JOE'S JEANS INC.
Form 10-Q
July 15, 2010
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

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

For the quarterly period ended May 31, 2010

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: 0-18926

JOE S JEANS INC.

(Exact name of registrant as specified in its charter)

Delaware	**11-2928178**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
2340 South Eastern Avenue, Commerce, California	**90040**
(Address of principal executive offices)	(Zip Code)

(323) 837-3700

(Registrant s telephone number, including area code)

NO CHANGE

(Former name, former address and former fiscal year, if changed since last report)

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. x Yes o 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 Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or such shorter period that the registrant was required to submit and post such files). o Yes o 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 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 by Rule 12b-2 of the Exchange Act). Yes o No x

The number of shares of the registrant s common stock outstanding as of July 15, 2010 was 63,624,134.

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JOE S JEANS INC.

QUARTERLY REPORT ON FORM 10-Q

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PART I FINANCIAL INFORMATION

Item 1. Financial Statements.

JOE S JEANS INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS

(in thousands, except per share data)

	May 31, 2010 (unaudited)	November 30, 2009
ASSETS		
Current assets		
Cash and cash equivalents	$ 8,556	$ 13,195
Accounts receivable, net	2,405	1,731
Inventories, net	31,369	22,887
Due from related parties	261	210
Deferred income taxes, net	4,893	4,893
Prepaid expenses and other current assets	806	805
Total current assets	48,290	43,721
Property and equipment, net	4,342	3,162
Goodwill	3,836	3,836
Intangible assets	24,000	24,000
Deferred income taxes, net	4,806	4,806
Other assets	123	99
Total assets	$ 85,397	$ 79,624
LIABILITIES AND STOCKHOLDERS EQUITY		
Current liabilities		
Accounts payable and accrued expenses	$ 17,048	$ 13,590
Due to factor	3,901	3,129
Deferred licensing revenue	100	615
Due to related parties	214	254
Total current liabilities	21,263	17,588
Deferred rent	665	530
Total liabilities	21,928	18,118
Commitments and contingencies		
Stockholders equity		
Common stock, $0.10 par value: 100,000 shares authorized, 63,331 shares issued and 63,191 outstanding (2010) and 61,494 shares issued and 61,354 outstanding (2009)	6,335	6,151
Additional paid-in capital	104,158	103,605
Accumulated deficit	(44,224)	(45,450)
Treasury stock, 140 shares	(2,800)	(2,800)

Total stockholders equity		63,469		61,506
Total liabilities and stockholders equity	$	85,397	$	79,624

The accompanying notes are an integral part of these financial statements.

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JOE S JEANS INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF INCOME

(in thousands, except per share data)

	Three months ended		Six months ended	
	May 31, 2010	May 31, 2009	May 31, 2010	May 31, 2009
	(unaudited)		(unaudited)	
Net sales	$ 25,893	$ 17,179	$ 49,077	$ 33,661
Cost of goods sold	14,392	8,496	26,210	16,712
Gross profit	11,501	8,683	22,867	16,949
Operating expenses				
Selling, general and administrative	10,182	6,904	19,916	13,989
Depreciation and amortization	168	134	381	269
	10,350	7,038	20,297	14,258
Operating income	1,151	1,645	2,570	2,691
Interest expense	125	94	216	200
Income before provision for taxes	1,026	1,551	2,354	2,491
Income taxes	494	226	1,128	366
Net income	$ 532	$ 1,325	$ 1,226	$ 2,125
Earnings per common share - basic	$ 0.01	$ 0.02	$ 0.02	$ 0.04
Earnings per common share - diluted	$ 0.01	$ 0.02	$ 0.02	$ 0.04
Weighted average shares outstanding				
Basic	62,385	59,887	61,717	59,806
Diluted	64,543	60,275	64,131	59,965

The accompanying notes are an integral part of these financial statements.

