WINMARK CORP
Form 10-Q/A
January 08, 2010

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q/A

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

For the quarter ended September 26, 2009

or

o **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: 000-22012

WINMARK CORPORATION

(Exact name of registrant as specified in its charter)

Minnesota	**41-1622691**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

605 Highway 169 North, Suite 400, Minneapolis, MN 55441

(Address of principal executive offices) (Zip Code)

(763) 520-8500

(Registrant s telephone number, including area code)

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 x No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

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:

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

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

Common stock, no par value, 5,231,953 shares outstanding as of October 16, 2009.

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WINMARK CORPORATION AND SUBSIDIARIES

EXPLANATORY NOTE

This Amendment No. 1 on Form 10-Q/A (the Amendment) is being filed to amend our Form 10-Q for the quarter ended September 26, 2009 filed with the Securities and Exchange Commission on October 23, 2009 (the Original Filing). The sole purpose of this Amendment is to include a new certification under Exhibit 31.2 containing a conformed signature that was inadvertently not included on Exhibit 31.2 to the Original Filing.

Except for the foregoing, no other changes have been made to the Original Filing, and this Amendment does not modify or update any other information in the Original Filing. Information not affected by the changes described above is unchanged and reflects the disclosures made at the time of the Original Filing. Accordingly, this Amendment should be read in conjunction with the Original Filing and our filings made with the Securities and Exchange Commission subsequent to the date of the Original Filing.

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PART I. FINANCIAL INFORMATION

ITEM 1: Financial Statements

WINMARK CORPORATION AND SUBSIDIARIES

CONSOLIDATED CONDENSED BALANCE SHEETS

(Unaudited)

	September 26, 2009	December 27, 2008
ASSETS		
Current Assets:		
Cash and cash equivalents	$ 11,542,300	$ 2,140,000
Marketable securities	1,191,900	438,300
Current investments	2,000,000	500,000
Receivables, less allowance for doubtful accounts of $36,300 and $52,700	1,669,000	2,064,100
Net investment in leases - current	16,577,900	17,379,700
Income tax receivable		792,200
Inventories	110,800	141,500
Prepaid expenses	394,600	1,018,800
Deferred income taxes		216,900
Total current assets	33,486,500	24,691,500
Net investment in leases - long-term	22,515,800	28,035,300
Long-term investments	2,271,900	3,833,300
Long-term receivables, net	22,000	39,200
Property and equipment, net	1,936,600	512,200
Other assets	677,500	677,500
Deferred income taxes		320,800
	$ 60,910,300	$ 58,109,800
LIABILITIES AND SHAREHOLDERS EQUITY		
Current Liabilities:		
Current line of credit	$ 3,941,600	$ 4,313,200
Current renewable unsecured subordinated notes	8,655,200	8,052,400
Accounts payable	1,133,200	1,108,200
Income tax payable	650,700	
Accrued liabilities	2,424,100	2,905,400
Current discounted lease rentals	1,049,100	1,012,900
Current rents received in advance	273,700	141,600
Current deferred revenue	910,500	993,600
Deferred income taxes	368,300	
Total current liabilities	19,406,400	18,527,300
Long-term line of credit	6,308,500	9,276,300
Long-term renewable unsecured subordinated notes	13,952,700	12,788,700
Long-term discounted lease rentals	741,500	1,298,500
Long-term rents received in advance	1,446,800	1,696,400
Long-term deferred revenue	699,500	631,400
Other long-term liabilities	1,327,000	
Deferred income taxes	490,700	
Shareholders Equity:		
Common stock, no par, 10,000,000 shares authorized, 5,255,284 and 5,433,610 shares issued and outstanding		427,500
Accumulated other comprehensive income (loss)	80,700	(38,500)
Retained earnings	16,456,500	13,502,200
Total shareholders equity	16,537,200	13,891,200
	$ 60,910,300	$ 58,109,800

The accompanying notes are an integral part of these financial statements

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WINMARK CORPORATION AND SUBSIDIARIES

CONSOLIDATED CONDENSED STATEMENTS OF OPERATIONS

(Unaudited)

