

Crystal Richard P
Form 4
January 30, 2009

FORM 4

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

OMB APPROVAL

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
Crystal Richard P

(Last) (First) (Middle)
450 W. 33RD ST., 5TH FLOOR

(Street)

NEW YORK, NY 10001

(City) (State) (Zip)

2. Issuer Name and Ticker or Trading Symbol

New York & Company, Inc. [NWY]

3. Date of Earliest Transaction (Month/Day/Year)

01/28/2009

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

Director 10% Owner
 Officer (give title below) Other (specify below)
Chairman and CEO

6. Individual or Joint/Group Filing(Check Applicable Line)

Form filed by One Reporting Person
 Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

| 1. Title of Security (Instr. 3) | 2. Transaction Date (Month/Day/Year) | 2A. Deemed Execution Date, if any (Month/Day/Year) | 3. Transaction Code (Instr. 8) | 4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5) | 5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4) | 6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4) | 7. Nature of Ownership (Instr. 4) |
|---------------------------------|--------------------------------------|--|--------------------------------|---|---|--|-----------------------------------|
| Common Stock | | | | (A) or (D) Price | 810,350 (1) (2) | D | |

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

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| 1. Title of Derivative Security (Instr. 3) | 2. Conversion or Exercise Price of Derivative Security | 3. Transaction Date (Month/Day/Year) | 3A. Deemed Execution Date, if any (Month/Day/Year) | 4. Transaction Code (Instr. 8) | 5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5) | 6. Date Exercisable and Expiration Date (Month/Day/Year) | 7. Title and Amount of Underlying Securities (Instr. 3 and 4) | | |
|--|--|--------------------------------------|--|--------------------------------|---|--|---|--------------|----------------------|
| | | | | Code | V (A) (D) | Date Exercisable | Expiration Date | Title | Amount Number Shares |
| Performance Units ⁽³⁾ | \$ 0 | 01/28/2009 | | A | 1,000 ⁽³⁾ | ⁽³⁾ | ⁽³⁾ | Common Stock | 1,000 |
| Options to Purchase Common Stock | \$ 4.74 | | | | | ⁽⁴⁾ | 03/19/2018 | Common Stock | 115,000 |
| Options to Purchase Common Stock | \$ 15.76 | | | | | ⁽⁵⁾ | 03/15/2016 | Common Stock | 45,000 |
| Options to Purchase Common Stock | \$ 3.23 | | | | | ⁽⁶⁾ | 05/14/2014 | Common Stock | 486,450 |
| Options to Purchase Common Stock | \$ 0.11 | | | | | ⁽⁶⁾ | 11/27/2012 | Common Stock | 771,010 |

Reporting Owners

| Reporting Owner Name / Address | Relationships | | | |
|---|---------------|-----------|------------------|-------|
| | Director | 10% Owner | Officer | Other |
| Crystal Richard P 450 W. 33RD ST. 5TH FLOOR NEW YORK, NY 10001 | X | | Chairman and CEO | |

Signatures

/s/ Richard P.
Crystal

01/30/2009

**Signature of Reporting Person

Date

Explanation of Responses:

* If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

(1) On November 19, 2008, the Reporting Person was granted an award of restricted stock in connection with the modification of the Company's Spring 2009 bonus plan. The Company, its senior management and its Board of Directors have agreed to modify the spring bonus plan under the Company's Incentive Compensation Plan, such that target bonuses for senior management will be reduced by 50% and will not be paid with cash but rather will be paid with an award of the Company's common stock if the Company achieves the applicable operating income targets for Spring 2009 that were approved by the Compensation Committee of its Board of Directors. For a further description of the Company's Incentive Compensation Plan, refer to its 2008 Proxy Statement filed with the Securities and Exchange Commission on May 22, 2008.

(2) Includes 673,389 shares of common stock, 121,961 shares of restricted stock described in footnote #1, and 15,000 shares of restricted stock which will be earned pursuant to a schedule ending on August 16, 2010 depending on company performance and continued employment through August 16, 2010, at which time such shares shall vest. If certain company performance objectives are met throughout the 4-year period, the restricted stock will be earned as follows: 1,875 on February 3, 2007; 3,750 on February 2, 2008; 3,750 on January 31, 2009; 3,750 on January 30, 2010; and 1,875 on August 16, 2010. If on August 16, 2010, the company's cumulative 4-year performance meets the cumulative 4-year performance objectives, then any unearned shares will vest.

(3) On January 28, 2009, the Reporting Person was granted a performance unit award subject to performance vesting requirements and continued employment with the Company through February 11, 2011. In order to meet the performance vesting requirement, the average closing stock price of the Company's common stock for the 30 trading days prior to February 11, 2011 (the "Average Closing Stock Price") shall be equal to or greater than \$11.00 per share. If the performance units become vested on February 11, 2011, the Reporting Person will receive the number of shares of common stock equal to (i) \$3,000,000 divided by the Average Closing Stock Price if such Average Closing Stock Price is equal to or greater than \$11.00 per share but less than \$20.00 per share or (ii) \$5,000,000 divided by the Average Closing Stock Price if the Average Closing Stock Price is greater or equal to \$20.00 per share. The maximum number of shares the Reporting Person can receive is limited to 272,727 shares.

(4) The options become exercisable in four annual installments on the following dates: 28,750 shares on March 19, 2009; 28,750 shares on March 19, 2010; 28,750 shares on March 19, 2011; and 28,750 shares on March 19, 2012.

(5) The options become exercisable in five annual installments on the following dates: 6,750 shares on March 15, 2007; 6,750 shares on March 15, 2008; 9,000 shares on March 15, 2009; 11,250 shares on March 15, 2010; and 11,250 shares on March 15, 2011.

(6) The options to purchase common stock are currently exercisable.

Remarks:

Except as outlined above, the filing of this Form shall not be deemed an admission that the reporting person is the beneficial owner of the securities.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.

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