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JOE S JEANS INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)

	Six months ended May 31, 2010 (unaudited)	Six months ended May 31, 2009 (unaudited)
CASH FLOWS FROM OPERATING ACTIVITIES		
Net cash (used in) provided by operating activities	$ (3,757)	$ 1,761
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of property and equipment	(1,561)	(198)
Net cash used in investing activities	(1,561)	(198)
CASH FLOWS FROM FINANCING ACTIVITIES		
Proceeds from factor borrowing, net	772	1,745
Proceeds from exercise of warrants	653	
Proceeds from exercise of options	30	
Taxes on net settled options exercised	(653)	
Payment of taxes on restricted stock units	(123)	(13)
Net cash provided by financing activities	679	1,732
NET CHANGE IN CASH AND CASH EQUIVALENTS	(4,639)	3,295
CASH AND CASH EQUIVALENTS, at beginning of period	13,195	3,465
CASH AND CASH EQUIVALENTS, at end of period	$ 8,556	$ 6,760

The accompanying notes are an integral part of these financial statements.

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JOE S JEANS INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS EQUITY

(in thousands)

	Common Stock Shares	Common Stock Par Value	Additional Paid-In Capital	Accumulated Deficit	Treasury Stock	Total Stockholders Equity
Balance, November 30, 2008	59,946	$ 5,996	$ 102,859	$ (69,970)	$ (2,800)	$ 36,085
Net income (unaudited)				2,125		2,125
Stock-based compensation, net of withholding taxes (unaudited)			460			460
Issuance of restricted stock (unaudited)	333	33	(33)			
Balance, May 31, 2009 (unaudited)	60,279	$ 6,029	$ 103,286	$ (67,845)	$ (2,800)	$ 38,670
Balance, November 30, 2009	61,494	$ 6,151	$ 103,605	$ (45,450)	$ (2,800)	$ 61,506
Net income (unaudited)				1,226		1,226
Stock-based compensation, net of withholding taxes (unaudited)			707			707
Exercise of warrants (unaudited)	480	48	605			653
Net settled warrants exercised (unaudited)	86	9	(9)			
Exercise of stock options (unaudited)	60	6	24			30
Net settled options exercised (unaudited)	832	83	(83)			
Taxes on net settled options exercised (unaudited)			(653)			(653)
Issuance of restricted stock (unaudited)	379	38	(38)			
Balance, May 31, 2010 (unaudited)	63,331	$ 6,335	$ 104,158	$ (44,224)	$ (2,800)	$ 63,469

The accompanying notes are an integral part of these financial statements.

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JOE S JEANS INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 - BASIS OF PRESENTATION

The unaudited condensed consolidated financial statements of Joe s Jeans Inc., or Joe s, which include the accounts of its wholly-owned subsidiaries, for the three and six months ended May 31, 2010 and 2009 and the related footnote information have been prepared on a basis consistent with Joe s audited consolidated financial statements as of November 30, 2009 contained in its Annual Report on Form 10-K, or the Annual Report. Joe s fiscal year end is November 30.

Joe s principal business activity involves the design, development and worldwide marketing of apparel products. Joe s primary current operating subsidiary is Joe s Jeans Subsidiary Inc., or Joe s Jeans Subsidiary. All significant inter-company transactions have been eliminated. Joe s operates in two primary business segments: Wholesale and Retail. Joe s Wholesale segment is comprised of sales to retailers, specialty stores and distributors and includes expenses from marketing, sales, distribution and customer service departments. Also, some international sales are made directly to wholesale customers who operate retail stores. Joe s Retail segment is comprised of sales to consumers through full-price retail stores, outlet stores and through the *www.joesjeans.com/shop* internet site. Joe s Corporate and other is comprised of corporate operations, which include the executive, finance, legal, and human resources departments, design and production. Prior to the filing of this Quarterly Report on Form 10-Q for the period ended May 31, 2010, Joe s operated in one business segment with an immaterial amount of sales from its retail operations and license agreements. The previous periods reported have been revised to reflect this change in Joe s reportable segments.

These unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by U.S. generally accepted accounting principles for complete financial statements. These unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and the related notes thereto contained in its Annual Report. In the opinion of management, the accompanying unaudited financial statements contain all adjustments (consisting of normal recurring adjustments), which management considers necessary to present fairly Joe s financial position, results of operations and cash flows for the interim periods presented. The results for the three and six months ended May 31, 2010 are not necessarily indicative of the results anticipated for the entire year ending November 30, 2010. The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements. Actual results may differ from those estimates.

NOTE 2 ADOPTION OF ACCOUNTING PRINCIPLES

In December 2007, the Financial Accounting Standards Board, or FASB, issued a standard on business combinations that significantly changes the accounting for business combinations. Under the standard, an acquiring entity is required to recognize all the assets acquired and liabilities assumed in a transaction at the acquisition-date fair value with limited exceptions and includes a substantial number of new disclosure requirements. The standard applies prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008, which is the year beginning December 1, 2009 for Joe s. Joe s does not expect that this standard will have any impact on its financial statements unless it enters into an applicable transaction in the future.

