

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTIONS 13 AND 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended September 28, 2019

or,

TRANSITION REPORT PURSUANT TO SECTIONS 13 AND 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File No. 1-09453

ARK RESTAURANTS CORP.

(Exact Name of Registrant as Specified in Its Charter)

New York

(State or Other Jurisdiction of
Incorporation or Organization)

13-3156768

(IRS Employer Identification No.)

85 Fifth Avenue New York, NY 10003

(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: (212) 206-8800

Securities registered pursuant to section 12(b) of the Act:

Title of each class	Trading symbol(s)	Name of each exchange on which
Common Stock, par value \$.01 per share	ARKR	The NASDAQ Stock Market LLC

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes No

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Yes No

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 No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulations S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller Reporting Company

Emerging Growth Company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

As of March 30, 2019, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of voting and non-voting common equity held by non-affiliates of the registrant was \$41,906,229.

At December 11, 2019, there were outstanding 3,498,907 shares of the Registrant's Common Stock, \$.01 par value.

DOCUMENTS INCORPORATED BY REFERENCE

(1) In accordance with General Instruction G (3) of Form 10-K, certain information required by Part III hereof will either be incorporated into this Form 10-K by reference to the registrant's definitive proxy statement for the registrant's 2019 Annual Meeting of Stockholders filed within 120 days of September 28, 2019 or will be included in an amendment to this Form 10-K filed within 120 days of September 28, 2019.

PART I

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

On one or more occasions, we may make statements in this Annual Report on Form 10-K regarding our assumptions, projections, expectations, targets, intentions or beliefs about future events. All statements, other than statements of historical facts, included or incorporated by reference herein relating to management's current expectations of future financial performance, continued growth and changes in economic conditions or capital markets are forward looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended.

Words or phrases such as "anticipates," "believes," "estimates," "expects," "intends," "plans," "predicts," "projects," "targets," "will likely result," "hopes," "will continue" or similar expressions identify forward looking statements. Forward-looking statements involve risks and uncertainties which could cause actual results or outcomes to differ materially from those expressed. We caution that while we make such statements in good faith and we believe such statements are based on reasonable assumptions, including without limitation, management's examination of historical operating trends, data contained in records and other data available from third parties, we cannot assure you that our projections will be achieved. Factors that may cause such differences include: economic conditions generally and in each of the markets in which we are located, the amount of sales contributed by new and existing restaurants, labor costs for our personnel, fluctuations in the cost of food products, adverse weather conditions, changes in consumer preferences and the level of competition from existing or new competitors.

We have attempted to identify, in context, certain of the factors that we believe may cause actual future experience and results to differ materially from our current expectation regarding the relevant matter or subject area. In addition to the items specifically discussed above, our business, results of operations and financial position and your investment in our common stock are subject to the risks and uncertainties described in "Item 1A Risk Factors" of this Annual Report on Form 10-K.

From time to time, oral or written forward-looking statements are also included in our reports on Forms 10-K, 10-Q, and 8-K, our Schedule 14A, our press releases and other materials released to the public. Although we believe that at the time made, the expectations reflected in all of these forward-looking statements are and will be reasonable; any or all of the forward-looking statements in this Annual Report on Form 10-K, our reports on Forms 10-Q, 10-Q/A and 8-K, our Schedule 14A and any other public statements that are made by us may prove to be incorrect. This may occur as a result of inaccurate assumptions or as a consequence of known or unknown risks and uncertainties. Many factors discussed in this Annual Report on Form 10-K, certain of which are beyond our control, will be important in determining our future performance. Consequently, actual results may differ materially from those that might be anticipated from forward-looking statements. In light of these and other uncertainties, you should not regard the inclusion of a forward-looking statement in this Annual Report on Form 10-K or other public communications that we might make as a representation by us that our plans and objectives will be achieved, and you should not place undue reliance on such forward-looking statements.

We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. However, your attention is directed to any further disclosures made on related subjects in our subsequent periodic reports filed with the Securities and Exchange Commission on Forms 10-Q and 8-K and Schedule 14A.

Unless the context requires otherwise, references to "we," "us," "our," "ARKR" and the "Company" refer specifically to Ark Restaurants Corp. and its subsidiaries, partnerships, variable interest entities and predecessor entities.

Item 1. Business

Overview

We are a New York corporation formed in 1983. As of the fiscal year ended September 28, 2019, we owned and/or operated 20 restaurants and bars, 17 fast food concepts and catering operations through our subsidiaries. Initially our facilities were located only in New York City. As of the fiscal year ended September 28, 2019, five of our restaurant and bar facilities are located in New York City, two are located in Washington, D.C., five are located in Las Vegas, Nevada, three are located in Atlantic City, New Jersey, three are located on the east coast of Florida and two are located on the gulf coast of Alabama.

In addition to the shift from a Manhattan-based operation to a multi-city operation, the nature of the facilities operated by us has shifted from smaller, neighborhood restaurants to larger, destination properties intended to benefit from high patron traffic attributable to the uniqueness of the location and catered events. Most of our properties which have been opened in recent years are of the latter description. As of the fiscal year ended September 28, 2019, these include the operations at the 12 fast food facilities in Tampa, Florida and Hollywood, Florida (2004); the *Gallagher's Steakhouse* and *Gallagher's Burger Bar* in the Resorts Atlantic City Hotel and Casino in Atlantic City, New Jersey (2005); *Yolos* at the Planet Hollywood Resort and Casino in Las Vegas, Nevada (2007); *Robert* at the Museum of Arts & Design at Columbus Circle in Manhattan (2010); *Broadway Burger Bar and Grill* at the New York-New York Hotel and Casino in Las Vegas, Nevada (2011); *Clyde Frazier's Wine and Dine* in Manhattan (2012); *Broadway Burger Bar and Grill* in the Quarter at the Tropicana Hotel and Casino in Atlantic City, New Jersey (2013); *The Rustic Inn* in Dania Beach, Florida (2014); *Shuckers* in Jensen Beach, Florida (2016); two *Original Oyster Houses*, one in Gulf Shores, Alabama and one in Spanish Fort, Alabama (2017) and *JB's on the Beach* in Deerfield Beach, Florida (2019).

The names and themes of each of our restaurants are different except for our two *Gallagher's Steakhouse* restaurants, two *Broadway Burger Bar and Grill* restaurants, and two *Original Oyster House* restaurants. The menus in our restaurants are extensive, offering a wide variety of high-quality foods at generally moderate prices. The atmosphere at many of the restaurants is lively and extremely casual. Most of the restaurants have separate bar areas, are open seven days a week and most serve lunch as well as dinner. A majority of our net sales are derived from dinner as opposed to lunch service.

While decor differs from restaurant to restaurant, interiors are marked by distinctive architectural and design elements which often incorporate dramatic interior open spaces and extensive glass exteriors. The wall treatments, lighting and decorations are typically vivid, unusual and, in some cases, highly theatrical.

The following table sets forth the restaurant properties we lease, own and operate as of September 28, 2019:

Name	Location	Year Opened(1)	Restaurant Size (Square Feet)	Seating Capacity(2) Indoor-(Outdoor)	Lease Expiration(3)
Sequoia	Washington Harbour Washington, D.C.	1990	26,000	600 (400)	2032
Bryant Park Grill & Café	Bryant Park New York, New York	1995	25,000	180 (820)	2025
America(4)	New York-New York Hotel and Casino Las Vegas, Nevada	1997	20,000	450	2023
Gallagher's Steakhouse(4)	New York-New York Hotel & Casino Las Vegas, Nevada	1997	5,500	260	2023
Gonzalez y Gonzalez(4)	New York-New York Hotel & Casino Las Vegas, Nevada	1997	2,000	120	2023
Village Eateries (4)(5)	New York-New York Hotel & Casino Las Vegas, Nevada	1997	6,300	400 (*)	2023
Robert	Museum of Arts & Design New York, New York	2009	5,530	150	2035
Thunder Grill (6)	Union Station Washington, D.C.	1999	10,000	500	2019
Gallagher's Steakhouse	Resorts Atlantic City Hotel and Casino Atlantic City, New Jersey	2005	6,280	196	2020
Gallagher's Burger Bar	Resorts Atlantic City Hotel and Casino Atlantic City, New Jersey	2005	2,270	114	2020
Yolos	Planet Hollywood Resort and Casino Las Vegas, Nevada	2007	4,100	206	2026
Clyde Frazier's Wine and Dine	Tenth Avenue (between 37th and 38th Streets) New York, New York	2012	10,000	250	2032
Broadway Burger Bar and Grill	Tropicana Hotel and Casino Atlantic City, New Jersey	2013	6,825	225	2033
The Rustic Inn	Dania Beach, Florida	2014	16,150	575 (75)	Owned
Southwest Porch (7)	Bryant Park New York, New York	2015	2,240	— (160)	2025
Shuckers	Jensen Beach, Florida	2016	7,310	220 (170)	Owned
The Original Oyster House	Gulf Shores, Alabama	2017	9,230	300	Owned
The Original Oyster House	Spanish Fort, Alabama	2017	10,500	420	Owned
JB's on the Beach	Deerfield Beach, Florida	2019	10,000	365 (100)	2044

(1) Restaurants are, from time to time, renovated, renamed and/or converted from or to managed or owned facilities. "Year Opened" refers to the year in which we, or an affiliated predecessor of us, first opened, acquired or began managing a restaurant at the applicable location, notwithstanding that the restaurant may have been renovated, renamed and/or converted from or to a managed or owned facility since that date.

(2) Seating capacity refers to the seating capacity of the indoor part of a restaurant available for dining in all seasons and weather conditions. Outdoor seating capacity, if applicable, is set forth in parentheses and refers to the seating capacity of terraces and sidewalk cafes which are available for dining only in the warm seasons and then only inclement weather.

- (3) Assumes the exercise of all of our available lease renewal options.
- (4) Under the *America* lease, the sales goal is \$6.0 million. Under the *Gallagher's Steakhouse* lease, the sales goal is \$3.0 million. Under the lease for *Gonzalez y Gonzalez* and the *Village Eateries*, the combined sales goal is \$10.0 million. Each of the restaurants is currently operating at a level in excess of the minimum sales level required to exercise the renewal option for each respective restaurant.
- (5) We operate six small food court restaurants and one full-service restaurant in the *Village Eateries* food court at the New York-New York Hotel & Casino. We also operate that hotel's room service, banquet facilities and employee cafeteria.
- (6) The lease for this location expired in January 2019 and has been operating on a month-to-month basis with the consent of the landlord.
- (7) This location is for a kiosk located at Bryant Park, New York, NY and all seating is outdoors.
- (*) Represents common area seating.

The following table sets forth our less than wholly-owned properties that are managed by us, which have been consolidated as of September 28, 2019 – see Notes 1 and 2 to the Consolidated Financial Statements:

<u>Name</u>	<u>Location</u>	<u>Year Opened(1)</u>	<u>Restaurant Size (Square Feet)</u>	<u>Seating Capacity(2) Indoor-(Outdoor)</u>	<u>Lease Expiration(3)</u>
El Rio Grande (4)(5)	Third Avenue (between 38th and 39th Streets) New York, New York	1987	4,000	220 (60)	2029
Tampa Food Court(6)(7)	Hard Rock Hotel and Casino Tampa, Florida	2004	4,000	250 (*)	2029
Hollywood Food Court(6)(7)	Hard Rock Hotel and Casino Hollywood, Florida	2004	9,000	250 (*)	2029
Lucky Seven(6)	Foxwoods Resort Casino Ledyard, Connecticut	2006	4,825	1,000 (**)	2026

- (1) Restaurants are, from time to time, renovated, renamed and/or converted from or to managed or owned facilities. "Year Opened" refers to the year in which we, or an affiliated predecessor of us, first opened, acquired or began managing a restaurant at the applicable location, notwithstanding that the restaurant may have been renovated, renamed and/or converted from or to a managed or owned facility since that date.
- (2) Seating capacity refers to the seating capacity of the indoor part of a restaurant available for dining in all seasons and weather conditions. Outdoor seating capacity, if applicable, is set forth in parentheses and refers to the seating capacity of terraces and sidewalk cafes which are available for dining only in the warm seasons and then only inclement weather.
- (3) Assumes the exercise of all our available lease renewal options.
- (4) Management fees earned, which have been eliminated in consolidation, are based on a percentage of cash flow of the restaurant.
- (5) We own a 19.2% interest in the partnership that owns *El Rio Grande*.
- (6) Management fees earned, which have been eliminated in consolidation, are based on a percentage of gross sales of the restaurant
- (7) We own a 64.4% interest in the partnership that owns the *Tampa and Hollywood Food Courts*.
- (*) Represents common area seating
- (**) Represents number of seats in the Bingo Hall at the Foxwoods Resort and Casino where our restaurant is located.

Leases

We are not currently committed to any significant projects; however, we may take advantage of opportunities we consider to be favorable, when they occur, depending upon the availability of financing and other factors.

Restaurant Expansion and Other Developments

On May 15, 2019, the Company, through a newly formed, wholly-owned subsidiary, acquired the assets of *JB's on the Beach*, a restaurant and bar located in Deerfield Beach, Florida for \$7,036,000. The acquisition is accounted for as a business combination and was financed with a bank loan from the Company's existing lender in the amount of \$7,000,000 and cash from operations. Concurrent with the acquisition, the Company entered into a 20 year lease (with a five year option) for the restaurant facility and parking lot with the former owner of *JB's on the Beach*, who is also the owner of the underlying real estate. Rent payments under the lease are \$600,000 per year with 10% increases every five years.