	Three Months Ended		Nine Months Ended	
	September 26, 2009	**September 27, 2008**	**September 26, 2009**	**September 27, 2008**
REVENUE:				
Royalties	$ 6,405,200	$ 5,740,600	$ 17,646,600	$ 16,376,000
Leasing income	2,271,600	2,060,400	7,116,400	5,920,000
Merchandise sales	593,800	777,600	1,898,500	2,685,400
Franchise fees	419,600	431,900	804,600	1,345,500
Other	134,600	117,700	446,800	396,000
Total revenue	9,824,800	9,128,200	27,912,900	26,722,900
COST OF MERCHANDISE SOLD	569,700	730,800	1,816,700	2,565,400
LEASING EXPENSE	548,000	471,000	1,743,300	1,420,000
PROVISION FOR CREDIT LOSSES	853,600	571,800	1,877,500	1,226,100
SELLING, GENERAL AND ADMINISTRATIVE EXPENSES	4,666,800	4,744,100	14,379,900	15,068,400
Income from operations	3,186,700	2,610,500	8,095,500	6,443,000
LOSS FROM EQUITY INVESTMENTS	(57,300)	(145,200)	(61,400)	(281,700)
INTEREST EXPENSE	(317,300)	(309,600)	(1,009,800)	(998,200)
INTEREST AND OTHER INCOME	178,700	114,500	351,400	246,300
Income before income taxes	2,990,800	2,270,200	7,375,700	5,409,400
PROVISION FOR INCOME TAXES	(1,211,300)	(919,400)	(2,987,200)	(2,190,800)
NET INCOME	$ 1,779,500	$ 1,350,800	$ 4,388,500	$ 3,218,600
EARNINGS PER SHARE BASIC	$ .34	$ .24	$ .82	$ .58
EARNINGS PER SHARE DILUTED	$ .33	$ .24	$ .82	$ .58
WEIGHTED AVERAGE SHARES OUTSTANDING BASIC	5,282,349	5,522,188	5,335,869	5,519,265
WEIGHTED AVERAGE SHARES OUTSTANDING DILUTED	5,329,697	5,548,461	5,357,259	5,548,473

The accompanying notes are an integral part of these financial statements

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WINMARK CORPORATION AND SUBSIDIARIES

CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS

(Unaudited)

	Nine Months Ended September 26, 2009	Nine Months Ended September 27, 2008
OPERATING ACTIVITIES:		
Net income	$ 4,388,500	$ 3,218,600
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	405,200	263,500
Provision for credit losses	1,877,500	1,226,100
Compensation expense related to stock options	576,000	632,300
Gain from sale of marketable securities	(76,700)	
Gain from disposal of property and equipment	(1,200)	
Loss from equity investments	61,400	281,700
Deferred initial direct costs, net of amortization	162,900	(297,700)
Change in operating assets and liabilities:		
Receivables	412,300	237,000
Income tax receivable/payable	1,368,600	228,400
Inventories	30,700	39,000
Prepaid expenses	624,200	83,400
Other assets		(51,700)
Deferred income taxes	1,396,700	
Accounts payable	25,000	(328,700)
Accrued and other liabilities	(226,700)	228,200
Additions to advance and security deposits	101,300	722,700
Deferred revenue	(15,000)	(82,500)
Net cash provided by operating activities	11,110,700	6,400,300
INVESTING ACTIVITIES:		
Proceeds from sale of marketable securities	311,500	
Purchase of marketable securities	(794,900)	
Proceeds from sale of property and equipment	1,800	
Purchases of property and equipment	(757,800)	(191,600)
Purchase of equipment for lease contracts	(12,164,800)	(16,845,800)
Principal collections on lease receivables	15,278,000	11,231,000
Net cash provided by (used for) investing activities	1,873,800	(5,806,400)
FINANCING ACTIVITIES:		
Proceeds from borrowings on line of credit		3,000,000
Payments on line of credit	(3,339,400)	(5,221,900)
Proceeds from issuance of subordinated notes	4,964,700	1,399,400
Payments on subordinated notes	(3,197,900)	(1,504,400)
Repurchases of common stock	(2,493,200)	(556,700)
Proceeds from exercises of stock options	50,000	
Proceeds from discounted lease rentals	428,100	2,912,600
Tax benefits on exercised stock options and warrants	5,500	1,025,500
Net cash provided by (used for) financing activities	(3,582,200)	1,054,500
INCREASE IN CASH AND CASH EQUIVALENTS	9,402,300	1,648,400
Cash and cash equivalents, beginning of period	2,140,000	1,253,000

Cash and cash equivalents, end of period	$	11,542,300	$	2,901,400
SUPPLEMENTAL DISCLOSURES:				
Cash paid for interest	$	1,720,500	$	1,851,200
Cash paid for income taxes	$	216,300	$	990,500
Non-cash landlord leasehold improvements	$	1,072,400	$	

The accompanying notes are an integral part of these financial statements

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WINMARK CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS

1. Management s Interim Financial Statement Representation:

The accompanying consolidated condensed financial statements have been prepared by Winmark Corporation and subsidiaries (the Company), without audit, pursuant to the rules and regulations of the Securities and Exchange Commission. The Company has a 52/53 week year which ends on the last Saturday in December. The information in the consolidated condensed financial statements includes normal recurring adjustments and reflects all adjustments which are, in the opinion of management, necessary for a fair presentation of such financial statements. The consolidated condensed financial statements and notes are presented in accordance with accounting principles generally accepted in the United States for interim financial information and with the instructions for Form 10-Q, and therefore do not contain certain information included in the Company s annual consolidated financial statements and notes. This report should be read in conjunction with the audited consolidated financial statements and the notes thereto included in the Company s latest Annual Report on Form 10-K.

Revenues and operating results for the nine months ended September 26, 2009 are not necessarily indicative of the results to be expected for the full year.

Subsequent events have been evaluated through October 23, 2009, the date of issuance of these financial statements.

Reclassifications

Certain reclassifications of previously reported amounts have been made to conform to the current year presentation. Such reclassifications did not impact net income or shareholders equity as previously reported.

