WELLS DARRELL R
Form 4
January 02, 2009

FORM 4

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

OMB APPROVAL

OMB Number:	3235-0287
Expires:	January 31, 2005
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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 *
WELLS DARRELL R

(Last) (First) (Middle)

4350 BROWNSBORO ROAD, SUITE 310

(Street)

LOUISVILLE, KY 40207

(City) (State) (Zip)

2. Issuer Name **and** Ticker or Trading Symbol
CHURCHILL DOWNS INC [CHDN]

3. Date of Earliest Transaction (Month/Day/Year)
12/31/2008

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

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

__X__ Director _____ 10% Owner
_____ Officer (give title below) _____ Other (specify below)

6. Individual or Joint/Group Filing(Check Applicable Line)
_X_ 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 Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	12/31/2008		S		1,500	D	$ 39.25	15,000 (1)	I	By The Wells Foundation
Common Stock								149,630	D	

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

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SEC 1474 (9-02)

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

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)		8. Price of Derivative Security (Instr. 5)	9. Nu Deriv Secur Bene Owne Follo Repo Trans (Instr
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares		

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
WELLS DARRELL R 4350 BROWNSBORO ROAD SUITE 310 LOUISVILLE, KY 40207	X			

Signatures

/s/ Darrell R. Wells	12/31/2008
**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) The Reporting Person disclaims beneficial ownership of these securities and this report shall not be deemed an admission that the Reporting Person is the beneficial owner of such 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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Deferred income taxes are provided for the temporary differences between the carrying values of the Company s assets and liabilities for financial reporting purposes and their corresponding income tax bases. The temporary differences give rise to either a deferred tax asset or liability in the financial statements that is computed by applying current statutory tax rates to taxable and deductible temporary differences based upon the classification (i.e., current or noncurrent) of the asset or liability in the financial statements that relates to the particular temporary difference. Deferred taxes related to differences that are not attributable to a specific asset or liability are classified in accordance with the future period in which they are expected to reverse and be

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Explanation of Responses:

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JAMBA, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)

recognized for income tax purposes. The deferred tax asset (liability) consisted of the following temporary differences as of December 29, 2009, and December 30, 2008 (in thousands):

	December 29, 2009	December 30, 2008
Reserves and accruals	$ 8,188	$ 8,589
Total current deferred tax asset	8,188	8,589
Net operating losses	28,086	19,954
Deferred rent	2,490	2,124
Tax credit attributes	2,188	2,187
Basis difference in intangibles	6,505	6,966
Share-based compensation	875	760
Basis difference in fixed assets	20,073	17,500
Basis difference in investments	(175)	(188)
Reserves and accruals	984	2,021
Other	161	224
Total non-current deferred tax asset	61,187	51,548
Valuation allowance	(68,377)	(59,783)
Total net deferred tax asset	$ 998	$ 354

At December 29, 2009 the Company has federal and state net operating loss carryovers of $66.1 million and $83.3 million, respectively, which, if not used earlier, will expire between 2017 and 2030. In addition, the Company also has tax credit carryforwards for federal and state purposes of $1.4 million and $0.7 million, respectively, which do not expire. Due to the enactment of the Worker, Homeownership, and Business Assistance Act of 2009, the Company has the ability to carryback its alternative minimum tax net operating loss for fiscal 2008 five years in order to offset 100% of the alternative minimum taxable income in those years. By doing so, the Company will receive a refund of prior alternative minimum tax payments of $0.6 million. Because the deferred tax asset established for these alternative minimum tax credits will be realized, the respective valuation allowance has been released.