The opening of a new restaurant is invariably accompanied by substantial pre-opening expenses and early operating losses associated with the training of personnel, excess kitchen costs, costs of supervision and other expenses during the pre-opening period and during a post-opening "shake out" period until operations can be considered to be functioning normally. The amount of such pre-opening expenses and early operating losses can generally be expected to depend upon the size and complexity of the facility being opened.

During 2019, the Company was advised by the landlord of our food court at the Hard Rock Casino and Hotel in Hollywood, Florida that they were exercising their right to relocate our space, at their sole cost, as contractually agreed to in the original lease. The new facilities were completed on September 16, 2019, on which date we closed our existing location and opened the new facilities. The Company recorded the value of the renovations made by the landlord, which includes leasehold improvements and furniture, fixtures and equipment, in the amount of \$5,474,000 with a corresponding increase in deferred rent. The net book value of the existing leasehold improvements relating to the original location in the amount of \$918,000 is being reflected as a reduction of deferred rent on a straight-line basis over the remaining lease term.

During 2019, the Company was advised by the landlord of our food court at the Hard Rock Casino and Hotel in Tampa, Florida that they were exercising their right to renovate the front of the house space, at their sole cost, as contractually agreed to in the original lease. In connection with this renovation, we closed our existing facilities on June 2, 2019 and re-opened the renovated facilities on September 28, 2019. The Company recorded the value of the renovations made by the landlord, which includes leasehold improvements and furniture, fixtures and equipment, in the amount of \$3,179,000 with a corresponding increase in deferred rent. The net book value of the existing leasehold improvements relating to the original location in the amount of \$459,000 is being reflected as a reduction of deferred rent on a straight-line basis over the remaining lease term.

Our restaurants generally do not achieve substantial increases in revenue from year to year, which we consider to be typical of the restaurant industry. To achieve significant increases in revenue or to replace revenue of restaurants that lose customer favor or which close because of lease expirations or other reasons, we would have to open additional restaurant facilities or expand existing restaurants. There can be no assurance that a restaurant will be successful after it is opened, particularly since in many instances we do not operate our new restaurants under a trade name currently used by us, thereby requiring new restaurants to establish their own identity.

Investment in New Meadowlands Racetrack LLC

On March 12, 2013, the Company made a \$4,200,000 investment in the New Meadowlands Racetrack LLC ("NMR") through its purchase of a membership interest in Meadowlands Newmark, LLC, an existing member of NMR. On November 19, 2013, the Company invested an additional \$464,000 in NMR through a purchase of an additional membership interest in Meadowlands Newmark, LLC resulting in a total ownership of 11.6% of Meadowlands Newmark, LLC, and an effective ownership interest in NMR of 7.4%, subject to dilution. In 2015, the Company invested an additional \$222,000 in NMR and in February 2017 the Company invested an additional \$222,000 in NMR, both as a result of capital calls, bringing its total investment to \$5,108,000 with no change in ownership.

In addition to the Company's ownership interest in NMR, if casino gaming is approved at the Meadowlands and NMR is granted the right to conduct said gaming, the Company shall be granted the exclusive right to operate the food and beverage concessions in the gaming facility with the exception of one restaurant.

In conjunction with this investment, the Company, through a 97% owned subsidiary, Ark Meadowlands LLC ("AM VIE"), also entered into a long-term agreement with NMR for the exclusive right to operate food and beverage concessions serving the new raceway facilities (the "Racing F&B Concessions") located in the new raceway grandstand constructed at the Meadowlands

Racetrack in northern New Jersey. Under the agreement, NMR is responsible to pay for the costs and expenses incurred in the operation of the Racing F&B Concessions, and all revenues and profits thereof inure to the benefit of NMR. AM VIE receives an annual fee equal to 5% of the net profits received by NMR from the Racing F&B Concessions during each calendar year.

On April 25, 2014, the Company loaned \$1,500,000 to Meadowlands Newmark, LLC. The note bears interest at 3%, compounded monthly and added to the principal, and is due in its entirety on January 31, 2024. The note may be prepaid, in whole or in part, at any time without penalty or premium. On July 13, 2016, the Company made an additional loan to Meadowlands Newmark, LLC in the amount of \$200,000. Such amount is subject to the same terms and conditions as the original loan discussed above. The principal and accrued interest related to this note in the amounts of \$1,713,000 and \$1,928,000, are included in Investment In and Receivable From New Meadowlands Racetrack in the consolidated balance sheets at September 28, 2019 and September 29, 2018, respectively.

On June 7, 2018, the New Jersey State Legislature voted to legalize sports betting at casinos and racetracks in the state. Pursuant to this legislation, NMR opened a sports book in partnership with FanDuel, a leading provider of daily fantasy sports, in June 2018.

Recent Restaurant Dispositions

As of December 29, 2018, the Company determined that it would not be able to operate *Durgin-Park* profitably due to decreased traffic at the Faneuil Hall Marketplace in Boston, MA, where it was located, and rising labor costs. As a result, included in the statement of income for the 39 weeks ended June 29, 2019 are losses on closure in the amount of \$1,106,000 consisting of: (i) impairment of trademarks in the amount of \$721,000, (ii) accelerated depreciation of fixed assets in the amount of \$333,000, and (iii) write-offs of prepaid and other expenses in the amount of \$52,000. The restaurant closed on January 12, 2019.

Restaurant Management

Each restaurant is managed by its own manager and has its own chef. Food products and other supplies are purchased primarily from various unaffiliated suppliers, in most cases by our headquarters' personnel. Each of our restaurants has two or more assistant managers and sous chefs (assistant chefs). Financial and management control is maintained at the corporate level through the use of automated systems that include centralized accounting and reporting.

Purchasing and Distribution

We strive to obtain quality menu ingredients, raw materials and other supplies and services for our operations from reliable sources at competitive prices. Substantially all menu items are prepared on each restaurant's premises daily from scratch, using fresh ingredients. Each restaurant's management determines the quantities of food and supplies required and then orders the items from local, regional and national suppliers on terms negotiated by our centralized purchasing staff. Restaurant-level inventories are maintained at a minimum dollar-value level in relation to sales due to the relatively rapid turnover of the perishable produce, poultry, meat, fish and dairy commodities that are used in operations.

We attempt to negotiate short-term and long-term supply agreements depending on market conditions and expected demand. However, we do not contract for long periods of time for our fresh commodities such as produce, poultry, meat, fish and dairy items and, consequently, such commodities can be subject to unforeseen supply and cost fluctuations. Independent foodservice distributors deliver most food and supply items daily to restaurants. The financial impact of the termination of any such supply agreements would not have a material adverse effect on our financial position.

Competition

The hospitality industry is highly competitive and is often affected by changes in taste and entertainment trends among the public, by local, national and economic conditions affecting spending habits, and by population and traffic patterns. We believe that the principal means of competition among restaurants include the location, type and quality of facilities and the type, quality and price of beverage and food served.

Our restaurants compete directly or indirectly with many well-established competitors, both nationally and locally owned, some with substantially greater financial resources than we have. Their resources and market presence may provide advantages in marketing, purchasing and negotiating leases. We compete with other restaurant and retail establishments for sites and finding management personnel.

Employees

At November 30, 2019, we employed 2,145 persons (including employees at managed facilities), 1,328 of whom were full-time employees, and 817 of whom were part-time employees; 48 of whom were headquarters personnel, 141 of whom were restaurant management personnel, 1,298 of whom were kitchen personnel and 658 of whom were restaurant service personnel. A number of our restaurant service personnel are employed on a part-time basis. Changes in minimum wage levels may adversely affect our labor costs and the restaurant industry generally because a large percentage of restaurant personnel are paid at or slightly above the minimum wage. Our employees are not covered by any collective bargaining agreements.

Government Regulation

We are subject to various federal, state and local laws affecting our business. Each restaurant is subject to licensing and regulation by a number of governmental authorities that may include alcoholic beverage control, health, sanitation, environmental, zoning and public safety agencies in the state or municipality in which the restaurant is located. Difficulties in obtaining or failures to obtain the required licenses or approvals could delay or prevent the development and openings of new restaurants, or could disrupt the operations of existing restaurants.

Alcoholic beverage control regulations require each of our restaurants to apply to a state authority and, in certain locations, county and municipal authorities for licenses and permits to sell alcoholic beverages on the premises. Typically, licenses must be renewed annually and may be subject to penalties, temporary suspension or revocation for cause at any time. Alcoholic beverage control regulations impact many aspects of the daily operations of our restaurants, including the minimum ages of patrons and employees consuming or serving such beverages; employee alcoholic beverages training and certification requirements; hours of operation; advertising; wholesale purchasing and inventory control of such beverages; seating of minors and the service of food within our bar areas; and the storage and dispensing of alcoholic beverages. State and local authorities in many jurisdictions routinely monitor compliance with alcoholic beverage laws. The failure to receive or retain, or a delay in obtaining, a liquor license for a particular restaurant could adversely affect our ability to obtain such licenses in jurisdictions where the failure to receive or retain, or a delay in obtaining, a liquor license occurred.

We are subject to “dram-shop” statutes in most of the states in which we have operations, which generally provide a person injured by an intoxicated person the right to recover damages from an establishment that wrongfully served alcoholic beverages to such person. We carry liquor liability coverage as part of our existing comprehensive general liability insurance. A settlement or judgment against us under a “dram-shop” statute in excess of liability coverage could have a material adverse effect on our operations.

Various federal and state labor laws govern our operations and our relationship with employees, including such matters as minimum wages, breaks, overtime, fringe benefits, safety, working conditions and citizenship requirements. We are also subject to the regulations of the Immigration and Naturalization Service. If our employees do not meet federal citizenship or residency requirements, their deportation could lead to a disruption in our work force. Significant government-imposed increases in minimum wages, paid leaves of absence and mandated health benefits, or increased tax reporting, assessment or payment requirements related to employees who receive gratuities could be detrimental to our profitability.

Our facilities must comply with the applicable requirements of the Americans With Disabilities Act of 1990 (“ADA”) and related state statutes. The ADA prohibits discrimination on the basis of disability with respect to public accommodations and employment. Under the ADA and related state laws, when constructing new restaurants or undertaking significant remodeling of existing restaurants, we must make them more readily accessible to disabled persons.

The New York State Liquor Authority must approve any transaction in which a shareholder of the licensee increases his holdings to 10% or more of the outstanding capital stock of the licensee and any transaction involving 10% or more of the outstanding capital stock of the licensee.

Seasonal Nature of Business

Our business is highly seasonal; however, our broader geographical reach as a result of recent acquisitions mitigates some of the risk. For instance, the second quarter of our fiscal year, consisting of the non-holiday portion of the cold weather season in New York and Washington (January, February and March), is the poorest performing quarter; however, in recent years this has been partially offset by our locations in Florida as they experience increased results in the winter months. We achieve our best results during the warm weather, attributable to our extensive outdoor dining availability, particularly at *Bryant Park* in New York and *Sequoia* in Washington, D.C. (our largest restaurants) and our outdoor cafes. However, even during summer months these facilities can be adversely affected by unusually cool or rainy weather conditions. Our facilities in Las Vegas are indoor and generally operate on a more consistent basis throughout the year.

Available Information

We make available free of charge through our Internet website, www.arkrestaurants.com, our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, statements of beneficial ownership of securities on Forms 3, 4 and 5 and amendments to these reports and statements filed or furnished pursuant to Section 13(a) and Section 16 of the Securities Exchange Act of 1934 as soon as reasonably practicable after such materials are electronically filed with, or furnished to, the United States Securities and Exchange Commission, or SEC.

The above information is also available at the SEC's Office of Investor Education and Advocacy at United States Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549-0213 or obtainable by calling the SEC at (800) 732-0330. In addition, the SEC maintains an Internet website at www.sec.gov, where the above information can be viewed.

Our principal executive offices are located at 85 Fifth Avenue, New York, New York 10003, and our telephone number is (212) 206-8800. Unless the context specifically requires otherwise, the terms the "Company," "Ark," "we," "us" and "our" mean Ark Restaurants Corp., a Delaware corporation, and its consolidated subsidiaries.

Item 1A. Risk Factors

Not applicable.

Item 1B. Unresolved Staff Comments

Not applicable.

Item 2. Properties

Our restaurant facilities and our executive offices, with the exception of *The Rustic Inn* in Dania Beach, Florida, *Shuckers* in Jensen Beach, Florida and the two *Original Oyster House* properties in Alabama, are occupied under leases. Most of our restaurant leases provide for the payment of base rents plus real estate taxes, insurance and other expenses and, in certain instances, for the payment of a percentage of our sales at such facility. As of September 28, 2019, these leases (including leases for managed restaurants) have terms (including any available renewal options) expiring as follows:

<u>Fiscal Year Lease Terms Expire</u>	<u>Number of Facilities</u>
2020-2024	5
2025-2029	7
2030-2034	7
2035-2039	1
2040-2044	1

Our executive, administrative and clerical offices are located in approximately 8,500 square feet of office space at 85 Fifth Avenue, New York, New York. Our lease for this office space expires in 2025.

For information concerning our future minimum rental commitments under non-cancelable operating leases, see Note 10 of the Notes to Consolidated Financial Statements for additional information concerning our leases.

Item 3. Legal Proceedings

In the ordinary course of our business, we are a party to various lawsuits arising from accidents at our restaurants and workers' compensation claims, which are generally handled by our insurance carriers.

Our employment of management personnel, waiters, waitresses and kitchen staff at a number of different restaurants has resulted in the institution, from time to time, of litigation alleging violation by us of employment discrimination laws. We do not believe that any of such suits will have a material adverse effect upon us, our financial condition or operations.