2. Organization and Business:

The Company offers licenses to operate franchises using the service marks Play It Again Sports®, Once Upon A Child®, Music Go Round®, Plato s Closet® and Wirth Business Credit®. In addition, the Company sells inventory to its Play It Again Sports® franchisees through its buying group. The Company also operates both small-ticket and middle market equipment leasing businesses under the Wirth Business Credit® and Winmark Capital® marks.

3. Investments:

Marketable Securities

The following is a summary of marketable securities classified as available-for-sale securities as required by Financial Accounting Standards Board (FASB) Accounting Standards Codification Topic (ASC) 320, *Investments-Debt and Equity Securities*:

	September 26, 2009		December 27, 2008	
	Cost	**Fair Value**	**Cost**	**Fair Value**
Equity securities	$ 1,060,900	$ 1,191,900	$ 500,800	$ 438,300

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The Company s unrealized gains and losses for marketable securities classified as available-for-sale securities in accumulated other comprehensive income (loss) are as follows:

	September 26, 2009		December 27, 2008	
Unrealized gains	$	131,000	$	
Unrealized losses				(62,500)
Net unrealized gains (losses)	$	131,000	$	(62,500)

The Company s realized gains recognized on sales of available-for-sale marketable securities are as follows:

	Three Months Ended				Nine Months Ended			
	September 26, 2009		September 27, 2008		September 26, 2009		September 27, 2008	
Realized gains	$	75,900	$		$	76,700	$	
Realized losses								
Net realized gains	$	75,900	$		$	76,700	$	

Other Long-Term Investments

The Company has an investment in Tomsten, Inc. (Tomsten), the parent company of Archiver s retail chain. Archiver s is a retail concept created to help people preserve and enjoy their photographs. The Company has invested a total of $7.5 million in the purchase of common stock of Tomsten. The Company s investment currently represents 18.3% of the outstanding common stock of Tomsten. As of September 26, 2009, $0.2 million of the Company s investment, with a current carrying cost of $2.3 million, is attributable to goodwill. The amount of goodwill was determined by calculating the difference between the Company s net investment in Tomsten less its pro rata share of Tomsten s net worth.

Summarized financial information for Tomsten, Inc. is as follows:

	Nine Month Fiscal Period Ended			
	Third Quarter 2009		Third Quarter 2008	
Net sales	$	42,831,200	$	47,396,000
Gross profit		21,022,300		23,361,400
Net income (loss) from continuing operations		(302,300)		(1,160,500)
Net income (loss)		(302,300)		(1,160,500)

On October 13, 2004, the Company made a commitment to lend $2.0 million to BridgeFunds Limited at an annual rate of 12% pursuant to several senior subordinated promissory notes. BridgeFunds Limited advances funds to claimants involved in civil litigation to cover litigation expenses. At December 27, 2008 and September 26, 2009, the Company had funded the $2.0 million commitment. In addition, the Company has received a warrant to purchase approximately 257,000 shares of BridgeFunds at $1 per share, which currently represents 6.5% of the equity of BridgeFunds on a fully diluted basis. On August 23, 2007, in connection with raising capital, BridgeFunds Limited completed a restructuring where all assets and liabilities, including the warrant, were assigned to and assumed by BridgeFunds, LLC. As of September 26, 2009, the warrants have not been exercised. On October 22, 2009, the Company entered into a modification agreement with BridgeFunds, LLC, whereby the maturity date of all of the outstanding promissory notes was changed to September 30, 2010, the annual rate of interest on the notes was increased to 15% and monthly prepayments of the principal of such notes in an amount equal to Available Cash Flow (as defined within the modification agreement) is required. As of September 26, 2009, the $2.0 million investment balance is classified as current based on expected payments from Available Cash Flow.

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4. Investment in Leasing Operations:

Investment in leasing operations consists of the following:

	September 26, 2009	December 27, 2008
Minimum lease payments receivable	$ 43,257,400	$ 51,110,200
Estimated residual value of equipment	2,951,600	2,406,500
Unearned lease income net of initial direct costs deferred	(7,120,100)	(8,675,300)
Security deposits	(1,926,500)	(1,707,700)
Allowance for credit losses	(1,112,100)	(1,538,900)
Equipment installed on leases not yet commenced	3,043,400	3,820,200
Total net investment in leases	39,093,700	45,415,000
Less: net investment in leases current	(16,577,900)	(17,379,700)
Net investment in leases long-term	$ 22,515,800	$ 28,035,300

The Company had $2,304,300 and $974,200 of write-offs, net of recoveries, related to the lease portfolio during the first nine months of 2009 and 2008, respectively.

As of September 26, 2009, no customer had leased assets totaling more than 10% of the Company s total assets.

Minimum lease payments receivable under lease contracts and the amortization of unearned lease income, net of initial direct costs deferred, is as follows for the remainder of fiscal 2009 and the full fiscal years thereafter as of September 26, 2009:

Fiscal Year	Minimum Lease Payments Receivable	Income Amortization
2009	$ 5,930,700	$ 1,506,600
2010	20,689,000	3,924,800
2011	11,531,700	1,364,200
2012	4,326,400	289,200
2013	733,400	