In December 2007, the FASB issued a standard that establishes new accounting and reporting standards for a non-controlling interest in a subsidiary and for the deconsolidation of a subsidiary. Specifically, this statement requires the recognition of a non-controlling interest (minority interest) as equity in the consolidated financial statements separate from the parent s equity. The amount of net income attributable to the non-controlling interest will be included in consolidated net income on the face of the income statement. The standard clarifies that changes in a parent s ownership interest in a subsidiary that do not result in deconsolidation are equity transactions if the parent retains its controlling financial interest. In addition, this statement requires that a parent recognize a gain or loss in net income when a

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subsidiary is deconsolidated. Such gain or loss will be measured using the fair value of the non-controlling equity investment on the deconsolidation date and includes expanded disclosure requirements regarding the interests of the parent and its non-controlling interest. The standard is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2008, which is the year beginning December 1, 2009 for Joe s. Joe s does not expect that it will have any impact on its financial statements unless it enters into an applicable transaction in the future.

In April 2008, the FASB issued a standard that amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset in order to improve the consistency between the useful life of a recognized intangible asset and the period of expected cash flows used to measure the fair value of the asset. The standard is effective for financial statements issued for fiscal years beginning after December 15, 2008, which is the year beginning December 1, 2009 for Joe s, and interim periods within that fiscal year. The adoption of this standard did not have a material impact on its financial position or results from operations.

In May 2008, the FASB issued a standard that identifies the sources of accounting principles and the framework for selecting the principles to be used in the preparation of financial statements that are presented in conformity with generally accepted accounting principles. The standard is effective 60 days following the Securities and Exchange Commission s approval of the Public Company Accounting Oversight Board amendments to AU Section 411 The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles.   Joe s does not expect the adoption to impact our results of operations, financial position or cash flows.

In April 2009, the FASB issued changes regarding interim disclosures about fair value of financial instruments. The changes enhance consistency in financial reporting by increasing the frequency of fair value disclosures from annually to quarterly. The changes require disclosures on a quarterly basis of qualitative and quantitative information about fair value estimates for all those financial instruments not measured on the balance sheet at fair value. The disclosure requirement became effective beginning with its first interim reporting period ending after June 15, 2009. The adoption of this change did not have a material impact on Joe s results of operations or financial condition.

In May 2009, the FASB issued a standard related to subsequent events. The standard is effective for interim or annual periods ending after June 15, 2009 and establishes general standards of accounting for and disclosures of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. In February 2010, the FASB issued an update to the standard related to subsequent events effective for all financial statements of SEC filers issued after February 24, 2010, which removed the requirement to disclose the date through which subsequent events were evaluated. The adoption of this update to the standard did not have a material impact on its financial position or results from operations.

In June 2009, the FASB issued a standard related to the FASB accounting standards codification and the hierarchy of generally accepted accounting principles. The standard will become the source of authoritative U.S. generally accepted accounting principles, or GAAP, recognized by the FASB to be applied by nongovernmental entities. Rules and interpretive releases of the SEC under authority of federal securities laws are also sources of authoritative GAAP for SEC registrants. On the effective date of this standard, the codification will supersede all then-existing non-SEC accounting and reporting standards. All other non-grandfathered non-SEC accounting literature not included in the codification will become non-authoritative. This standard is effective for financial statements issued for interim and annual periods ending after September 15, 2009. The adoption of this standard did not have a material impact on Joe s results of operations, financial condition or cash flows.

In June 2009, the FASB issued an amendment to a standard related to the accounting for transfer of financial assets. The amendment consists of the removal of the concept of a special-purpose entity, the elimination of the exception of qualifying special-purpose entities from the consolidation guidance and clarifies the unit of account eligible for sale accounting. The standard is effective as of the beginning of the first annual reporting period that begins after November 15, 2009, which is the year beginning December 1, 2009 for Joe s, and interim periods within that fiscal year. The adoption of this standard did not have a material impact on its financial position or results from operations.