On May 1, 2018, two former tipped service workers (the "Plaintiffs"), individually and on behalf of all other similarly situated personnel, filed a putative class action lawsuit (the "Complaint") against the Company and certain subsidiaries as well as certain officers of the Company (the "Defendants"). Plaintiffs allege, on behalf of themselves and the putative class, that the Company violated certain of the New York State Labor Laws and related regulations. The Complaint seeks unspecified money damages,

together with interest, liquidated damages and attorney fees. There has been no discovery on the merits of the Complaint and the matter is still in the initial stages of discovery concerning whether the named Plaintiffs are seeking to represent an appropriate class of tipped service workers, and if so, whether the named Plaintiffs are appropriate class representatives. The Company's Motion to Dismiss the Complaint was denied on June 27, 2019. The Company believes that the allegations and claims in the Complaint are without merit, and it intends to defend itself vigorously in this litigation. However, the outcomes of legal actions are unpredictable and subject to significant uncertainties, and thus it is inherently difficult to determine the probability or quantification of any loss. Based on information currently available, including the Company's assessment of the facts underlying the Complaint and advice of counsel, the amount or range of reasonably possible losses, if any, cannot be estimated. Accordingly, the Company has not recorded any accrual related to this matter as of September 28, 2019.

Item 4. Mine Safety Disclosures

Not Applicable.

PART II

Item 5. Market For The Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market for Our Common Stock

Our Common Stock, \$.01 par value, is traded on the Nasdaq Capital Market under the symbol "ARKR."

As of December 11, 2019, there were 30 holders of record of our common stock and approximately an additional 1,434 beneficial owners.

Dividend Policy

On December 5, 2017, March 6, 2018, June 12, 2018, September 17, 2018, December 3, 2018, March 1, 2019, June 13, 2019, September 9, 2019 and November 26, 2019, our Board of Directors declared quarterly cash dividends in the amount of \$0.25 per share. We intend to continue to pay such quarterly cash dividends for the foreseeable future; however, the payment of future dividends is at the discretion of our Board of Directors and is based on future earnings, cash flow, financial condition, capital requirements, changes in U.S. taxation and other relevant factors.

Purchases of Equity Securities by Issuer and Affiliated Purchases

There were no purchases made during the fourth quarter of the issuer's fiscal year.

Securities Authorized for Issuance under Equity Compensation Plans

The Company has options outstanding under two stock option plans: the 2010 Stock Option Plan (the "2010 Plan") and the 2016 Stock Option Plan (the "2016 Plan"). Options granted under both plans are exercisable at prices at least equal to the fair market value of such stock on the dates the options were granted and expire ten years after the date of grant.

On August 10, 2018, options to purchase 5,000 shares of common stock were granted at an exercise price of \$20.36 per share and on September 4, 2018, options to purchase 20,000 shares of common stock were granted at an exercise price of \$22.30 per share. Both grants are exercisable as to 50% of the shares commencing on the date of grant and as to an additional 50% commencing on the first anniversary of the date of grant. Such options had an aggregate grant date fair value of \$3.46 per share and \$3.82 per share, respectively and totaled approximately \$94,000.

During the year ended September 28, 2019, options to purchase 23,000 shares of common stock at an exercise price of \$19.61 per share were granted to employees of the Company. Such options are exercisable as to 50% of the shares commencing on the date of grant and as to an additional 50% commencing on the first anniversary of the date of grant. Such options had an aggregate grant date fair value of \$3.48 per share and totaled approximately \$80,000.

During the year ended September 28, 2019, options to purchase 11,000 shares of common stock at an exercise price of \$20.18 per share were granted to employees of the Company. Such options are exercisable as to 25% of the shares commencing on the first anniversary of the date of grant and 25% on the second, third and fourth anniversary thereof. Such options had an aggregate grant date fair value of \$3.55 per share and totaled approximately \$39,000.

During the year ended September 28, 2019, options to purchase 19,500 shares of common stock with a strike price of \$12.04 were exercised on a net issue basis as provided in the 2010 Plan. Accordingly, 11,774 shares were immediately repurchased and retired from treasury.

During the year ended September 28, 2019, options to purchase 8,750 shares of common stock at a weighted average price of \$18.76 per share expired unexercised or were forfeited. During the year ended September 29, 2018, options to purchase 26,050 shares of common stock at an exercise price of \$18.60 per share expired unexercised.

The following is a summary of the securities issued and authorized for issuance under our Stock Option Plans at September 28, 2019:

Plan Category	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights	(b) Weighted - average exercise price of outstanding options, warrants and rights	(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by shareholders	363,500	\$19.25	441,000
Equity compensation plans not approved by shareholders (1)	None	N/A	None
Total	363,500	\$19.25	441,000

Of the 363,500 options outstanding on September 28, 2019, 163,125 were held by the Company’s officers and directors.

(1) The Company has no equity compensation plans that were not approved by shareholders.

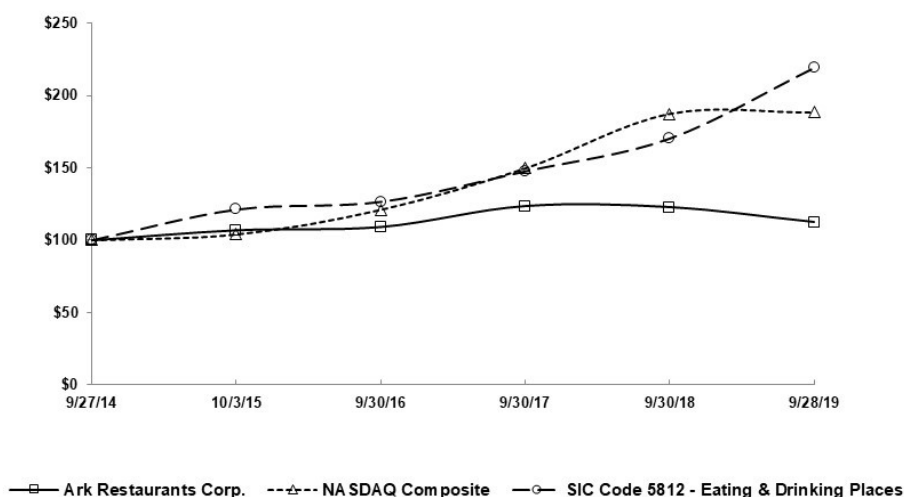
The Company also maintains a Section 162(m) Cash Bonus Plan. Under the Company's Section 162(m) Cash Bonus Plan, compensation paid in excess of \$1,000,000 to any employee who is the chief executive officer, or one of the three highest paid executive officers on the last day of that tax year (other than the chief executive officer or the chief financial officer) is not tax deductible.

Stock Performance Graph

The graph set forth below compares the yearly percentage change in cumulative total shareholder return on the Company’s Common Stock for the five-year period commencing September 27, 2014 and ending September 28, 2019 against the cumulative total return on the NASDAQ Market Index and a peer group comprised of those public companies whose business activities fall within the same standard industrial classification code as the Company. This graph assumes a \$100 investment in the Company’s Common Stock and in each index on September 27, 2014 and that all dividends paid by companies included in each index were reinvested.

COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN*

Among Ark Restaurants Corp., the NASDAQ Composite Index, and SIC Code 5812 - Eating & Drinking Places



*\$100 invested on 9/27/14 in stock or 9/30/14 in index, including reinvestment of dividends. Index calculated on month-end basis.

	Cumulative Total Return					
	09/27/14	10/03/15	09/30/16	09/30/17	09/30/18	09/28/19
Ark Restaurants Corp.	\$100.00	\$106.87	\$109.16	\$123.50	\$122.77	\$112.60
NASDAQ Composite	100.00	104.00	121.08	149.75	187.44	188.43
SIC Code 5812 - Eating & Drinking Places	100.00	121.32	126.69	147.88	170.59	219.53

Item 6. Selected Consolidated Financial Data

Not applicable.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

Overview

As of September 28, 2019, the Company owned and operated 20 restaurants and bars, 17 fast food concepts and catering operations, exclusively in the United States, that have similar economic characteristics, nature of products and service, class of customer and distribution methods. The Company believes it meets the criteria for aggregating its operating segments into a single reporting segment in accordance with applicable accounting guidance. The consolidated statement of income for the year ended September 28, 2019 includes revenues and operating losses of approximately \$3,380,000 and (\$122,000), respectively, related to *JB's on the Beach* in Deerfield Beach, Florida which was acquired on May 15, 2019.

Accounting Period

Our fiscal year ends on the Saturday nearest September 30. We report fiscal years under a 52/53-week format. This reporting method is used by many companies in the hospitality industry and is meant to improve year-to-year comparisons of operating results. Under this method, certain years will contain 53 weeks. The fiscal years ended September 28, 2019 and September 29, 2018 included 52 weeks.

Seasonality

The Company has substantial fixed costs that do not decline proportionally with sales. The first and second fiscal quarters, which include the winter months, usually reflect lower customer traffic than in the third and fourth fiscal quarters. However, sales in the third and fourth fiscal quarters can be adversely affected by inclement weather due to the significant amount of outdoor seating at the Company's restaurants.

Results of Operations

The Company's restaurant operating income of \$7,209,000 for the year ended September 28, 2019 (which excludes losses on the closure of *Durgin-Park* and an impairment loss from a write-down of long-lived assets related to *Clyde Frazier's Wine and Dine*) increased 43.3% compared to restaurant operating income of \$5,032,000 for the year ended September 29, 2018. This increase resulted primarily from strong performance at our properties located in Florida and Alabama, increased profitability at our Washington, D.C. properties as a result of a renegotiated month-to-month rent on one and strong catering revenues at the other and the elimination of losses in the prior period of approximately \$650,000 related to *Durgin-Park*, which was closed in January 2019, partially offset by increased labor costs, higher legal fees and losses in the amount of approximately \$200,000 at our food court in Tampa, Florida which was closed for renovation for the last four months of the fiscal year.

The following table summarizes the significant components of the Company's operating results for the years ended September 28, 2019 and September 29, 2018, respectively:

	Year Ended		Variance	
	September 28, 2019	September 29, 2018	\$	%
REVENUES:				
Food and beverage sales	\$ 159,125	\$ 156,837	\$ 2,288	1.5%
Other revenue	3,229	3,153	76	2.4%
Total revenues	162,354	159,990	2,364	1.5%
COSTS AND EXPENSES:				
Food and beverage cost of sales	43,435	43,036	399	0.9%
Payroll expenses	56,675	55,620	1,055	1.9%
Occupancy expenses	17,413	18,577	(1,164)	-6.3%
Other operating costs and expenses	20,378	21,437	(1,059)	-4.9%
General and administrative expenses	12,011	11,214	797	7.1%
Depreciation and amortization	5,233	5,074	159	3.1%
Total costs and expenses	155,145	154,958	187	0.1%
RESTAURANT OPERATING INCOME	7,209	5,032	2,177	43.3%
Loss on closure of Durgin-Park	(1,106)	—	(1,106)	N/A
Impairment loss from write-down of long-lived assets	(2,857)	—	(2,857)	N/A
OPERATING INCOME	\$ 3,246	\$ 5,032	\$ (1,786)	-35.5%

Revenues

During the year ended September 28, 2019, revenues increased 1.5% compared to the year ended September 29, 2018. This increase resulted primarily from: (i) revenues related to *JB's on the Beach* in Deerfield Beach, Florida (which was acquired on May 15, 2019), and (ii) the same-store sales impacts discussed below, partially offset by revenues related to *Durgin-Park*, which was closed in January 2019.

Food and Beverage Same-Store Sales

On a Company-wide basis, same-store food and beverage sales increased 0.3% for the year ended September 28, 2019 as compared to the year ended September 29, 2018 as follows:

	Year Ended		Variance	
	September 28, 2019	September 29, 2018	\$	%
(in thousands)				
Las Vegas	\$ 48,787	\$ 47,852	\$ 935	2.0%
New York	39,324	39,636	(312)	-0.8%
Washington, DC	13,028	13,253	(225)	-1.7%
Atlantic City, NJ	6,954	7,406	(452)	-6.1%
Connecticut	1,980	2,120	(140)	-6.6%
Alabama	14,048	13,534	514	3.8%
Florida	28,219	28,068	151	0.5%
Same-store sales	152,340	151,869	\$ 471	0.3%
Other	6,785	4,968		
Food and beverage sales	\$ 159,125	\$ 156,837		

Same-store sales in Las Vegas increased 2.0% primarily as a result of better traffic at one of our properties which was under renovation last year, stronger than expected catering revenues and continued increased traffic near the New York-New York Hotel & Casino as a result of the opening of the T-Mobile Arena nearby. Same-store sales in New York decreased 0.8% primarily as a result of increased competition and construction on the building where one of our properties is located. Same-store sales in Washington, D.C. decreased 1.7% due to decreased traffic at our *Thunder Grill* property located in Union Station as a result of a major tenant vacating the adjacent space. Same-store sales in Atlantic City decreased 6.1% as a result of increased competition from the opening of several new casinos. Same-store sales in Connecticut decreased 6.6% due to declining traffic at the Foxwoods Resort and Casino where our property is located. Same-store sales in Alabama increased 3.8% primarily as a result of better weather conditions in the current period. Same-store sales in Florida increased 0.5% as a result of higher traffic and modest menu price increases partially offset by the temporary closure for renovation of our food court at the Hard Rock Hotel and Casino in Tampa, Florida. Other food and beverage sales consist of sales related to new restaurants opened or acquired during the applicable period (i.e. *JB's on the Beach* - \$3,380,000 in 2019), sales related to properties that were closed (i.e. *Durgin-Park* - \$1,040,000 in 2019 and \$2,839,000 in 2018) and other fees.