Tax benefit of net operating losses, temporary differences and credit carryforwards are recorded as an asset to the extent that management assesses that these items are more likely than not to be realized. Realization of the future tax benefits is dependent on the Company s ability to generate sufficient taxable income within the carryforward period. A valuation allowance is provided for deferred tax assets when it is more likely than not that some portion of the deferred tax asset will not be realized. Because of the Company s recent history of operating losses, management believes the recognition of the deferred tax assets arising from the above-mentioned future tax benefits is currently not likely to be realized and, accordingly, has provided a valuation allowance. A full valuation allowance has been recorded for the net deferred tax assets at December 29, 2009, which increases the valuation allowance by $8.6 million for the fiscal year ended December 29, 2009. A deferred tax asset of $354,000 remains due to the impact that an uncertain tax position liability has on deferred taxes. In addition, a deferred tax asset of $645,000 remains due to the impact of the Worker, Homeownership and Business Assistance Act of 2009, which allows the Company to carryback alternative minimum tax losses five years.

On September 11, 2008, the Company entered into a Financing Agreement with Victory Park Management, LLC (see Note 12). The allocation of the proceeds from this Financing Agreement to equity created a temporary difference between the financial statement carrying amount of the debt and the tax basis of the debt, giving rise to a deferred tax liability. At December 30, 2008 the related deferred liability of $0.7 million had been treated as a

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JAMBA, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)

charge to stockholders equity. The deferred liability established and charged to stockholders equity related to the financing arrangement has reduced the valuation allowance necessary at December 30, 2008. The impact of this reduction has been allocated to stockholders equity and, therefore, there was no net effect on stockholders equity at the end of the year. As a result of the Company s preferred stock offering, the Company repaid its note payable and financing agreement on June 16, 2009.

The reserve for uncertain tax positions was $1.1 million and $1.5 million as of December 29, 2009 and December 30, 2008. If recognized, the reserve would impact the Company s effective tax rate. This balance is the Company s best estimate of potential liability for uncertain tax positions and includes accrued interest related to uncertain tax positions. The decrease in the uncertain tax positions was primarily due to lapses in the statute of limitations. Inherent uncertainties exist in estimates of tax contingencies due to changes in tax law, both legislated and concluded through the various jurisdictions tax court systems. The Company expects no reversals within the next 12 months.

Changes in the Company s reserve for uncertain tax positions are as follows (in thousands):

	Fiscal Year Ended December 29, 2009	Fiscal Year Ended December 30, 2008	Fiscal Year Ended January 1, 2008
Beginning balance	$ 1,512	$ 1,470	$ 1,400
Increases attributable to tax positions taken during prior and current periods		42	70
Decreases resulting from a lapse of applicable statutes of limitations	(397)		
Ending balance	$ 1,115	$ 1,512	$ 1,470

As of December 29, 2009, the Company is subject to U.S. federal income tax examinations for the tax years ended June 27, 2006 and November 28, 2006 for the subsidiary returns and the tax year ended December 31, 2006, January 1, 2008 and December 30, 2008 for the consolidated return. The Internal Revenue Service (IRS) has completed its examinations of the subsidiary s federal income tax return for the tax years ended June 29, 2004 and June 28, 2005. The Company is also subject to state and local income tax examinations for tax returns filed for the years ended June 29, 2004 through December 29, 2009.

The valuation allowance for deferred tax assets was $68.4 million and $59.8 million as of December 29, 2009 and December 30, 2008 respectively. In 2009, there was an increase in the valuation allowance of $9.4 million charged to operations, offset by $0.2 million for an adjustment to equity rather than to the deferred tax assets and $0.6 million related to the Company s ability to realize the deferred tax asset related to the alternative minimum tax credits.

15. WARRANTS AND DERIVATIVE INSTRUMENTS

The Company issued warrants to purchase 17,250,000 shares of common stock at an exercise price of $6.00 per share and an option to purchase up to a total of 750,000 units at an exercise price of $10.00 per share in connection with its initial public offering in July 2005. All warrants and the options to purchase the units related to the Company s initial public offering expired on June 28, 2009. The Company has 283,966 warrants outstanding from its Merger and 760,870 warrants outstanding related to the Company s Series B Preferred Shares issued in July 2009. No warrants were exercised in fiscal 2009 or fiscal 2008. During fiscal 2007, the Company received $4.0 million of proceeds for the exercise of 669,500 of the $6.00 warrants. The fair value of warrants exercised of $2.5 million was reclassified from derivative liability to additional paid-in capital on the date of exercise.