In December 2009, Joe s adopted an update to a standard related to determining whether instruments granted in share-based payment transactions are participating securities. This update defines unvested share-based payment awards

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that contain nonforfeitable rights to dividends as participating securities that should be included in computing earnings per share, or EPS, using the two-class method. Certain of the Joe s non-vested restricted stock awards previously granted qualify as participating securities. As required, all current and prior period EPS were evaluated. The adoption did not have a material impact on the Joe s EPS.

In February 2010, the FASB issued an update to a standard to amend the topic of Subsequent Events. As a result of this update, Joe s will no longer disclose the date through which we evaluated subsequent events in the financial statements - either in originally issued financial statements or reissued financial statements. This change addresses practice issues for Joe s with respect to processes around issuing financial statements and Securities and Exchange Commission or SEC registration requirements (e.g., incorporation by reference of previously issued financial statements). In addition, Joe s will not have to disclose the date that financial statements were reissued unless the financial statements are revised - for either an error correction or other retrospective application of GAAP. Joe s will evaluate subsequent events through the date that the financial statements are issued. Joe s adopted this guidance in the second fiscal quarter of 2010, and this guidance did not have a material impact on its financial statements.

NOTE 3 ACCOUNTS RECEIVABLE, INVENTORY ADVANCES AND DUE TO FACTOR

Joe s primary method to obtain the cash necessary for operating needs was through the sale of accounts receivable pursuant to factoring agreements and obtaining advances under inventory security agreements with its factor, CIT Commercial Services, Inc., a unit of CIT Group Inc., or CIT.

As a result of these agreements, amounts due to factor consist of the following (in thousands):

		May 31, 2010		November 30, 2009
Non-recourse receivables assigned to factor	$	13,190	$	14,139
Client recourse receivables		164		263
Total receivables assigned to factor		13,354		14,402
Allowance for customer credits		(2,881)		(2,606)
Net loan balance from factored accounts receivable		(9,374)		(10,345)
Net loan balance from inventory advances		(5,000)		(4,580)
Due to factor	$	(3,901)	$	(3,129)
Non-factored accounts receivable	$	3,186	$	2,562
Allowance for customer credits		(330)	$	(330)
Allowance for doubtful accounts		(451)		(501)
Accounts receivable, net of allowance	$	2,405	$	1,731

Of the total amount of receivables sold as of May 31, 2010 and November 30, 2009, Joe s bears the risk of payment of $164,000 and $263,000, respectively, in the event of non-payment by its customers.

CIT Commercial Services

The Joe s Jeans Subsidiary is a party to an accounts receivable factoring agreement and an inventory security agreement with CIT. The accounts receivable agreement gives Joe s the ability to obtain cash by selling to CIT certain of its accounts receivable and the inventory security agreement gives Joe s the ability to obtain advances for up to 50 percent of the value of certain eligible inventory. The accounts receivables are sold for up to 85 percent of the face amount on either a recourse or non-recourse basis depending on the creditworthiness of the customer. CIT currently permits Joe s to sell its accounts receivables at the maximum level of 85 percent and allows advances of up to $6,000,000 for eligible

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inventory. CIT has the ability, in its discretion at any time or from time to time, to adjust or revise any limits on the amount of loans or advances made to Joe s pursuant to both of these agreements and to impose surcharges on our rates for certain of our customers. As further assurance to CIT, cross guarantees were executed by and among Joe s and all of its parent and subsidiaries to guarantee each entity s obligations.

As of May 31, 2010, Joe s cash availability with CIT was approximately $760,000. This amount fluctuates on a daily basis based upon invoicing and collection related activity by CIT for the receivables sold. In connection with both of the agreements with CIT, certain assets are pledged to CIT, including all of the inventory, merchandise and/or goods, including raw materials through finished goods and receivables. However, the Joe s trademarks are not encumbered.

In May 2010, the parties amended the accounts receivable agreement to provide for a change in the factoring fees, an extension of the agreement and additional termination rights. The accounts receivable agreement may be terminated by CIT upon 60 days written notice or immediately upon the occurrence of an event of default as defined in the agreement. The accounts receivable agreement may be terminated by Joe s upon 60 days written notice prior to June 30, 2011, or earlier provided that the minimum factoring fees have been paid for the respective period or CIT fails to fund Joe s for five consecutive days. The inventory agreement may be terminated once all obligations are paid under both agreements or if an event of default occurs as defined in the agreement.

