which bears interest at approximately 50 to 87.5 basis points (depending on our leverage ratios) over LIBOR. Our various other notes payable totaled \$1.9 million at September 28, 2010 and had fixed rates ranging from 10.46% to 10.80%. Should interest rates on our variable rate borrowings increase by one percentage point, our estimated annual interest expense would increase by \$0.6 million.

On October 22, 2008, we entered into an interest rate swap, starting on November 7, 2008, with a notional amount of \$25.0 million to hedge a portion of the cash flows of our variable rate borrowings. We have designated the interest rate swap as a cash flow hedge of our exposure to variability in future cash flows attributable to interest payments on a \$25.0 million tranche of floating rate debt borrowed under our revolving credit facility. Under the terms of the swap, we pay a fixed rate of 3.83% on the \$25.0 million notional amount and receive payments from the counterparty based on the 1-month LIBOR rate for a term ending on November 7, 2015, effectively resulting in a fixed rate on the LIBOR component of the \$25.0 million notional amount.

On January 7, 2009, we entered into another interest rate swap, starting February 7, 2009, with a notional amount of \$25.0 million to hedge a portion of the cash flows of our variable rate credit facility. We have designated the interest rate swap as a cash flow hedge of our exposure to variability in future cash flows attributable to interest payments on a \$25.0 million tranche of floating rate debt borrowed under our revolving credit facility. Under the terms of the swap, we pay a fixed rate of 2.34% on the \$25.0 million notional amount and receive payments from the counterparty based on the 1-month LIBOR rate for a term ending on January 7, 2016, effectively resulting in a fixed rate LIBOR component of the \$25.0 million notional amount.

By using derivative instruments to hedge exposures to changes in interest rates, we expose ourselves to credit risk. Credit risk is the failure of the counterparty to perform under the terms of the derivative contract. We minimize the credit risk by entering into transactions with high-quality counterparties whose credit rating is evaluated on a quarterly basis. Our counterparty in the interest rate swaps is J.P. Morgan Chase, N.A.

Many of the ingredients used in the products sold in our restaurants are commodities that are subject to unpredictable price volatility. Currently, we do not utilize fixed price contracts for certain commodities such as produce and cheese, therefore, we are subject to prevailing market conditions when purchasing those types of commodities. For other commodities, we employ various purchasing and pricing contract techniques in an effort to minimize volatility, including fixed price contracts for terms of generally one year or less and negotiating prices with vendors with reference to fluctuating market prices. We currently do not use financial instruments to hedge commodity prices, but we will continue to evaluate their effectiveness. Extreme and/or long term increases in commodity prices could adversely affect our future results, especially if we are unable, primarily due to competitive reasons, to increase menu prices. Additionally, if there is a time lag between the increasing commodity prices and our ability to increase menu prices or if we believe the commodity price increase to be short in duration and we choose not to pass on the cost increases, our short-term financial results could be negatively affected.

We are subject to business risk as our beef supply is highly dependent upon two to four vendors. If these vendors were unable to fulfill their obligations under their contracts, we may encounter supply shortages and incur higher costs to secure adequate supplies, any of which would harm our business.

**ITEM 4. CONTROLS AND PROCEDURES**

**Evaluation of disclosure controls and procedures**

We have evaluated the effectiveness of the design and operation of our disclosure controls and procedures pursuant to, and as defined in Exchange Act Rules 13a-15(e) and 15d-15(e) as of the end of the period covered by this report. Based on the evaluation, performed under the supervision and with the participation of our management, including the Chief Executive Officer (the CEO ) and the Chief Financial Officer (the CFO ), our management, including the CEO and CFO, concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report.

**Changes in internal control**

During the period covered by this report, there were no changes with respect to our internal control over financial reporting that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

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**PART II OTHER INFORMATION**

**ITEM 1. LEGAL PROCEEDINGS**

Occasionally, we are a defendant in litigation arising in the ordinary course of our business, including slip and fall accidents, employment related claims and claims from guests or employees alleging illness, injury or food quality, health or operational concerns. None of these types of litigation, most of which are covered by insurance, has had a material effect on us and, as of the date of this report, we are not party to any litigation that we believe would have a material adverse effect on our business.

On October 8, 2010, the U.S. Equal Employment Opportunity Commission ( EEOC ) for the Boston Area Office issued a determination letter in Charge No. 523-2009-00643 alleging that we engaged in a pattern and practice of age discrimination in hiring for certain restaurant positions in violation of the Age Discrimination in Employment Act. The determination alleges that applicants over the age of 40 were denied employment in our restaurants in host, server and server assistant positions solely due to their age. The EEOC is seeking remedial actions and the payment of damages to the disaffected applicants. We have denied the allegation and intend to vigorously defend against the charge. The EEOC has invited us to participate in its conciliation process, and we have agreed to do so. Based on the preliminary status of this matter, we cannot estimate the possible amount or range of loss, if any, associated with this matter.

**ITEM 1A. RISK FACTORS**

Information regarding risk factors appears in our Annual Report on Form 10-K for the year ended December 29, 2009, under the heading Special Note Regarding Forward-looking Statements and in the Form 10-K Part I, Item 1A, Risk Factors. There have been no material changes from the risk factors previously disclosed in our Form 10-K.

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

On February 14, 2008, our Board of Directors approved a stock repurchase program under which it authorized us to repurchase up to \$25.0 million of our common stock through February 14, 2010. On July 8, 2008, our Board of Directors approved a \$50.0 million increase in our stock repurchase program. On November 19, 2009, our Board of Directors extended the expiration date on the stock repurchase program to February 14, 2011. We made no repurchases of common stock during the 39 weeks ended September 28, 2010. The approximate dollar value of shares that may yet be purchased under the plan is \$18.2 million.

**ITEM 3. DEFAULTS UPON SENIOR SECURITIES**

None.

**ITEM 4. (Removed and Reserved)**

None.

**ITEM 5. OTHER INFORMATION.**

None.

**ITEM 6. EXHIBITS.**

<b>Exhibit No.</b>	<b>Description</b>
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

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**SIGNATURES**

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.

TEXAS ROADHOUSE, INC.

Date: November 5, 2010

By: /s/ G.J. Hart  
G.J. Hart  
President, Chief Executive Officer  
(principal executive officer)

Date: November 5, 2010

By: /s/ Scott M. Colosi  
Scott M. Colosi  
Chief Financial Officer  
(principal financial officer)  
(chief accounting officer)