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JAMBA, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)

The weighted-average remaining contractual life of the warrants and the option to purchase the units outstanding as of December 30, 2008 was 0.5 years and 1.5 years, respectively. The aggregate intrinsic value of the warrants and the option to purchase the units were $0 and $0.1 million, respectively, as of December 30, 2008. The intrinsic value of warrants exercised during fiscal 2008 and fiscal 2007 was $0 and $2.1 million, respectively.

16. FAIR VALUE MEASUREMENT

The Company measures its cash equivalents at fair value. Fair value is an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or a liability. A three-tier fair value hierarchy is established as a basis for considering such assumptions and for inputs used in the valuation methodologies in measuring fair value:

Level 1: Quoted prices are available in active markets for identical assets or liabilities.

Level 2: Inputs are other than quoted prices in active markets included in Level 1, which are either directly or indirectly observable.

Level 3: Unobservable inputs that are supported by little or no market activity, therefore requiring an entity to develop its own assumptions that market participants would use in pricing.

The following table presents our financial assets and liabilities that were accounted for at fair value on a recurring basis as of December 29, 2009 and December 30, 2008 by level within the fair value hierarchy (in thousands):

	Level 1	Level 2	Level 3
December 29, 2009			
Assets:			
Cash invested in money market fund[1]	$ 2,842	$	$
Assets held for sale[2]			1,319
Long-lived assets[3]			12,311
December 30, 2008			
Assets:			
Cash invested in money market fund[1]	1,896		
Liabilities:			
$6.00 Warrants[4]	124		
Embedded Warrants[4]			
Put/Call Agreement[4]			1,974

(1) Included in cash and cash equivalents on the consolidated balance sheet.

(2) Included in prepaid expenses and other current assets on the consolidated balance sheet.

(3) Included in property, fixtures and equipment, net on the consolidated balance sheet.

(4) Included in derivative liabilities on the consolidated balance sheet.

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JAMBA, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)

For assets that are measured using quoted prices in active markets, fair value is the published market price per unit multiplied by the number of units held without consideration of transaction costs. As of December 29, 2009, we had $2.8 million of cash invested in money market funds and active exchange funds.

Assets held for sale consists of Company Stores that the Company expects to refranchise. Such assets are recorded at the lower of the carrying amount or fair value less cost to sell. Fair value is determined based on the purchase price in the asset purchase agreement.

The Company reviews its long-lived assets, including leasehold improvements and other fixed assets for impairment at least quarterly or whenever events or changes in circumstances indicate that its carrying amount may not be recoverable. Impairment losses represented the excess of the carrying value over the fair value of the affected assets and are included in impairment of long-lived assets on the Company s consolidated statements of operations. The fair value of impaired assets was estimated based upon the present value of the anticipated cash flows associated with each related asset. The estimate of anticipated cash flows is based upon, among other things, certain assumptions about expected future operating performance. If the sum of the undiscounted cash flows is less than the carrying value of the asset, the Company recognizes an impairment loss, measured as the amount by which the carrying value exceeds the fair value of the asset.

17. EMPLOYEE BENEFIT PLAN

The Company maintains a voluntary defined contribution plan covering all eligible employees. Eligible employees may elect to defer and contribute a percentage of their compensation to the plan, not to exceed the dollar amount set by law. The Company will match 100% of the first 3%, and 50% for the 4% and 5% of an employee s contributions. During fiscal 2009, fiscal 2008, and fiscal 2007, the Company contributed $0.8 million, $1.1 million, and $0.4 million to the plan, respectively.

18. OTHER COMMITMENTS AND CONTINGENCIES

Litigation Related The Company or its wholly owned subsidiary, Jamba Juice Company, is a defendant in certain litigation arising in the normal course of business. In the opinion of management, the ultimate resolution of such litigation will not have a significant effect on the consolidated financial statements.

Other The Company has purchase obligations with certain suppliers for certain fruits and dairy for various terms ranging from one year to 15-year terms ending in 2024 for commitments to purchase a minimum level of fruit and other items used in the production of the Company s products totaling $71.7 million over the next 15 years.