Our restaurants generally do not achieve substantial increases in revenue from year to year, which we consider to be typical of the restaurant industry. To achieve significant increases in revenue or to replace revenue of restaurants that lose customer favor or which close because of lease expirations or other reasons, we would have to open additional restaurant facilities or expand existing restaurants. There can be no assurance that a restaurant will be successful after it is opened, particularly since in many instances we do not operate our new restaurants under a trade name currently used by us, thereby requiring new restaurants to establish their own identity.

Other Revenues

Included in Other Revenues are purchase service fees which represent commissions earned by a subsidiary of the Company for providing purchasing services to other restaurant groups, as well as license fees, property management fees and other rentals. The increase in other revenues for the year ended September 28, 2019 as compared to the year ended September 29, 2018 is primarily due to an increase in property management fees and other rentals partially offset by decreased purchase service fees.

Costs and Expenses

Costs and expenses for the years ended September 28, 2019 and September 29, 2018 were as follows (in thousands):

	Year Ended September 28, 2019	% to Total Revenues	Year Ended September 29, 2018	% to Total Revenues	Increase (Decrease)	
					\$	%
Food and beverage cost of sales	\$ 43,435	26.8 %	\$ 43,036	26.9 %	\$ 399	0.9%
Payroll expenses	56,675	34.9 %	55,620	34.8 %	1,055	1.9%
Occupancy expenses	17,413	10.7 %	18,577	11.6 %	(1,164)	-6.3%
Other operating costs and expenses	20,378	12.6 %	21,437	13.4 %	(1,059)	-4.9%
General and administrative expenses	12,011	7.4 %	11,214	7.0 %	797	7.1%
Depreciation and amortization	5,233	3.2 %	5,074	3.2 %	159	3.1%
Total costs and expenses	<u>\$ 155,145</u>		<u>\$ 154,958</u>		<u>\$ 187</u>	

Food and beverage costs as a percentage of total revenues for the year ended September 28, 2019 increased slightly as compared to last year as a result of increases in food costs partially offset by a better mix of catering versus a la carte business at our larger properties combined with menu price increases.

Payroll expenses as a percentage of total revenues for the year ended September 28, 2019 increased slightly as compared to last year primarily as a result of minimum wage increases associated with changes to labor laws partially offset by a better mix of catering versus a la carte business at our larger properties combined with menu price increases.

Occupancy expenses as a percentage of total revenues for the year ended September 28, 2019 decreased as compared to last year primarily as a result of a renegotiated month-to-month rent at one of our Washington, D.C. properties combined with higher sales at properties where the Company owns the premises at which the property operates.

Other operating costs and expenses as a percentage of total revenues for the year ended September 28, 2019 decreased as compared to last year as a result of cost cutting initiatives and higher restaurant-level legal fees in the prior year.

General and administrative expenses (which relate solely to the corporate office in New York City) as a percentage of total revenues for the year ended September 28, 2019 increased as compared to last year primarily as a result of annual wage increases and higher professional fees.

Depreciation and amortization expense for the year ended September 28, 2019 increased as compared to last year primarily as a result of fixed asset additions placed in service during 2019.

Loss on closure of Durgin-Park

As of December 29, 2018, the Company determined that it would not be able to operate *Durgin-Park* profitably due to decreased traffic at the Faneuil Hall Marketplace in Boston, MA, where it was located, and rising labor costs. As a result, included in the statement of income for the year ended September 28, 2019 are losses on closure in the amount of \$1,106,000 consisting of: (i) impairment of trademarks in the amount of \$721,000, (ii) accelerated depreciation of fixed assets in the amount of \$333,000, and (iii) write-offs of prepaid and other expenses in the amount of \$52,000. The restaurant closed on January 12, 2019.

Impairment loss from write-down of long-lived assets

Management continually evaluates unfavorable cash flows, if any, related to underperforming restaurants. Periodically it is concluded that certain properties have become impaired based on their existing and anticipated future economic outlook in their respective markets. In such instances, we may impair assets to reduce their carrying values to fair values. Estimated fair values of impaired properties are based on comparable valuations, cash flows and/or management judgment. As a result of the underperformance and increased competition at *Clyde Frazier's Wine and Dine*, the Company has recorded an impairment charge of \$2,857,000 in the year ended September 28, 2019 related to this property.

Income Taxes

Our income tax expense, deferred tax assets and liabilities, and liabilities for uncertain tax positions reflect management's best estimate of current and future taxes to be paid. We are subject to income tax in numerous state taxing jurisdictions. Significant judgment and estimates are required in the determination of consolidated income tax expense. The provision for income taxes reflects federal income taxes calculated on a consolidated basis and state and local income taxes which are calculated on a separate entity basis.

For state and local income tax purposes, certain losses incurred by a subsidiary may only be used to offset that subsidiary's income, with the exception of the restaurants operating in the District of Columbia. Accordingly, our overall effective tax rate has varied depending on the level of income and losses incurred at individual subsidiaries.

Deferred income taxes arise from temporary differences between the tax bases of assets and liabilities and their reported amounts in the consolidated financial statements, which will result in taxable or deductible amounts in the future. In evaluating our ability to recover our deferred tax assets in the jurisdiction from which they arise, we consider all available positive and negative evidence, including scheduled reversals of deferred tax liabilities, projected future taxable income, tax-planning strategies, and results of recent operations. The assumptions about future taxable income require the use of significant judgment and are consistent with the plans and estimates we are using to manage the underlying businesses.

On December 22, 2017, the U.S. government enacted comprehensive tax reform commonly referred to as the Tax Cuts and Jobs Act ("TCJA"). Under Accounting Standards Codification ("ASC") 740, the effects of changes in tax rates and laws are recognized in the period in which the new legislation is enacted. The TCJA makes broad and complex changes to the U.S. tax code, including, but not limited to: (1) reducing the U.S. federal corporate tax rate from 35% to 21% effective January 1, 2018; (2) changing rules related to uses and limitations of net operating loss carryforwards created in tax years beginning after December 31, 2017; (3) accelerated expensing on certain qualified property; (4) creating a new limitation on deductible interest expense to 30% of tax adjusted EBITDA through 2021 and then 30% of tax adjusted EBIT thereafter; (5) eliminating the corporate alternative minimum tax; and (6) further limitations on the deductibility of executive compensation under IRC §162(m) for tax years beginning after December 31, 2017. As the reduction in the U.S. federal corporate tax rate is administratively effective on January 1, 2018, our blended U.S. federal tax rate for the year ended September 28, 2019 was approximately 24%.

In connection with the TCJA, the Company recorded an income tax benefit of \$1,382,000 related to the re-measurement of our deferred tax assets and liabilities for the reduced U.S. federal corporate tax rate of 21%. The Company's accounting for the TCJA was complete as of September 29, 2018 with no significant differences from our provisional estimates.

The Company's overall effective tax rate in the future will be affected by factors such as the utilization of state and local net operating loss carryforwards, the generation of FICA tax credits and the mix of earnings by state taxing jurisdictions as Nevada

does not impose a state income tax, as compared to the other major state and local jurisdictions in which the Company has operations. Our overall effective tax rate in the future will be affected by factors such as income earned by our VIEs, generation of FICA TIP credits and the mix of geographical income for state tax purposes as Nevada does not impose an income tax.

Liquidity and Capital Resources

Our primary source of capital has been cash provided by operations and, in recent years, bank and other borrowings to finance specific transactions, acquisitions and large remodeling projects. We utilize cash generated from operations to fund the cost of developing and opening new restaurants and smaller remodeling projects of existing restaurants we own.

Net cash provided by operating activities for the year ended September 28, 2019 increased to \$10,615,000 as compared to \$9,575,000 for the year ended September 29, 2018 and was attributable to increased restaurant-level operating income and changes in net working capital primarily related to accounts receivable, prepaid, refundable and accrued income taxes and accounts payable and accrued expenses.

Net cash used in investing activities for the year ended September 28, 2019 was \$3,196,000 and resulted primarily from purchases of fixed assets at existing restaurants.

Net cash used in investing activities for the year ended September 29, 2018 was \$5,050,000 and resulted primarily from purchases of fixed assets at existing restaurants and costs associated with the renovation of *Sequoia*.

Net cash used in financing activities for the years ended September 28, 2019 and September 29, 2018 of \$5,254,000 and \$919,000, respectively, resulted primarily from the payment of dividends, principal payments on notes payable and distributions to non-controlling interests, offset by borrowings under the credit facility.

The Company had a working capital deficiency of \$4,373,000 at September 28, 2019 as compared with a deficiency of \$4,628,000 at September 29, 2018. We believe that our existing cash balances, current banking facilities and cash provided by operations will be sufficient to meet our liquidity and capital spending requirements at least through December 18, 2020.

On January 3, 2019, April 5, 2019, July 8, 2019 and October 7, 2019, the Company paid quarterly cash dividends in the amount of \$0.25 per share on the Company's common stock. The Company intends to continue to pay such quarterly cash dividend for the foreseeable future; however, the payment of future dividends is at the discretion of the Company's Board of Directors and is based on future earnings, cash flow, financial condition, capital requirements, changes in U.S. taxation and other relevant factors.

Restaurant Expansion and Other Developments

On May 15, 2019, the Company, through a newly formed, wholly-owned subsidiary, acquired the assets of *JB's on the Beach*, a restaurant and bar located in Deerfield Beach, Florida for \$7,036,000. The acquisition is accounted for as a business combination and was financed with a bank loan from the Company's existing lender in the amount of \$7,000,000 and cash from operations.

During 2019, the Company was advised by the landlord of our food court at the Hard Rock Casino and Hotel in Hollywood, Florida that they were exercising their right to relocate our space, at their sole cost, as contractually agreed to in the original lease. The new facilities were completed on September 16, 2019, on which date we closed our existing location and opened the new facilities. The Company recorded the value of the renovations made by the landlord, which includes leasehold improvements and furniture, fixtures and equipment, in the amount of \$5,474,000 with a corresponding increase in deferred rent. The net book value of the existing leasehold improvements relating to the original location in the amount of \$918,000 is being reflected as a reduction of deferred rent on a straight-line basis over the remaining lease term. In addition, the Company recorded an impairment loss on the existing the furniture, fixtures and equipment in the amount of \$8,000 which is included in depreciation and amortization expense for the year ended September 28, 2019.

During 2019, the Company was advised by the landlord of our food court at the Hard Rock Casino and Hotel in Tampa, Florida that they were exercising their right to renovate the front of the house space, at their sole cost, as contractually agreed to in the original lease. In connection with this renovation, we closed our existing facilities on June 2, 2019 and re-opened the renovated facilities on September 28, 2019. The Company recorded the value of the renovations made by the landlord, which includes leasehold improvements and furniture, fixtures and equipment, in the amount of \$3,179,000 with a corresponding increase in deferred rent. The net book value of the existing leasehold improvements relating to the original location in the amount of \$459,000 is being reflected as a reduction of deferred rent on a straight-line basis over the remaining lease term. In addition, the Company recorded an impairment loss on the existing furniture, fixtures and equipment in the amount of \$123,000 which is included in depreciation and amortization expense for the year ended September 28, 2019.

The opening of a new restaurant is invariably accompanied by substantial pre-opening expenses and early operating losses associated with the training of personnel, excess kitchen costs, costs of supervision and other expenses during the pre-opening period and during a post-opening “shake out” period until operations can be considered to be functioning normally. The amount of such pre-opening expenses and early operating losses can generally be expected to depend upon the size and complexity of the facility being opened.

Our restaurants generally do not achieve substantial increases in revenue from year to year, which we consider to be typical of the restaurant industry. To achieve significant increases in revenue or to replace revenue of restaurants that lose customer favor or which close because of lease expirations or other reasons, we would have to open additional restaurant facilities or expand existing restaurants. There can be no assurance that a restaurant will be successful after it is opened, particularly since in many instances we do not operate our new restaurants under a trade name currently used by us, thereby requiring new restaurants to establish their own identity.

We may take advantage of other opportunities we consider to be favorable, when they occur, depending upon the availability of financing and other factors.

Investment in and Receivable from New Meadowlands Racetrack

On March 12, 2013, the Company made a \$4,200,000 investment in the New Meadowlands Racetrack LLC (“NMR”) through its purchase of a membership interest in Meadowlands Newmark, LLC, an existing member of NMR. On November 19, 2013, the Company invested an additional \$464,000 in NMR through a purchase of an additional membership interest in Meadowlands Newmark, LLC resulting in a total ownership of 11.6% of Meadowlands Newmark, LLC, and an effective ownership interest in NMR of 7.4%, subject to dilution. In 2015, the Company invested an additional \$222,000 in NMR with no change in ownership. In February 2017 the Company funded its proportionate share (\$222,000) of a \$3,000,000 capital call bringing its total investment to \$5,108,000 with no change in ownership.

In addition to the Company’s ownership interest in NMR, if casino gaming is approved at the Meadowlands and NMR is granted the right to conduct said gaming, the Company shall be granted the exclusive right to operate the food and beverage concessions in the gaming facility with the exception of one restaurant.

In conjunction with this investment, the Company, through a 97% owned subsidiary, Ark Meadowlands LLC (“AM VIE”), also entered into a long-term agreement with NMR for the exclusive right to operate food and beverage concessions serving the new raceway facilities (the “Racing F&B Concessions”) located in the new raceway grandstand constructed at the Meadowlands Racetrack in northern New Jersey. Under the agreement, NMR is responsible to pay for the costs and expenses incurred in the operation of the Racing F&B Concessions, and all revenues and profits thereof inure to the benefit of NMR. AM VIE receives an annual fee equal to 5% of the net profits received by NMR from the Racing F&B Concessions during each calendar year.