The factoring rate that Joe s pays to CIT to factor accounts is 0.6 percent for accounts which CIT bears the credit risk, subject to discretionary surcharges, and 0.4 percent for accounts which Joe s bears the credit risk. The interest rate associated with borrowings under the inventory lines and factoring facility is 0.25 percent plus the Chase prime rate. As of May 31, 2010, the Chase prime rate was 3.25 percent. Beginning July 1, 2010, the factoring rate has been amended to 0.55 percent for accounts which CIT bears the credit risk, subject to discretionary surcharges, up to $40,000,000 of invoices factored, 0.50 percent over $40,000,000 of invoices factored and 0.35 percent for accounts which Joe s bears the credit risk.

In addition, in the event Joe s needs additional funds, Joe s has also established a letter of credit facility with CIT to allow it to open letters of credit for a fee of 0.25 percent of the letter of credit face value with international and domestic suppliers, subject to availability. At May 31, 2010, Joe s had five letters of credit outstanding in the aggregate amount of $769,000.

NOTE 4 INVENTORIES

Inventories are valued at the lower of cost or market with cost determined by the first-in, first-out method. Inventories consisted of the following (in thousands):

	May 31, 2010	November 30, 2009
Finished goods	$ 19,796	$ 13,093
Finished goods consigned to others	260	139
Work in progress	2,996	3,092
Raw materials	9,492	7,746
	32,544	24,070

Less allowance for obsolescence and slow moving items		(1,175)		(1,183)
	$	31,369	$	22,887

Joe s did not record any charges to its inventory reserve allowance for the three or six months ended May 31, 2010 and 2009.

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NOTE 5 RELATED PARTY TRANSACTIONS

As of May 31, 2010 and November 30, 2009, Joe s related party balance consisted of amounts due to and due from certain related parties, as follows (in thousands):

	May 31, 2010		November 30, 2009	
Due from related parties				
Kids Jeans LLC	$	261	$	210
Total due from related parties	$	261	$	210
Due to related parties				
Joe Dahan	$	175	$	199
Albert Dahan		39		46
Commerce Investment Group and affliates				9
Total due to related parties	$	214	$	254

Joe Dahan

Joe Dahan, an officer, director and greater than 10 percent stockholder of Joe s, is entitled to a certain percentage of the gross profit earned by Joe s in any applicable fiscal year until October 2017 as a result of the merger. See Note 9- Commitments and Contingencies for a further discussion of the merger consideration.

Albert Dahan

In April 2009, Joe s entered into a commission-based sales agreement with Albert Dahan, brother of Joe Dahan, for the sale of its products into the off-price channels of distribution. Under the agreement, Mr. Albert Dahan is entitled to a commission for purchase orders entered into by Joe s where he acts as a sales person for Joe s. The agreement may be terminated at any time for any reason or no reason with or without notice. For the second quarter of fiscal 2010, Mr. Albert Dahan earned $271,000 under this arrangement.

Effective as of June 1, 2009, Joe s entered into a license agreement for the license of the children s product line with Kids Jeans LLC, or Kids LLC, an entity which Mr. Albert Dahan holds an interest where he has voting control over the entity. Under the terms of the license, Kids LLC has an exclusive right to produce, distribute and sell children s products bearing the Joe s® brand on a worldwide basis, subject to certain limitations on the channels of distribution. In exchange for the license, Kids LLC will pay to Joe s a royalty payment of 20 percent on the first $5,000,000 in net sales and 10 percent thereafter. The initial term of the agreement is for three years until June 30, 2012 and is subject to certain guaranteed minimum net sales and royalty payment requirements during the initial term and for renewal. Kids LLC advanced $1,000,000 as a payment against the first year s guaranteed minimum royalties. This amount has been reflected under the caption of Deferred Licensing Revenue on the Condensed Consolidated Balance Sheets. Joe s expects to recognize the royalty revenue based upon a percentage as set forth in the agreement of the licensees actual net sales or minimum net sales, whichever is greater. Payments received in consideration of the grant of the license or advanced royalty payments are recognized ratably as revenue over the term of the license agreement. The revenue recognized ratably over the term of the license agreement will not exceed royalty payments received. The unrecognized portion of the upfront payments are included in deferred royalties and accrued expenses depending on the long or short term nature of the payments to be recognized. As of May 31, 2010, $900,000 of the advanced payment has been recognized as income.