19. RELATED-PARTY TRANSACTIONS

The Company paid $0.1 million to Mistral Capital Management, LLC for monitoring fees pursuant to the securities purchase agreement for the sale of its Series B Preferred Stock. Mistral Capital Management, LLC serves as an investment manager to certain funds who hold shares of the Company s Series B Preferred Stock. Two members of the Company s Board of Directors, Andrew R. Heyer and Beth L. Bronner, hold positions as general partner and Managing Director, respectively, of Mistral Capital Management, LLC.

Under an agreement with its Florida joint venture, the Company was reimbursed for incurring employee expenses related to managing and operating certain Florida stores. These reimbursements totaled $2.5 million and $2.9 million in fiscal 2008 and fiscal 2007, respectively.

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JAMBA, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)

20. SUBSEQUENT EVENT

The Company completed the sale of 20 of its Company Stores in Utah, Central California and Southern California to franchisees in February, 2010. The Company expects to recognize a gain from these sales in its first quarter.

21. UNAUDITED QUARTERLY INFORMATION

(In thousands, except per share amounts)

	Fiscal Year 2009			
	Sixteen Weeks Ended April 21, 2009	Twelve Weeks Ended July 14, 2009	Twelve Weeks Ended October 6, 2009	Twelve Weeks Ended December 29, 2009
Total revenue	$ 88,786	$ 83,178	$ 78,991	$ 50,598
Gross profit	67,579	63,869	59,709	37,727
(Loss) income from operations	(8,937)	(1,717)	2,570	(12,023)
Gain on derivative liabilities	165	1,432		
Interest income	334	30	21	19
Interest expense	(1,749)	(4,851)	(320)	15
Other income (expense)	(1,250)	(3,389)	(299)	34
Net (loss) income	(10,204)	(5,123)	2,766	(11,384)
Preferred stock dividends and deemed dividends		(226)	(653)	(981)
Net (loss attributable) income available to common stockholders	(10,204)	(5,349)	2,113	(12,365)
Basic (loss) earnings per share	(0.19)	(0.10)	0.04	(0.23)
Diluted (loss) earnings per share	(0.19)	(0.10)	0.04	(0.23)

	Fiscal Year 2008			
	Sixteen Weeks Ended April 22, 2008	Twelve Weeks Ended July 15, 2008	Twelve Weeks Ended October 7, 2008	Twelve Weeks Ended December 30, 2008
Total revenue	$ 101,553	$ 98,598	$ 86,635	$ 56,104
Gross profit	75,174	73,264	63,889	41,400
Loss from operations	(19,555)	(84,867)	(11,436)	(39,775)
Gain (loss) on derivative liabilities	5,642	2,488	(520)	285
Interest income	186	59	69	51
Interest expense	(112)	(106)	(485)	(1,361)
Other income (expense)	5,716	2,441	(936)	(1,025)
Net loss	(6,431)	(89,195)	(12,363)	(41,174)
Basic loss per share	(0.12)	(1.69)	(0.23)	(0.75)
Diluted loss per share	(0.12)	(1.69)	(0.23)	(0.75)

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ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE
Not Applicable.

ITEM 9A. CONTROLS AND PROCEDURES
Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in the Company s reports under the Securities Exchange Act of 1934, as amended (the Exchange Act), is recorded, processed, summarized and reported within the time periods specified in the SEC s rules and forms, and that such information is accumulated and communicated to management, including our Chief Executive Officer (CEO) and Chief Financial Officer (CFO), as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, as the Company s controls are designed to do, and management necessarily was required to apply its judgment in evaluating the risk related to controls and procedures.

In connection with the preparation of this Annual Report on Form 10-K, as of December 29, 2009, an evaluation was performed under the supervision and with the participation of our management, including the CEO and CFO, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act). Based on that evaluation, our CEO and CFO concluded that our disclosure controls and procedures were effective as of December 29, 2009. These conclusions were communicated to the Audit Committee.