On April 25, 2014, the Company loaned \$1,500,000 to Meadowlands Newmark, LLC. The note bears interest at 3%, compounded monthly and added to the principal, and is due in its entirety on January 31, 2024. The note may be prepaid, in whole or in part, at any time without penalty or premium. On July 13, 2016, the Company made an additional loan to Meadowlands Newmark, LLC in the amount of \$200,000. Such amount is subject to the same terms and conditions as the original loan as discussed above. The principal and accrued interest related to this note in the amounts of \$1,713,000 and \$1,928,000, are included in Investment In and Receivable From New Meadowlands Racetrack in the consolidated balance sheets at September 28, 2019 and September 29, 2018, respectively.

On June 7, 2018, the New Jersey State Legislature voted to legalize sports betting at casinos and racetracks in the state. Pursuant to this legislation NMR opened a sports book in partnership with FanDuel, a leading provider of daily fantasy sports, in June 2018.

Recent Restaurant Dispositions and Charges

As of December 29, 2018, the Company determined that it would not be able to operate *Durgin-Park* profitably due to decreased traffic at the Faneuil Hall Marketplace in Boston, MA, where it was located, and rising labor costs. As a result, included in the consolidated statement of income for the year ended September 28, 2019 are losses on closure in the amount of \$1,106,000 consisting of: (i) impairment of trademarks in the amount of \$721,000, (ii) accelerated depreciation of fixed assets in the amount of \$333,000, and (iii) write-offs of prepaid and other expenses in the amount of \$52,000. The restaurant closed on January 12, 2019.

Critical Accounting Policies

Our significant accounting policies are more fully described in Note 1 to our consolidated financial statements. While all of these significant accounting policies impact our financial condition and results of operations, we view certain of these policies as critical. Policies determined to be critical are those policies that have the most significant impact on our consolidated financial statements and require management to use a greater degree of judgment and estimates. Actual results may differ from those estimates.

We believe that given current facts and circumstances, it is unlikely that applying any other reasonable judgments or estimate methodologies would cause a material effect on our consolidated results of operations, financial position or cash flows for the periods presented in this report.

Below are listed certain policies that management believes are critical:

Revenue Recognition

In May 2014, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2014-09, Revenue from Contracts with Customers, and issued subsequent amendments to the initial guidance to provide additional clarification on specific topics (“ASC 606”). This ASU provides a comprehensive new revenue recognition model that requires a company to recognize revenue to depict the transfer of goods or services to a customer at an amount that reflects the consideration it expects to receive in exchange for those goods or services. We adopted ASC 606 using the modified retrospective method on September 30, 2018 and, based on our evaluation of our revenue streams, determined that there was not a material impact as of the date of adoption between the new revenue standard and how we previously recognized revenue, and therefore the adoption did not have a material impact on our consolidated financial statements.

We recognize revenues when it satisfies a performance obligation by transferring control over a product or service to a restaurant guest or other customer. Revenues from restaurant operations are presented net of discounts, coupons, employee meals and complimentary meals and recognized when food, beverage and retail products are sold. Sales tax collected from customers is excluded from sales and the obligation is included in sales tax payable until the taxes are remitted to the appropriate taxing authorities. Catering service revenue is generated through contracts with customers whereby the customer agrees to pay a contract rate for the service. Revenues from catered events are recognized in income upon satisfaction of the performance obligation (the date the event is held) and all customer payments, including nonrefundable upfront deposits, are deferred as a liability until such time. We recognized \$13,817,000 and \$12,878,000 in catering services revenue for the years ended September 28, 2019 and September 29, 2018, respectively. Unearned revenue which is included in accrued expenses and other current liabilities on the consolidated balance sheets as of September 28, 2019 and September 29, 2018 was \$4,549,000 and \$4,439,000, respectively.

Revenues from gift cards are deferred and recognized upon redemption. Deferrals are not reduced for potential non-use as we generally have a legal obligation to remit the value of unredeemed gift cards to the relevant jurisdictions in which they are sold. As of September 28, 2019 and September 29, 2018, the total liability for gift cards in the amounts of approximately \$203,000 and \$170,000, respectively, are included in accrued expenses and other current liabilities in the consolidated balance sheets.

Other revenues include purchase service fees which represent commissions earned by a subsidiary of the Company for providing purchasing services to other restaurant groups, as well as license fees, property management fees and other rentals.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. The accounting estimates that require management’s most difficult and subjective judgments include allowances for potential bad debts on receivables, the useful lives and recoverability of its assets, such as property and intangibles, fair values of financial instruments and share-based compensation, the realizable value of its tax assets and determining when investment impairments are other-than-temporary. Because of the uncertainty in such estimates, actual results may differ from these estimates.

Long-Lived Assets

Long-lived assets, such as property, plant and equipment, and purchased intangibles subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. In the evaluation of the fair value and future benefits of long-lived assets, management continually evaluates unfavorable cash flows,

if any, related to underperforming restaurants. Periodically it is concluded that certain properties have become impaired based on their existing and anticipated future economic outlook in their respective markets. In such instances, we may impair assets to reduce their carrying values to fair values. Estimated fair values of impaired properties are based on comparable valuations, cash flows and/or management judgment. As a result of the underperformance and increased competition at *Clyde Frazier's Wine and Dine*, we recorded an impairment charge of \$2,857,000 in fiscal 2019 related to this property. No impairment charges were warranted at September 29, 2018.

Recoverability of Investment in New Meadowlands Racetrack ("NMR")

The carrying value of our investment in Meadowlands Newmark LLC, which has a 63.7% ownership in NMR, is determined using the cost method. In accordance with the cost method, our initial investment is recorded at cost and we record dividend income when applicable, if dividends are declared. We review our investment in NMR each reporting period to determine whether a significant event or change in circumstances has occurred that may have an adverse effect on its fair value.

As a result, we performed an assessment of the recoverability of our indirect investment in NMR as of September 28, 2019 which involved critical accounting estimates. These estimates require significant management judgment, include inherent uncertainties and are often interdependent; therefore, they do not change in isolation. Factors that management estimated include, among others, the probability of gambling being approved in northern New Jersey which is the most heavily weighted assumption and NMR obtaining a license to operate a casino, revenue levels, cost of capital, marketing spending, tax rates and capital spending.

In performing this assessment, we estimate the fair value of our investment in NMR using our best estimate of these assumptions which we believe would be consistent with what a hypothetical marketplace participant would use. The variability of these factors depends on a number of conditions, including uncertainty about future events and our inability as a minority shareholder to control certain outcomes and thus our accounting estimates may change from period to period. If other assumptions and estimates had been used when these tests were performed, impairment charges could have resulted.

As mentioned above, these factors do not change in isolation and, therefore, we do not believe it is practicable or meaningful to present the impact of changing a single factor. Furthermore, if management uses different assumptions or if different conditions occur in future periods, future impairment charges could result.

Leases

We recognize rent expense on a straight-line basis over the expected lease term, including option periods as described below. Within the provisions of certain leases there are escalations in payments over the base lease term, as well as renewal periods. The effects of the escalations have been reflected in rent expense on a straight-line basis over the expected lease term, which includes option periods when it is deemed to be reasonably assured that we would incur an economic penalty for not exercising the option. Percentage rent expense is generally based upon sales levels and is expensed as incurred. Certain leases include both base rent and percentage rent. We record rent expense on these leases based upon reasonably assured sales levels. The consolidated financial statements reflect the same lease terms for amortizing leasehold improvements as were used in calculating straight-line rent expense for each restaurant. Our judgments may produce materially different amounts of amortization and rent expense than would be reported if different lease terms were used.

In February 2016, the FASB issued ASU No. 2016-02, Leases (Topic 842), which will require lessees to recognize assets and liabilities for leases with lease terms of more than 12 months. Consistent with current GAAP, the recognition, measurement, and presentation of expenses and cash flows arising from a lease by a lessee primarily will depend on its classification as a finance or operating lease. However, unlike current GAAP, which requires only capital leases to be recognized on the balance sheet, the new guidance will require both types of leases to be recognized on the balance sheet. This guidance is effective for interim and annual periods beginning after December 15, 2018, with early adoption permitted. In August 2018, the FASB issued ASU No. 2018-11, Leases (Topic 842): Targeted Improvements, which permits adoption of the guidance in ASU 2016-02 using either a modified retrospective transition, requiring application at the beginning of the earliest comparative period presented or a transition method whereby companies could continue to apply existing lease guidance during the comparative periods and apply the new lease requirements through a cumulative-effect adjustment in the period of adoption rather than in the earliest period presented without adjusting historical financial statements. We will adopt the new standard on September 29, 2019 and use the effective date of initial application. Consequently, financial information will not be updated and the disclosures required under the new standard will not be provided for dates and periods before September 29, 2019. The new standard provides a number of optional practical expedients in transition. We expect to elect the "package of expedients", which permits us not to reassess under the new standard our prior conclusions about lease identification and initial direct costs. We do not expect to elect the use of hindsight or the practical expedient pertaining to land easements, the latter not being applicable to the Company. The new standard also provides practical expedients for the Company's ongoing accounting. We currently expect to elect the short-term lease recognition exemption for all leases that qualify. This means, for those leases that qualify, we will not recognize right-of-use assets or lease

liabilities, and this includes not recognizing right-of-use assets or lease liabilities for existing short-term leases of those assets in transition. We expect the most significant change will be related to the recognition of right-of-use assets and lease liabilities on our consolidated balance sheet for real estate operating leases. As a result of the adoption of this guidance, we anticipate that we will record right-of-use assets and lease liabilities ranging from \$52 million to \$56 million primarily related to our real estate operating leases. We also expect that the adoption of this guidance will result in additional lease-related disclosures in the footnotes to our consolidated financial statements.

Deferred Income Tax Valuation Allowance

We provide such allowance due to uncertainty that some of the deferred tax amounts may not be realized. Certain items, such as state and local tax loss carryforwards, are dependent on future earnings or the availability of tax strategies. Future results could require an increase or decrease in the valuation allowance and a resulting adjustment to income in such period.

Goodwill and Trademarks

Goodwill and trademarks are not amortized, but are subject to impairment analysis. We assess the potential impairment of goodwill and trademarks annually (at the end of our fourth quarter) and on an interim basis whenever events or changes in circumstances indicate that the carrying value may not be recoverable. If we determine through the impairment review process that goodwill or trademarks are impaired, we record an impairment charge in our consolidated statements of income.

Such impairment analyses for goodwill requires a comparison of the fair value of the Company's equity to the carrying amount of goodwill since the Company operates in one segment. At September 28, 2019 and September 29, 2018, we performed qualitative assessments of factors to determine whether further impairment testing of goodwill was required. Based on this assessment, no impairment losses were warranted at September 28, 2019 and September 29, 2018. Qualitative factors considered in this assessment included industry and market considerations, overall financial performance and other relevant events, management expertise and stability at key positions. Additional impairment analyses at future dates may be performed to determine if indicators of impairment are present, and if so, such amount will be determined and the associated charge will be recorded to the consolidated statements of income.

Our impairment analysis for trademarks consists of a comparison of the fair value to the carrying value of the assets. This comparison is made based on a review of historical, current and forecasted sales and profit levels, as well as a review of any factors that may indicate potential impairment. As of December 29, 2018, the Company recorded an impairment charge of \$721,000 related to its *Durgin-Park* trademark as discussed above. For the years ended September 28, 2019 and September 29, 2018, our impairment analysis did not result in any other charges related to trademarks.

Stock-Based Compensation

The Company measures stock-based compensation cost at the grant date based on the fair value of the award and recognizes it as expense over the applicable vesting period using the straight-line method. Excess income tax benefits related to share-based compensation expense that must be recognized directly in equity are considered financing rather than operating cash flow activities.

The fair value of each of the Company's stock options is estimated on the date of grant using a Black-Scholes option-pricing model that uses assumptions that relate to the expected volatility of the Company's common stock, the expected dividend yield of our stock, the expected life of the options and the risk free interest rate. The Company issues new shares upon the exercise of employee stock options.

Recently Adopted and Issued Accounting Standards

See Note 1 of Notes to Consolidated Financial Statements for a description of recent accounting pronouncements, including those adopted in fiscal 2019 and the expected dates of adoption and the anticipated impact on the consolidated financial statements.

Recent Developments

See Note 15 of Notes to Consolidated Financial Statements for a description of recent developments that have occurred subsequent to September 28, 2019.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Not applicable.

Item 8. Financial Statements and Supplementary Data

Our consolidated financial statements are included in this report immediately following Part IV.

Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure

None.

Item 9A Controls and Procedures

Evaluation of Disclosure Controls and Procedures

As of September 28, 2019 (the end of the period covered by this report), management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended). Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, at the end of such period, our disclosure controls and procedures were effective and provided reasonable assurance that information required to be disclosed in our periodic SEC filings 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 our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. However, in 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, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of such possible controls and procedures.

Management's Annual Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting as such term is defined in Exchange Act Rule 13a-15(f), and for performing an assessment of the effectiveness of internal control over financial reporting as of September 28, 2019. Internal control over financial reporting is a process designed by, or under the supervision of, our principal executive and principal financial officers, or persons performing similar functions, and effected by our Board of Directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. generally accepted accounting principles. Our internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of assets of the Company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with U. S. generally accepted accounting principles, and that receipts and expenditures are being made only in accordance with authorizations; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of our 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. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

Management performed an assessment of the effectiveness of our internal control over financial reporting as of September 28, 2019 based upon the criteria set forth in Internal Control — Integrated Framework issued by the 2013 Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). Based on our assessment, management determined that our internal control over financial reporting was effective as of September 28, 2019.