NOTE 6 EARNINGS PER SHARE

Earnings per share are computed using weighted average common shares and dilutive common equivalent shares outstanding. Potentially dilutive securities consist of outstanding options and warrants. A reconciliation of the numerator and denominator of basic earnings per share and diluted earnings per share is as follows:

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	Three months ended (in thousands, except per share data)		Six months ended (in thousands, except per share data)	
	May 31, 2010	May 31, 2009	May 31, 2010	May 31, 2009
Basic earnings per share computation:				
Numerator:				
Net income	$ 532	$ 1,325	$ 1,226	$ 2,125
Denominator:				
Weighted average common shares outstanding	62,385	59,887	61,717	59,806
Income per common share - basic				
Net income	$ 0.01	$ 0.02	$ 0.02	$ 0.04
Diluted earnings per share computation:				
Numerator:				
Net income	$ 532	$ 1,325	$ 1,226	$ 2,125
Denominator:				
Weighted average common shares outstanding	62,385	59,887	61,717	59,806
Effect of dilutive securities:				
Restricted shares, RSU s, options and warrants	2,158	388	2,414	159
Dilutive potential common shares	64,543	60,275	64,131	59,965
Income per common share - dilutive				
Net income	$ 0.01	$ 0.02	$ 0.02	$ 0.04

For the three months ended May 31, 2010 and 2009, currently exercisable options and warrants in the aggregate of 450,000 and 4,443,665, respectively, have been excluded from the calculation of diluted income per share because the exercise prices of such options, warrants and unvested restricted shares and RSUs were out-of-the-money. For the six months ended May 31, 2010 and 2009, currently exercisable options and warrants in the aggregate of 450,000 and 6,244,436, respectively, have been excluded from the calculation of diluted income per share because the exercise prices of such options, warrant and unvested restricted shares and RSUs were out-of-the-money.

Shares Reserved for Future Issuance

As of May 31, 2010, shares reserved for future issuance include (i) 919,572 shares of common stock issuable upon the exercise of stock options granted under the incentive plans; (ii) 4,209,367 shares of common stock issuable upon the vesting of RSUs; and (iii) an aggregate of 3,414,801 shares of common stock available for future issuance under the 2004 Stock Incentive Plan.

NOTE 7 INCOME TAXES

Joe s utilizes the liability method of accounting for income taxes in accordance with FASB Accounting Standards Codification, or ASC, 740. Under the liability method, deferred taxes are determined based on the temporary differences between the financial statements and tax bases of assets and liabilities using enacted tax rates.

Valuation allowances are established, when necessary, to reduce deferred tax assets to the amount expected to be realized. The likelihood of a material change in Joe s expected realization of these assets depends on its ability to generate sufficient future taxable income. Joe s ability to generate enough taxable income to utilize its deferred tax assets depends on many factors, among which is Joe s ability to deduct tax loss carry-forwards against future taxable income, the effectiveness of tax planning strategies and reversing deferred tax liabilities.

Joe s and its subsidiaries are subject to U.S. federal income tax as well as income tax in multiple state jurisdictions. Joe s has identified its federal tax return and its state tax return in California as major tax jurisdictions. To the extent allowed by law, the tax authorities may have the right to examine prior periods where net operating losses were generated and carried forward, and make adjustments up to the amount of the net operating loss carryforward amount.

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The only periods subject to examination for Joe s federal tax returns are years 2006 through 2008. The periods subject to examination for Joe s state tax returns in California are years 2005 through 2008. Joe s is not currently under an Internal Revenue Service tax examination or an examination by any other state, local or foreign jurisdictions for any tax year.

Joe s had a net operating loss carryforward of $42,538,000 at the end of fiscal 2009 for federal tax purposes that expire through 2026. Joe s also has $25,553,000 of net operating loss carryforwards available for California which begin to expire in 2014.

Certain limitations may be placed on net operating loss carryforwards as a result of changes in control as defined in Section 382 of the Internal Revenue Code. In the event a change in control occurs, it will have the effect of limiting the annual usage of the carryforwards in future years. Additional changes in control in future periods could result in further limitations of Joe s ability to offset taxable income. Management believes that certain changes in control have occurred which resulted in limitations on its net operating loss carryforwards.

NOTE 8 STOCKHOLDERS EQUITY

Warrants

Joe s has historically issued warrants in conjunction with various private placements of its common stock, and debt to equity conversions. As of May 31, 2010, all outstanding common stock warrants have been exercised or have expired.