Management s Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) under the Exchange Act. Our internal control system is designed to provide reasonable assurance to the Company s management and Board of Directors regarding the preparation and fair presentation of published financial statements. All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

Our management has assessed the effectiveness of our internal control over financial reporting as of December 29, 2009. In making its assessment of internal control over financial reporting, management used the criteria set forth by the Committee of Sponsoring Organizations (COSO) of the Treadway Commission in Internal Control Integrated Framework. Based on this assessment, our CEO and CFO concluded that our internal control over financial reporting was effective as of December 29, 2009 based on the criteria set forth by COSO in Internal Control Integrated Framework.

Our independent registered public accounting firm, KPMG LLP, has issued an audit report on the effectiveness of our internal control over financial reporting. This report appears below.

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during our last fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION
Not Applicable.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders

Jamba, Inc.:

We have audited Jamba, Inc. s internal control over financial reporting as of December 29, 2009, based on criteria established in *Internal Control Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Jamba, Inc. s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management s Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company s internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company s internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Jamba, Inc. maintained, in all material respects, effective internal control over financial reporting as of December 29, 2009, based on criteria established in *Internal Control Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Jamba, Inc. and subsidiary as of December 29, 2009 and December 30, 2008 and the related consolidated statements of operations, stockholders equity, and cash flows for the fiscal years ended December 29, 2009 and December 30, 2008, and our report dated March 10, 2010 expressed an unqualified opinion on those consolidated financial statements.

/s/ KPMG LLP

San Francisco, California

March 10, 2010

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PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Information regarding the Directors of the Company is incorporated herein by reference from the Company s 2010 Proxy Statement to Stockholders to be filed pursuant to Regulation 14A under the Exchange Act no later than 120 days after the end of the Company s 2009 fiscal year.

Information regarding the Executive Officers of the Company is contained in Part I of this Annual Report on Form 10-K.

ITEM 11. EXECUTIVE COMPENSATION

The information required by Item 11 is incorporated herein by reference from the Company s 2010 Proxy Statement to Stockholders to be filed pursuant to Regulation 14A under the Exchange Act no later than 120 days after the end of the Company s 2009 fiscal year.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

Except as set forth below, information required by Item 12 is incorporated herein by reference from the Company s 2010 Proxy Statement to Stockholders to be filed pursuant to Regulation 14A under the Exchange Act no later than 120 days after the end of the Company s 2009 fiscal year.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by Item 13 is incorporated herein by reference from the Company s 2010 Proxy Statement to Stockholders to be filed pursuant to Regulation 14A under the Exchange Act no later than 120 days after the end of the Company s 2009 fiscal year.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

The information required by Item 14 is incorporated herein by reference from the Company s 2010 Proxy Statement to Stockholders to be filed pursuant to Regulation 14A under the Exchange Act no later than 120 days after the end of the Company s 2009 fiscal year.

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PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES
Documents filed as part of this report:

(1) List of Financial Statements

The following consolidated financial statements are included herein in Part II, Item 8 of this Annual Report on Form 10-K:

Report of Independent Registered Public Accounting Firm;

Consolidated Balance Sheets at December 29, 2009 and December 30, 2008;

Consolidated Statements of Operations for the Years Ended December 29, 2009, December 30, 2008 and January 1, 2008;

Consolidated Statements of Stockholders Equity for the Years Ended December 29, 2009, December 30, 2008 and January 1, 2008;

Consolidated Statements of Cash Flows for the Years Ended December 29, 2009, December 30, 2008 and January 1, 2008;

Notes to Consolidated Financial Statements

(2) Schedules to Financial Statements:

All financial statement schedules have been omitted because they are either inapplicable or the information required is provided in the Company s Consolidated Financial Statements and Notes thereto or included in Part II, Item 8 of this Annual Report on Form 10-K.

(3) List of Exhibits

Incorporated herein by reference is a list of the Exhibits contained in the Exhibit Index.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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, in the City of Emeryville, State of California, on the 10th day of March, 2010.

JAMBA, INC.