This Annual Report does not include an attestation report of our independent registered public accounting firm regarding internal control over financial reporting as management's report was not subject to attestation by our independent registered public accounting firm pursuant to the permanent exemption of the SEC that permits us to provide only management's report in this annual report.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting during the most recent fiscal quarter and year ended September 28, 2019 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

Information relating to our directors and executive officers is incorporated by reference to the definitive proxy statement for our 2019 annual meeting of stockholders to be filed with the Securities and Exchange Commission (the “SEC”) pursuant to Regulation 14A no later than 120 days after the end of the fiscal year covered by this form (the “Proxy Statement”). Information relating to compliance with Section 16(a) of the Exchange Act is incorporated by reference to the Proxy Statement.

Code of Ethics

We have adopted a code of ethics that applies to our principal executive officer, principal financial officer, principal accounting officer or controller, and persons performing similar functions. A copy is available free of charge through our Internet website, www.arkrestaurants.com, under the “Investors--Corporate Governance” caption.

Item 11. Executive Compensation

The information required by this item is incorporated herein by reference to the Proxy Statement which will be filed no later than 120 days after September 28, 2019..

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by this item is incorporated herein by reference to the Proxy Statement which will be filed no later than 120 days after September 28, 2019.

Item 13. Certain Relationships and Related Transactions

The information required by this item is incorporated herein by reference to the Proxy Statement which will be filed no later than 120 days after September 28, 2019.

Item 14. Principal Accountant Fees and Services

The information required by this item is incorporated herein by reference to the Proxy Statement which will be filed no later than 120 days after September 28, 2019.

PART IV

Item 15. Exhibits and Financial Statement Schedules

	<u>Page</u>
(a) (1) Financial Statements:	
Report of Independent Registered Public Accounting Firm	F-1
Consolidated Balance Sheets -- at September 28, 2019 and September 29, 2018	F-2
Consolidated Statements of Income -- years ended September 28, 2019 and September 29, 2018	F-3
Consolidated Statements of Changes in Equity -- years ended September 28, 2019 and September 29, 2018	F-4
Consolidated Statements of Cash Flows -- years ended September 28, 2019 and September 29, 2018	F-5
Notes to Consolidated Financial Statements	F-6
(2) Financial Statement Schedules	
None.	
(3) Exhibits:	
The exhibits required by Item 601 of Regulation S-K and filed herewith are listed in the Exhibit List immediately preceding the exhibits.	

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders
Ark Restaurants Corp.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Ark Restaurants Corp. and Subsidiaries (the “Company”) as of September 28, 2019 and September 29, 2018, and the related consolidated statements of income, changes in shareholders’ equity, and cash flows for each of the years in the two-year period ended September 28, 2019, and the related notes (collectively referred to as the “financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of September 28, 2019 and September 29, 2018, and the results of its operations and its cash flows for each of the years in the two-year period ended September 28, 2019, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (“PCAOB”) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting, but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ CohnReznick LLP

We have served as the Company’s auditors since 2004.
Jericho, New York
December 17, 2019

ARK RESTAURANTS CORP. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(In Thousands, Except Per Share Amounts)

	<u>September 28, 2019</u>	<u>September 29, 2018</u>
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents (includes \$170 at September 28, 2019 and \$181 at September 29, 2018 related to VIEs)	\$ 7,177	\$ 5,012
Accounts receivable (includes \$219 at September 28, 2019 and \$354 at September 29, 2018 related to VIEs)	2,621	3,452
Employee receivables	414	386
Inventories (includes \$41 at September 28, 2019 and \$19 at September 29, 2018 related to VIEs)	2,222	2,094
Prepaid and refundable income taxes (includes \$254 at September 28, 2019 and \$241 at September 29, 2018 related to VIEs)	254	721
Prepaid expenses and other current assets (includes \$12 at September 28, 2019 and \$51 at September 29, 2018 related to VIEs)	1,021	1,547
Total current assets	<u>13,709</u>	<u>13,212</u>
FIXED ASSETS - Net (includes \$236 at September 28, 2019 and \$0 at September 29, 2018 related to VIEs)	47,781	45,264
INTANGIBLE ASSETS - Net	303	349
GOODWILL	15,570	9,880
TRADEMARKS	3,720	3,331
DEFERRED INCOME TAXES	4,106	2,988
INVESTMENT IN AND RECEIVABLE FROM NEW MEADOWLANDS RACETRACK	6,821	7,036
OTHER ASSETS (includes \$82 at September 28, 2019 and September 29, 2018 related to VIEs)	2,642	2,677
TOTAL ASSETS	<u><u>\$ 94,652</u></u>	<u><u>\$ 84,737</u></u>
LIABILITIES AND EQUITY		
CURRENT LIABILITIES:		
Accounts payable - trade (includes \$65 at September 28, 2019 and \$158 at September 29, 2018 related to VIEs)	\$ 3,549	\$ 5,019
Accrued expenses and other current liabilities (includes \$440 at September 28, 2019 and \$348 at September 29, 2018 related to VIEs)	10,672	10,702
Accrued income taxes	285	—
Dividend payable	875	868
Current portion of notes payable	2,701	1,251
Total current liabilities	<u>18,082</u>	<u>17,840</u>
OPERATING LEASE DEFERRED CREDIT (includes (\$30) at September 28, 2019 and (\$21) at September 29, 2018 related to VIEs)	10,077	3,301
NOTES PAYABLE, LESS CURRENT PORTION, net of deferred financing costs	<u>23,786</u>	<u>19,860</u>
TOTAL LIABILITIES	<u>51,945</u>	<u>41,001</u>
COMMITMENTS AND CONTINGENCIES		
EQUITY:		
Common stock, par value \$0.01 per share - authorized, 10,000 shares; issued and outstanding, 3,499 shares at September 28, 2019 and 3,470 shares at September 29, 2018	35	35
Additional paid-in capital	13,277	12,897
Retained earnings	28,552	29,364
Total Ark Restaurants Corp. shareholders' equity	<u>41,864</u>	<u>42,296</u>
NON-CONTROLLING INTERESTS	843	1,440
TOTAL EQUITY	<u>42,707</u>	<u>43,736</u>
TOTAL LIABILITIES AND EQUITY	<u><u>\$ 94,652</u></u>	<u><u>\$ 84,737</u></u>

See notes to consolidated financial statements.

ARK RESTAURANTS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME
(In Thousands, Except Per Share Amounts)

	Year Ended	
	September 28, 2019	September 29, 2018
REVENUES:		
Food and beverage sales	\$ 159,125	\$ 156,837
Other revenue	3,229	3,153
Total revenues	<u>162,354</u>	<u>159,990</u>
COSTS AND EXPENSES:		
Food and beverage cost of sales	43,435	43,036
Payroll expenses	56,675	55,620
Occupancy expenses	17,413	18,577
Other operating costs and expenses	20,378	21,437
General and administrative expenses	12,011	11,214
Depreciation and amortization	5,233	5,074
Total costs and expenses	<u>155,145</u>	<u>154,958</u>
RESTAURANT OPERATING INCOME	7,209	5,032
Loss on closure of Durgin-Park	(1,106)	—
Impairment loss from write-down of long-lived assets	(2,857)	—
OPERATING INCOME	<u>3,246</u>	<u>5,032</u>
OTHER (INCOME) EXPENSE:		
Interest expense	1,437	1,163
Interest income	(61)	(57)
Total other expense, net	<u>1,376</u>	<u>1,106</u>
INCOME BEFORE BENEFIT FOR INCOME TAXES	1,870	3,926
Benefit for income taxes	(591)	(1,147)
CONSOLIDATED NET INCOME	2,461	5,073
Net (income) loss attributable to non-controlling interests	215	(418)
NET INCOME ATTRIBUTABLE TO ARK RESTAURANTS CORP.	<u>\$ 2,676</u>	<u>\$ 4,655</u>
NET INCOME PER ARK RESTAURANTS CORP. COMMON SHARE:		
Basic	<u>\$ 0.77</u>	<u>\$ 1.35</u>
Diluted	<u>\$ 0.76</u>	<u>\$ 1.31</u>
WEIGHTED AVERAGE NUMBER OF COMMON SHARES OUTSTANDING:		
Basic	<u>3,479</u>	<u>3,439</u>
Diluted	<u>3,531</u>	<u>3,549</u>

See notes to consolidated financial statements.

ARK RESTAURANTS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY
FOR THE YEARS ENDED SEPTEMBER 28, 2019 AND SEPTEMBER 29, 2018
(In Thousands, Except Per Share Amounts)

	Common Stock		Additional Paid-In Capital	Retained Earnings	Total Ark Restaurants Corp. Shareholders' Equity	Non- controlling Interests	Total Equity
	Shares	Amount					
BALANCE - October 1, 2017	3,428	\$ 34	\$ 12,247	\$ 28,163	\$ 40,444	\$ 1,996	\$ 42,440
Net income	—	—	—	4,655	4,655	418	5,073
Exercise of stock options	42	1	603	—	604	—	604
Stock-based compensation	—	—	47	—	47	—	47
Distributions to non-controlling interests	—	—	—	—	—	(974)	(974)
Dividends paid and accrued - \$1.00 per share	—	—	—	(3,454)	(3,454)	—	(3,454)
BALANCE - September 29, 2018	3,470	35	12,897	29,364	42,296	1,440	43,736
Net income (loss)	—	—	—	2,676	2,676	(215)	2,461
Exercise of stock options	41	—	503	—	503	—	503
Purchase and retirement of treasury shares	(12)	—	(235)	—	(235)	—	(235)
Stock-based compensation	—	—	112	—	112	—	112
Distributions to non-controlling interests	—	—	—	—	—	(382)	(382)
Dividends paid and accrued - \$1.00 per share	—	—	—	(3,488)	(3,488)	—	(3,488)
BALANCE - September 28, 2019	3,499	\$ 35	\$ 13,277	\$ 28,552	\$ 41,864	\$ 843	\$ 42,707

See notes to consolidated financial statements.

ARK RESTAURANTS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In Thousands)

	Year Ended	
	September 28, 2019	September 29, 2018
CASH FLOWS FROM OPERATING ACTIVITIES:		
Consolidated net income	\$ 2,461	\$ 5,073
Adjustments to reconcile consolidated net income to net cash provided by operating activities:		
Stock-based compensation	112	47
Asset impairment on closure of Durgin-Park	1,067	—
Impairment loss from write-down of long-lived assets	2,857	—
Deferred income taxes	(1,118)	(1,497)
Accrued interest on note receivable from NMR	(61)	(57)
Depreciation and amortization	5,233	5,074
Amortization of deferred financing costs	35	21
Operating lease deferred credit	(499)	(347)
Changes in operating assets and liabilities:		
Accounts receivable	831	(99)
Inventories	(48)	(102)
Prepaid, refundable and accrued income taxes	752	224
Prepaid expenses and other current assets	513	441
Other assets	35	2
Accounts payable - trade	(1,475)	269
Accrued expenses and other current liabilities	(80)	526
Net cash provided by operating activities	<u>10,615</u>	<u>9,575</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of fixed assets	(3,419)	(5,063)
Loans and advances made to employees	(224)	(136)
Payments received on employee receivables	196	149
Interest payments received from NMR	276	—
Purchase of JB's on the Beach, net of cash acquired	(25)	—
Net cash used in investing activities	<u>(3,196)</u>	<u>(5,050)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Principal payments on notes payable	(1,608)	(2,067)
Borrowings under credit facility	650	5,086
Repayments of borrowings under credit facility	(650)	—
Payment of debt financing costs	(51)	(125)
Dividends paid	(3,481)	(3,443)
Proceeds from issuance of stock upon exercise of stock options	268	604
Distributions to non-controlling interests	(382)	(974)
Net cash used in financing activities	<u>(5,254)</u>	<u>(919)</u>
NET INCREASE IN CASH AND CASH EQUIVALENTS	2,165	3,606
CASH AND CASH EQUIVALENTS, Beginning of year	5,012	1,406
CASH AND CASH EQUIVALENTS, End of year	<u>\$ 7,177</u>	<u>\$ 5,012</u>
SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION:		
Cash paid during the year for:		
Interest	\$ 1,420	\$ 1,008
Income taxes	\$ 732	\$ 127
Non-cash investing activities:		
Landlord provided fixed assets	\$ 8,653	\$ —
Non-cash financing activities:		
Note payable in connection with the purchase of JB's on the Beach	\$ 7,000	\$ —
Refinancing of credit facility borrowings to term notes	\$ 3,200	\$ 4,430
Accrued dividend	\$ 875	\$ 868

See notes to consolidated financial statements.

ARK RESTAURANTS CORP. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

As of September 28, 2019, Ark Restaurants Corp. and Subsidiaries (the “Company”) owned and operated 20 restaurants and bars, 17 fast food concepts and catering operations, exclusively in the United States, that have similar economic characteristics, nature of products and service, class of customers and distribution methods. The Company believes it meets the criteria for aggregating its operating segments into a single reporting segment in accordance with applicable accounting guidance.

The Company operates five restaurants in New York City, two in Washington, D.C., five in Las Vegas, Nevada, three in Atlantic City, New Jersey, three in Florida and two on the gulf coast of Alabama. The Las Vegas operations include four restaurants within the New York-New York Hotel & Casino Resort and operation of the hotel’s room service, banquet facilities, employee dining room and six food court concepts and one restaurant within the Planet Hollywood Resort and Casino. In Atlantic City, New Jersey, the Company operates a restaurant and a bar in the Resorts Atlantic City Hotel and Casino and a restaurant in the Tropicana Hotel and Casino. The operation at the Foxwoods Resort Casino consists of one fast food concept. The Florida operations include *The Rustic Inn* in Dania Beach, *Shuckers* in Jensen Beach, *JB's on the Beach* in Deerfield Beach, and the operation of four fast food facilities in Tampa and six fast food facilities in Hollywood, each at a Hard Rock Hotel and Casino. In Alabama, the Company operates two *Original Oyster Houses*, one in Gulf Shores and one in Spanish Fort.