Stock Incentive Plans

In September 2000, Joe s adopted the 2000 Director Stock Incentive Plan, or the 2000 Director Plan, under which nonqualified stock options were granted to members of the Board of Directors in lieu of cash director fees. After the adoption of the 2004 Stock Incentive Plan in June 2004, Joe s no longer granted options pursuant to the 2000 Director Plan; however, it remains in effect for awards outstanding as of the adoption of the 2004 Stock Incentive Plan. As of May 31, 2010, options to purchase up to 144,572 shares of common stock remained outstanding under the 2000 Director Plan.

On June 3, 2004, Joe s adopted the 2004 Stock Incentive Plan, or the 2004 Incentive Plan, and has subsequently amended it to increase the number of shares authorized for issuance to 12,265,172 shares of common stock. Under the 2004 Incentive Plan, grants may be made to employees, officers, directors and consultants under a variety of awards based upon underlying equity, including, but not limited to, stock options, restricted common stock, restricted stock units or performance shares. The 2004 Incentive Plan limits the number of shares that can be awarded to any employee in one year to 1,250,000. Exercise price for incentive options may not be less than the fair market value of Joe s common stock on the date of grant and the exercise period may not exceed ten years. Vesting periods, terms and types of awards are determined by the Board of Directors and/or its Compensation and Stock Option Committee, or Compensation Committee. The 2004 Incentive Plan includes a provision for the acceleration of vesting of all awards upon a change of control as well as a provision that allows forfeited or unexercised awards that have expired to be available again for future issuance. Since fiscal 2008, Joe s has issued both restricted common stock and restricted common stock units, or RSUs, to its officers, directors and employees pursuant to the 2004 Stock Incentive Plan. The RSUs represent the right to receive one share of common stock for each unit on the vesting date provided that the employee continues to be employed by Joe s. On the vesting date of the RSUs, Joe s expects to issue the shares of common stock to each participant upon vesting and expects to withhold an equivalent number of shares at fair market value on the vesting date to fulfill tax withholding obligations. Any RSUs withheld or forfeited will be shares available for issuance in accordance with the terms of the 2004 Incentive Plan.

The shares of common stock issued upon exercise of a previously granted stock option or a grant of restricted common stock or RSUs are considered new issuances from shares reserved for issuance in connection with the adoption of the various plans. Joe s requires that the option holder provide a written notice of exercise in accordance with the option agreement and plan to the stock plan administrator and full payment for the shares be made prior to issuance. All issuances are made under the terms and conditions set forth in the applicable plan. As of May 31, 2010, 3,414,801 shares remained available for issuance under the 2004 Incentive Plan.

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For all stock compensation awards that contain graded vesting with time-based service conditions, Joe s has elected to apply a straight-line recognition method to account for all of these awards. For existing grants that were not fully vested at November 30, 2009, there was a total of $413,000 and $830,000 of stock based compensation expense recognized during the three and six months ended May 31, 2010, respectively.

The following summarizes option grants, restricted common stock and RSUs issued to members of the Board of Directors for the fiscal years 2002 through the second quarter of fiscal 2010 (in actual amounts) for service as a member:

As of:	May 31, 2010 Number of options	Exercise price
2002	40,000	$ 1.00
2002	31,496	$ 1.27
2003	30,768	$ 1.30
2004	320,000	$ 1.58
2005	300,000	$ 5.91
2006	450,000	$ 1.02

	Number of restricted shares isssued
2007	320,000
2008	473,455
2009	371,436
2010	

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Exercise prices for options outstanding as of May 31, 2010 are as follows:

	Options Outstanding and Exercisable	
Exercise Price	**Number of shares**	**Weighted-Average Remaining Contractual Life**
$0.39 - $0.41	51,282	0.5
$1.00 - $1.02	140,000	4.7
$1.27 - $1.30	53,290	2.7
$1.58 - $1.63	225,000	4.2
$5.91	450,000	5.0
	919,572	4.4

The following table summarizes the stock option activity by plan:

	Total Number of Shares	**2004 Incentive Plan**	**2000 Director Plan**
Outstanding at November 30, 2009	3,226,046	3,022,500	203,546
Granted			
Exercised	(2,306,474)	(2,247,500)	(58,974)
Forfeited / Cancelled			
Outstanding and exercisable at May 31, 2010	919,572	775,000	144,572