By: /s/ JAMES D. WHITE
James D. White
Chief Executive Officer and President

POWER OF ATTORNEY

We the undersigned officers and directors of Jamba, Inc., hereby severally constitute and appoint James D. White and Karen L. Luey, or either of them, his attorneys-in-fact, for such person in any and all capacities, to sign any amendments to this report and to file the same, with exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that either of said attorneys-in-fact, or substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Name	Title	Date
/s/ JAMES D. WHITE	Chief Executive Officer, President and Director	March 10, 2010
James D. White	(Principal Executive Officer)	
/s/ KAREN L. LUEY	Senior Vice President and Chief Financial Officer	March 10, 2010
Karen L. Luey	(Principal Financial Officer and Principal Accounting Officer)	
/s/ STEVEN R. BERRARD	Chairman of the Board and Director	March 10, 2010
Steven R. Berrard		
/s/ BETH BRONNER	Director	March 10, 2010
Beth Bronner		
/s/ THOMAS C. BYRNE	Director	March 10, 2010
Thomas C. Byrne		
/s/ RICHARD L. FEDERICO	Director	March 10, 2010
Richard L. Federico		
/s/ ANDREW HEYER	Director	March 10, 2010
Andrew Heyer		

/s/ Lesley H. Howe	Director	March 10, 2010
Lesley H. Howe		

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Name	Title	Date
/s/ Ramón Martin-Busutil	Director	March 10, 2010
Ramón Martin-Busutil		
/s/ Michael Serruya	Director	March 10, 2010
Michael Serruya		
/s/ Brian Swette	Director	March 10, 2010
Brian Swette		

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EXHIBIT INDEX

Exhibit Number	Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
3.1	Amended and Restated Certificate of Incorporation of the Company.	8-K	001-32552	3.1	December 5, 2006	
3.2	Certificate of Amendment to Amended and Restated Certificate of Incorporation of the Company.	8-K	001-32552	3.2	December 5, 2006	
3.3	Amended and Restated Bylaws of the Company.	8-K	001-32552	3.3	March 21, 2007	
3.4	Certificate of Designation, Preferences and Rights of the Terms of the Series A Preferred Stock	8-K	001-32552	3.1	October 9, 2008	
3.5	Certificate of Designation of Series B-1 Convertible Preferred Stock and Series B-2 Convertible Preferred Stock	8-K	001-32552	3.1	June 16, 2009	
4.1	Specimen Common Stock Certificate.	S-1	333-122812	4.2	February 14, 2005	
4.2	Rights Agreement, effective as of October 8, 2008 between Jamba, Inc. and Continental Stock Transfer & Trust Company as Rights Agent	8-K	001-32552	4.1	October 9, 2008	
4.3	Registration Rights Agreement dated June 16, 2009 between Jamba, Inc., the Investors and North Point.	8-K	001-32552	4.1	June 16, 2009	
4.4	Form of Warrant issued to North Point Advisors LLC.	8-K	001-32552	4.2	June 16, 2009	
4.5	Amendment No. 1 to the Rights Agreement dated June 16, 2009 between Jamba, Inc. and Continental Stock Transfer & Trust Company as Rights Agent	8-K	001-32552	4.3	June 16, 2009	
10.1	Form of Indemnity Agreement entered into between the Company and its directors, officers and certain other employees.	8-K	001-32552	10.1	December 5, 2006	
10.2	Form of Distribution Agreement by and between Jamba Juice Company and various suppliers.	8-K	001-32552	10.4	December 5, 2006	
10.3	Office Lease for the property located at 6475 Christie Avenue, Emeryville, CA 94608, by and between Jamba Juice Company and Bay Center Office, LLC dated July 28, 2006.	8-K	001-32552	10.5	December 5, 2006	
10.4	Amended and Restated 1994 Stock Incentive Plan.**	8-K	001-32552	10.16	December 5, 2006	