Basis of Presentation — The accompanying consolidated financial statements have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”) and accounting principles generally accepted in the United States of America (“GAAP”). The Company’s reporting currency is the United States dollar.

The Company had a working capital deficiency of \$4,373,000 at September 28, 2019. We believe that our existing cash balances, current banking facilities and cash provided by operations will be sufficient to meet our liquidity and capital spending requirements at least through December 18, 2020.

Accounting Period — The Company’s fiscal year ends on the Saturday nearest September 30. The fiscal years ended September 28, 2019 and September 29, 2018 included 52 weeks.

Use of Estimates — The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. The accounting estimates that require management’s most difficult and subjective judgments include allowances for potential bad debts on receivables, the useful lives and recoverability of its assets, such as property and intangibles, fair values of financial instruments and share-based compensation, the realizable value of its tax assets and determining when investment impairments are other-than-temporary. Because of the uncertainty in such estimates, actual results may differ from these estimates.

Principles of Consolidation — The consolidated financial statements include the accounts of Ark Restaurants Corp. and all of its wholly-owned subsidiaries, partnerships and other entities in which it has a controlling interest. Also included in the consolidated financial statements are certain variable interest entities (“VIEs”). All significant intercompany balances and transactions have been eliminated in consolidation.

Non-Controlling Interests — Non-controlling interests represent capital contributions, income and loss attributable to the shareholders of less than wholly-owned and consolidated entities.

Seasonality — The Company has substantial fixed costs that do not decline proportionally with sales. The first and second fiscal quarters, which include the winter months, usually reflect lower customer traffic than in the third and fourth fiscal quarters. However, sales in the third and fourth fiscal quarters can be adversely affected by inclement weather due to the significant amount of outdoor seating at the Company’s restaurants.

Fair Value of Financial Instruments — The carrying amount of cash and cash equivalents, receivables, accounts payable and accrued expenses approximate fair value due to the immediate or short-term maturity of these financial instruments. The

fair values of notes receivable and payable are determined using current applicable rates for similar instruments as of the balance sheet date and approximate the carrying value of such debt instruments.

Cash and Cash Equivalents — Cash and cash equivalents include cash on hand, deposits with banks and highly liquid investments with original maturities of three months or less. Outstanding checks in excess of account balances, typically vendor payments, payroll and other contractual obligations disbursed after the last day of a reporting period are reported as a current liability in the accompanying consolidated balance sheets.

Concentrations of Credit Risk — Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and cash equivalents and accounts receivable. The Company reduces credit risk by placing its cash and cash equivalents with major financial institutions with high credit ratings. At times, such amounts may exceed Federally insured limits. Accounts receivable are primarily comprised of normal business receivables such as credit card receivables that are paid off in a short period of time and amounts due from the hotel operators where the Company has a location, and are recorded when the products or services have been delivered. The Company reviews the collectability of its receivables on an ongoing basis, and provides for an allowance when it considers the entity unable to meet its obligation. The concentration of credit risk with respect to accounts receivable is generally limited due to the short payment terms extended by the Company and the number of customers comprising the Company's customer base.

As of September 28, 2019, the Company had accounts receivable balances due from one hotel operator totaling 34% of total accounts receivable. As of September 29, 2018, the Company had accounts receivable balances due from two hotel operators totaling 47% of total accounts receivable.

For the years ended September 28, 2019 and September 29, 2018, the Company made purchases from one vendor that accounted for 12% and 10% of total purchases, respectively.

As of September 28, 2019, all debt outstanding is with one lender (see Note 9 – Notes Payable – Bank).

Inventories — Inventories are stated at the lower of cost (first-in, first-out) or net realizable value, and consist of food and beverages, merchandise for sale and other supplies.

Fixed Assets — Fixed assets are stated at cost less accumulated depreciation and amortization. Depreciation is determined using the straight-line method over the estimated useful lives of the assets. Estimated lives range from three to seven years for furniture, fixtures and equipment and up to 40 years for buildings and related improvements. Amortization of improvements to leased properties is computed using the straight-line method based upon the initial term of the applicable lease or the estimated useful life of the improvements, whichever is less, and ranges from 5 to 30 years. For leases with renewal periods at the Company's option, if failure to exercise a renewal option imposes an economic penalty to the Company, management may determine at the inception of the lease that renewal is reasonably assured and include the renewal option period in the determination of appropriate estimated useful lives. Routine expenditures for repairs and maintenance are charged to expense when incurred. Major replacements and improvements are capitalized. Upon retirement or disposition of fixed assets, the cost and related accumulated depreciation are removed from the consolidated balance sheets and any resulting gain or loss is recognized in the consolidated statements of income.

The Company includes in construction in progress improvements to restaurants that are under construction or are undergoing substantial renovations. Once the projects have been completed, the Company begins depreciating and amortizing the assets. Start-up costs incurred during the construction period of restaurants, including rental of premises, training and payroll, are expensed as incurred.

Intangible Assets — Intangible assets consist principally of purchased leasehold rights, operating rights and covenants not to compete. Costs associated with acquiring leases and subleases, principally purchased leasehold rights, and operating rights have been capitalized and are being amortized on the straight-line method based upon the initial terms of the applicable lease agreements. Covenants not to compete arising from restaurant acquisitions are amortized over the contractual period, typically five years.

Long-lived Assets — Long-lived assets, such as property, plant and equipment, and purchased intangibles subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. In the evaluation of the fair value and future benefits of long-lived assets, the Company performs an analysis of the anticipated undiscounted future net cash flows of the related long-lived assets. If the carrying value of the related asset exceeds the undiscounted cash flows, the carrying value is reduced to its fair value. Various factors including estimated future sales growth and estimated profit margins are included in this analysis. Based on this analysis, no

impairment charges were warranted at September 29, 2018. See Notes 4 and 6 for information regarding impairment charges for the year ended September 28, 2019.

Goodwill and Trademarks — Goodwill and trademarks are not amortized, but are subject to impairment analysis. We assess the potential impairment of goodwill and trademarks annually (at the end of our fourth quarter) and on an interim basis whenever events or changes in circumstances indicate that the carrying value may not be recoverable. If we determine through the impairment review process that goodwill or trademarks are impaired, we record an impairment charge in our consolidated statements of income.

Such impairment analyses for goodwill requires a comparison of the fair value of the Company's equity to the carrying amount of goodwill since the Company operates in one segment. At September 28, 2019 and September 29, 2018, the Company performed qualitative assessments of factors to determine whether further impairment testing of goodwill was required. Based on this assessment, no impairment losses were warranted at September 28, 2019 and September 29, 2018 as the fair value of the Company's equity is well in excess of its carrying amount. Qualitative factors considered in this assessment included industry and market considerations, overall financial performance and other relevant events, management expertise and stability at key positions. Additional impairment analyses at future dates may be performed to determine if indicators of impairment are present, and if so, such amount will be determined and the associated charge will be recorded to the consolidated statements of income.

Our impairment analysis for trademarks consists of a comparison of the fair value to the carrying value of the assets. This comparison is made based on a review of historical, current and forecasted sales and profit levels, as well as a review of any factors that may indicate potential impairment. As of December 29, 2018, the Company recorded an impairment charge of \$721,000 related to its *Durgin-Park* trademark (see Note 4). For the years ended September 28, 2019 and September 29, 2018, our impairment analysis did not result in any other charges related to trademarks.

Investments – Each reporting period, the Company reviews its investments in equity and debt securities, except for those classified as trading, to determine whether a significant event or change in circumstances has occurred that may have an adverse effect on the fair value of such investment. When such events or changes occur, the Company evaluates the fair value compared to cost basis in the investment. For investments in non-publicly traded companies, management's assessment of fair value is based on valuation methodologies including discounted cash flows, estimates of sales proceeds, and appraisals, as appropriate. The Company considers the assumptions that it believes hypothetical marketplace participants would use in evaluating estimated future cash flows when employing the discounted cash flow or estimates of sales proceeds valuation methodologies.

In the event the fair value of an investment declines below the Company's cost basis, management is required to determine if the decline in fair value is other than temporary. If management determines the decline is other than temporary, an impairment charge is recorded. Management's assessment as to the nature of a decline in fair value is based on, among other things, the length of time and the extent to which the market value has been less than the cost basis; the financial condition and near-term prospects of the issuer; and the Company's intent and ability to retain the investment for a period of time sufficient to allow for any anticipated recovery in market value.

Leases — The Company recognizes rent expense on a straight-line basis over the expected lease term, including option periods as described below. Within the provisions of certain leases there are escalations in payments over the base lease term, as well as renewal periods. The effects of the escalations have been reflected in rent expense on a straight-line basis over the expected lease term, which includes option periods when it is deemed to be reasonably assured that the Company would incur an economic penalty for not exercising the option. Tenant allowances are included in the straight-line calculations and are being deferred over the lease term and reflected as a reduction in rent expense. Percentage rent expense is generally based upon sales levels and is expensed as incurred. Certain leases include both base rent and percentage rent. The Company records rent expense on these leases based upon reasonably assured sales levels. The consolidated financial statements reflect the same lease terms for amortizing leasehold improvements as were used in calculating straight-line rent expense for each restaurant. The judgments of the Company may produce materially different amounts of amortization and rent expense than would be reported if different lease terms were used.

Revenue Recognition — The Company recognizes revenue when it satisfies a performance obligation by transferring control over a product or service to a restaurant guest or other customer. Revenues from restaurant operations are presented net of discounts, coupons, employee meals and complimentary meals and recognized when food, beverage and retail products are sold. Sales tax collected from customers is excluded from sales and the obligation is included in sales tax payable until the taxes are remitted to the appropriate taxing authorities. Catering service revenue is generated through contracts with customers whereby the customer agrees to pay a contract rate for the service. Revenues from catered events are recognized in income upon satisfaction of the performance obligation (the date the event is held). All customer payments, including

nonrefundable upfront deposits, are deferred as a liability until such time. The Company recognized \$13,817,000 and \$12,878,000 in catering services revenue for the years ended September 28, 2019 and September 29, 2018, respectively. Unearned revenue which is included in accrued expenses and other current liabilities on the consolidated balance sheets as of September 28, 2019 and September 29, 2018 was \$4,549,000 and \$4,439,000, respectively.

Revenues from gift cards are deferred and recognized upon redemption. Deferrals are not reduced for potential non-use as we generally have a legal obligation to remit the value of unredeemed gift cards to the relevant jurisdictions in which they are sold. As of September 28, 2019 and September 29, 2018, the total liability for gift cards in the amounts of approximately \$203,000 and \$170,000, respectively, are included in accrued expenses and other current liabilities in the consolidated balance sheets.

Other revenues include purchase service fees which represent commissions earned by a subsidiary of the Company for providing services to other restaurant groups, as well as license fees, property management fees and other rentals.

Occupancy Expenses — Occupancy expenses include rent, rent taxes, real estate taxes, insurance and utility costs.

Defined Contribution Plan — The Company offers a defined contribution savings plan (the “Plan”) to all of its full-time employees. Eligible employees may contribute pre-tax amounts to the Plan subject to the Internal Revenue Code limitations. Company contributions to the Plan are at the discretion of the Board of Directors. During the years ended September 28, 2019 and September 29, 2018, the Company did not make any contributions to the Plan.

Income Taxes — Income taxes are accounted for under the asset and liability method whereby deferred tax assets and liabilities are recognized for future tax consequences attributable to the temporary differences between the financial statement carrying amounts of assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that includes the enactment date. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized.

The Company has recorded a liability for unrecognized tax benefits resulting from tax positions taken, or expected to be taken, in an income tax return. It is the Company’s policy to recognize interest and penalties related to uncertain tax positions as a component of income tax expense. Uncertain tax positions are evaluated and adjusted as appropriate, while taking into account the progress of audits of various taxing jurisdictions.

Non-controlling interests relating to the income or loss of consolidated partnerships includes no provision for income taxes as any tax liability related thereto is the responsibility of the individual minority investors.

Income Per Share of Common Stock — Basic net income per share is calculated on the basis of the weighted average number of common shares outstanding during each period. Diluted net income per share reflects the additional dilutive effect of potentially dilutive shares (principally those arising from the assumed exercise of stock options). The dilutive effect of stock options is reflected in diluted earnings per share by application of the treasury stock method. Under the treasury stock method, if the average market price of a share of common stock increases above the option’s exercise price, the proceeds that would be assumed to be realized from the exercise of the option would be used to acquire outstanding shares of common stock. The dilutive effect of awards is directly correlated with the fair value of the shares of common stock.

Stock-based Compensation — Stock-based compensation represents the cost related to stock-based awards granted to employees and non-employee directors. The Company measures stock-based compensation at the grant date based on the estimated fair value of the award and recognize the cost (net of estimated forfeitures) as compensation expense on a straight-line basis over the requisite service period. Upon exercise of options, all excess tax benefits and tax deficiencies resulting from the difference between the deduction for tax purposes and the stock-based compensation cost recognized for financial reporting purposes are included as a component of income tax expense.