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Exhibit Number	Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
10.5	2001 Equity Incentive Plan.**	8-K	001-32552	10.17	December 5, 2006	
10.6	2006 Employee, Director and Consultant Stock Plan.**	10-K	001-32552	10.18	April 2, 2007	
10.7	Form of Incentive Stock Option Agreement under the 2006 Plan.**	8-K	001-32552	10.19	December 5, 2006	
10.8	Form of Non-Qualified Stock Option Agreement under the 2006 Plan.**	8-K	001-32552	10.20	December 5, 2006	
10.9	Non-employee Director Compensation Policy.**	8-K	001-32552	10.21	December 5, 2006	
10.10	Form of Registration Rights Agreement between Services Acquisition Corp. International and investors, as amended.	8-K	001-32552	10.3	March 16, 2006	
10.11	Distribution Agreement by and between Jamba Juice Company and Southwest Traders, Inc. dated September 1, 2007*	10-K	001-32552	10.27	March 17, 2008	
10.12	Credit Agreement, dated April 17, 2008, among Jamba, Inc., Jamba Juice Company, the Lenders that are Signatories Thereto and Wells Fargo Foothill, LLC (the Credit Agreement)	8-K	001-32552	10.1	April 22, 2008	
10.13	First Amendment to Credit Agreement, dated May 29, 2008	10-Q	001-32552	10.2	June 2, 2008	
10.14	Second Amendment to Credit Agreement, dated August 22, 2008	8-K	001-32552	10.1	August 28, 2008	
10.15	Severance Agreement entered into between Jamba, Inc. and Paul Clayton, dated September 3, 2008	8-K	001-32552	10.1	September 5, 2008	
10.16	Financing Agreement dated September 11, 2008 among between Jamba, Inc., Jamba Juice Company the Lenders Party Thereto and Victory Park Management, LLC	8-K	001-32552	10.1	September 12, 2008	
10.17	Common Stock Put and Call Agreement dated as of September 11, 2008 by and among Jamba, Inc., Victory Park Special Situations, L.P. and Victory Park Credit Opportunities, L.P.	8-K	001-32552	10.2	September 12, 2008	

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Exhibit Number	Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
10.18	Registration Rights Agreement dated as of September 11, 2008 by and among Jamba, Inc., Victory Park Special Situations, L.P. and Victory Park Credit Opportunities, L.P.	8-K	001-32552	10.3	September 12, 2008	
10.19	Form of Executive Employment Agreement entered into between Jamba Juice Company and each of Karen L. Luey, Thibault de Chatellus, Michael Fox, Steve Adkins, Greg Schwartz and Susan Shields**	8-K	001-32552	10.1	October 14, 2008	
10.20	Employment Agreement dated November 17, 2008 between Jamba Juice Company and James White**	8-K	001-32552	10.1	November 17, 2008	
10.21	Notice of Grant of Non-Qualified Stock Option and Non-Qualified Stock Option Agreement, Dated December 1, 2008, entered into between Jamba, Inc. and James White.**	10-K	001-32552	10.22	December 1, 2008	
10.22	Securities Purchase Agreement dated May 31, 2009 between Jamba, Inc. and the purchasers identified therein (including as exhibits the Form of Certificate of Designation, Form of Registration Rights Agreement and of Amendment No. 1 to Rights Plan.	8-K	001-32552	10.1	June 2, 2009	
10.23	Form of Restricted Stock Unit Award	8-K	001-32552	10.1	November 18, 2009	
10.24	Form of Notice of Grant of Restricted Stock Units	8-K	001-32552	10.2	November 18, 2009	
14.1	Code of Business Conduct and Ethics.	8-K	001-32552	14.1	December 5, 2006	
21.1	List of Subsidiary.					X
23.1	Consent of Independent Registered Public Accounting Firm KPMG LLP					X
23.2	Consent of Independent Registered Public Accounting Firm-Deloitte & Touche LLP					X
24	Power of Attorney, included on signature page hereto.					X
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended.					X

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Exhibit Number	Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended.					X
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X

* This exhibit (or portions thereof) has been filed separately with the Securities and Exchange Commission pursuant to an application for confidential treatment. The confidential portions of this exhibit have been omitted and are marked by an asterisk.

** Management contract, or compensatory plan or arrangement.