Recently Adopted Accounting Standards — In May 2014, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2014-09, Revenue from Contracts with Customers, and issued subsequent amendments to the initial guidance to provide additional clarification on specific topics (“ASC 606”). This ASU provides a comprehensive new revenue recognition model that requires a company to recognize revenue to depict the transfer of goods or services to a customer at an amount that reflects the consideration it expects to receive in exchange for those goods or services. The Company adopted ASC 606 using the modified retrospective method on September 30, 2018 and, based on our evaluation of our revenue streams, determined that there was not a material impact as of the date of adoption between the new

revenue standard and how we previously recognized revenue, and therefore the adoption did not have a material impact on our consolidated financial statements.

In January 2016, FASB issued ASU No. 2016-01, Financial Instruments – Overall: Recognition and Measurement of Financial Assets and Financial Liabilities. The guidance requires equity investments in unconsolidated entities (other than those accounted for using the equity method of accounting) to be measured at fair value with changes in fair value recognized in net income. The amendments in this update also simplified the impairment assessment of equity investments without readily determinable fair values by requiring a qualitative assessment to identify impairment, eliminate the requirement for public business entities to disclose the method and significant assumptions used to estimate the fair value that is required to be disclosed for financial instruments measured at amortized cost on the balance sheet and require these entities to use the exit price notion when measuring fair value of financial instruments for disclosure purposes. This guidance also changes the presentation and disclosure requirements for financial instruments as well as clarifying the guidance related to valuation allowance assessments when recognizing deferred tax assets resulting from unrealized losses on available-for-sale debt securities. The Company adopted this guidance in the first quarter of fiscal 2019 with respect to its investment in New Meadowlands Racetrack (see Note 5). Such adoption did not have a material impact on our consolidated financial statements.

In August 2016, FASB issued ASU No. 2016-15, Classification of Certain Cash Receipts and Cash Payments. This update provides clarification regarding how certain cash receipts and cash payments are presented and classified in the statement of cash flows and addresses eight specific cash flow issues with the objective of reducing the existing diversity in practice. The Company adopted this guidance in the first quarter of fiscal 2019. Such adoption did not have a material impact on our consolidated financial statements.

In October 2016, the FASB issued ASU No. 2016-16, Income Taxes: Intra-Entity Transfers of Assets Other than Inventory. The amendments in this guidance address the income tax consequences of intra-entity transfers of assets other than inventory. Current guidance prohibits the recognition of current and deferred income taxes for an intra-entity asset transfer until the asset has been sold to an outside party. In addition, interpretations of this guidance have developed in practice over the years for transfers of certain intangible and tangible assets. The amendments in the update will require recognition of current and deferred income taxes resulting from an intra-entity transfer of an asset other than inventory when the transfer occurs. The Company adopted this guidance in the first quarter of fiscal 2019. Such adoption did not have a material impact on our consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-01, Business Combinations: Clarifying the Definition of a Business. This update provides that when substantially all the fair value of the assets acquired is concentrated in a single identifiable asset or a group of similar identifiable assets, the set is not a business. The Company adopted this guidance in the first quarter of fiscal 2019. Such adoption did not have a material impact on our consolidated financial statements.

New Accounting Standards Not Yet Adopted — In February 2016, the FASB issued ASU No. 2016-02, Leases (Topic 842), which will require lessees to recognize assets and liabilities for leases with lease terms of more than 12 months. Consistent with current GAAP, the recognition, measurement, and presentation of expenses and cash flows arising from a lease by a lessee primarily will depend on its classification as a finance or operating lease. However, unlike current GAAP, which requires only capital leases to be recognized on the balance sheet, the new guidance will require both types of leases to be recognized on the balance sheet. This guidance is effective for interim and annual periods beginning after December 15, 2018, with early adoption permitted. In August 2018, the FASB issued ASU No. 2018-11, Leases (Topic 842): Targeted Improvements, which permits adoption of the guidance in ASU 2016-02 using either a modified retrospective transition, requiring application at the beginning of the earliest comparative period presented or a transition method whereby companies could continue to apply existing lease guidance during the comparative periods and apply the new lease requirements through a cumulative-effect adjustment in the period of adoption rather than in the earliest period presented without adjusting historical financial statements. The Company will adopt the new standard on September 29, 2019 and use the effective date of initial application. Consequently, financial information will not be updated and the disclosures required under the new standard will not be provided for dates and periods before September 29, 2019. The new standard provides a number of optional practical expedients in transition. The Company expects to elect the "package of expedients", which permits the Company not to reassess under the new standard the Company's prior conclusions about lease identification and initial direct costs. The Company does not expect to elect the use of hindsight or the practical expedient pertaining to land easements, the latter not being applicable to the Company. The new standard also provides practical expedients for the Company's ongoing accounting. The Company currently expect to elect the short-term lease recognition exemption for all leases that qualify. This means, for those leases that qualify, the Company will not recognize right-of-use assets or lease liabilities, and this includes not recognizing right-of-use assets or lease liabilities for existing short-term leases of those assets in transition. The Company expects the most significant change will be related to the recognition of right-of-use assets and lease liabilities on the Company's balance sheet for real estate operating leases. As a result of the adoption of this guidance, the Company

anticipates that it will record right-of-use assets and lease liabilities ranging from \$52,000,000 to \$56,000,000 primarily related to its real estate operating leases. The Company also expects that the adoption of this guidance will result in additional lease-related disclosures in the footnotes to its consolidated financial statements.

In June 2018, the FASB issued ASU 2018-07, Compensation - Stock Compensation (Topic 718): Improvements to Non-employee Share-Based Payment Accounting, which simplifies the accounting for share-based payments granted to non-employees for goods and services. Under this ASU, the guidance on share-based payments to non-employees would be aligned with the requirements for share-based payments granted to employees, with certain exceptions. This ASU is effective for fiscal years beginning after December 15, 2018, and interim periods within those years. The adoption of this standard is not expected to result in a material impact to the Company's consolidated financial statements.

2. CONSOLIDATION OF VARIABLE INTEREST ENTITIES

The Company consolidates any variable interest entities in which it holds a variable interest and is the primary beneficiary. Generally, a variable interest entity, or VIE, is an entity with one or more of the following characteristics: (a) the total equity investment at risk is not sufficient to permit the entity to finance its activities without additional subordinated financial support; (b) as a group the holders of the equity investment at risk lack (i) the ability to make decisions about an entity's activities through voting or similar rights, (ii) the obligation to absorb the expected losses of the entity, or (iii) the right to receive the expected residual returns of the entity; or (c) the equity investors have voting rights that are not proportional to their economic interests and substantially all of the entity's activities either involve, or are conducted on behalf of, an investor that has disproportionately few voting rights. The primary beneficiary of a VIE is generally the entity that has (a) the power to direct the activities of the VIE that most significantly impact the VIE's economic performance, and (b) the obligation to absorb losses or the right to receive benefits that could potentially be significant to the VIE.

The Company has determined that it is the primary beneficiary of three VIEs and, accordingly, consolidates the financial results of these entities. Following are the required disclosures associated with the Company's consolidated VIEs:

	September 28, 2019	September 29, 2018
	(in thousands)	
Cash and cash equivalents	\$ 170	\$ 181
Accounts receivable	219	354
Inventories	41	19
Prepaid and refundable income taxes	254	241
Prepaid expenses and other current assets	12	51
Due from Ark Restaurants Corp. and affiliates (1)	392	338
Fixed assets - net	236	—
Other assets	82	82
Total assets	\$ 1,406	\$ 1,266
Accounts payable - trade	\$ 65	\$ 158
Accrued expenses and other current liabilities	440	348
Operating lease deferred credit	(30)	(21)
Total liabilities	475	485
Equity of variable interest entities	931	781
Total liabilities and equity	\$ 1,406	\$ 1,266

(1) Amounts due from Ark Restaurants Corp. and affiliates are eliminated upon consolidation.

The liabilities recognized as a result of consolidating these VIEs do not represent additional claims on the Company's general assets; rather, they represent claims against the specific assets of the consolidated VIEs. Conversely, assets recognized as a result of consolidating these VIEs do not represent additional assets that could be used to satisfy claims against the Company's general assets.

3. RECENT RESTAURANT EXPANSION AND OTHER DEVELOPMENTS

On May 15, 2019, the Company, through a newly formed, wholly-owned subsidiary, acquired the assets of *JB's on the Beach*, a restaurant and bar located in Deerfield Beach, Florida for \$7,036,000. The acquisition is accounted for as a business combination and was financed with a bank loan from the Company's existing lender in the amount of \$7,000,000 and cash

from operations. The fair values of the assets acquired, none of which are amortizable, were allocated as follows (amounts in thousands):

Cash	\$	11
Inventory		80
Furniture, fixtures and equipment		200
Trademarks		1,110
Goodwill		5,690
Liabilities assumed		(55)
		<u>\$ 7,036</u>

Goodwill recognized in connection with this transaction represents the residual amount of the purchase price over separately identifiable intangible assets and is expected to be deductible for tax purposes.

Concurrent with the acquisition, the Company entered into a 20 year lease (with a five year option) for the restaurant facility and parking lot with the former owner of *JB's on the Beach*, who is also the owner of the underlying real estate. Rent payments under the lease are \$600,000 per year with 10% increases every five years.

The consolidated statements of income for the year ended September 28, 2019 includes revenues and operating losses of approximately \$3,380,000 and (\$122,000), respectively, related to *JB's on the Beach*. The unaudited pro forma financial information set forth below is based upon the Company's historical consolidated statements of income for the years ended September 28, 2019 and September 29, 2018 and includes the results of operations for *JB's on the Beach* for the periods prior to acquisition. The unaudited pro forma financial information, which has been adjusted for rent payments under the lease discussed above as well as interest expense of the term loan, is presented for informational purposes only and may not be indicative of what actual results of operations would have been had the acquisition of *JB's on the Beach* occurred on the dates indicated, nor does it purport to represent the results of operations for future periods (amounts in thousands, except per share amounts).

	<u>Year Ended</u> <u>September 28,</u> <u>2019</u>	<u>Year Ended</u> <u>September 29,</u> <u>2018</u>
	<u>(unaudited)</u>	<u>(unaudited)</u>
Total revenues	\$ 170,132	\$ 171,219
Net income	\$ 3,336	\$ 5,384
Net income per share - basic	\$ 0.96	\$ 1.57
Net income per share - diluted	\$ 0.94	\$ 1.52

During 2019, the Company was advised by the landlord of our food court at the Hard Rock Casino and Hotel in Hollywood, Florida that they were exercising their right to relocate our space, at their sole cost, as contractually agreed to in the original lease. The new facilities were completed on September 16, 2019 on which date we closed our existing location and opened the new facilities. The Company recorded the value of the renovations made by the landlord, which includes leasehold improvements and furniture, fixtures and equipment, in the amount of \$5,474,000 with a corresponding increase in deferred rent. The net book value of the existing leasehold improvements relating to the original location in the amount of \$918,000 is being reflected as a reduction of deferred rent on a straight-line basis over the remaining lease term.

During 2019, the Company was advised by the landlord of our food court at the Hard Rock Casino and Hotel in Tampa, Florida that they were exercising their right to renovate the front of the house space, at their sole cost, as contractually agreed to in the original lease. In connection with this renovation we closed our existing facilities on June 2, 2019 and re-opened the renovated facilities on September 28, 2019. The Company recorded the value of the renovations made by the landlord, which includes leasehold improvements and furniture, fixtures and equipment, in the amount of \$3,179,000 with a corresponding increase in deferred rent. The net book value of the existing leasehold improvements relating to the original location in the amount of \$459,000 is being reflected as a reduction of deferred rent on a straight-line basis over the remaining lease term.

4. RECENT RESTAURANT DISPOSITIONS

As of December 29, 2018, the Company determined that it would not be able to operate *Durgin-Park* profitably due to decreased traffic at the Faneuil Hall Marketplace in Boston, MA, where it was located, and rising labor costs. As a result,

included in the consolidated statement of income for the year ended September 28, 2019 are losses on closure in the amount of \$1,106,000 consisting of: (i) impairment of trademarks in the amount of \$721,000, (ii) accelerated depreciation of fixed assets in the amount of \$333,000, and (iii) write-offs of prepaid and other expenses in the amount of \$52,000. The restaurant closed on January 12, 2019.

5. INVESTMENT IN AND RECEIVABLE FROM NEW MEADOWLANDS RACETRACK

On March 12, 2013, the Company made a \$4,200,000 investment in the New Meadowlands Racetrack LLC (“NMR”) through its purchase of a membership interest in Meadowlands Newmark, LLC, an existing member of NMR with a then 63.7% ownership interest. On November 19, 2013, the Company invested an additional \$464,000 in NMR through a purchase of an additional membership interest in Meadowlands Newmark, LLC resulting in a total ownership of 11.6% of Meadowlands Newmark, LLC, and an effective ownership interest in NMR of 7.4%, subject to dilution. In 2015, the Company invested an additional \$222,000 in NMR and on February 7, 2017, the Company invested an additional \$222,000 in NMR, both as a result of capital calls, bringing its total investment to \$5,108,000 with no change in ownership. As of September 29, 2018, this investment was accounted for based on the cost method. As of September 30, 2018, the Company elected to account for this investment at cost, less impairment, adjusted for subsequent observable price changes in accordance with ASU No. 2016-01. Such change did not affect the value of our investment in NMR as no events or changes in circumstances occurred during the year ended September 28, 2019 that would indicate impairment and there are no observable prices for this investment. Any future changes in the carrying value of our Investment in NMR will be reflected in earnings.

In addition to the Company’s ownership interest in NMR through Meadowlands Newmark, LLC, if casino gaming is approved at the Meadowlands and NMR is granted the right to conduct said gaming, neither of which can be assured, the Company shall be granted the exclusive right to operate the food and beverage concessions in the gaming facility with the exception of one restaurant.

In conjunction with this investment, the Company, through a 97% owned subsidiary, Ark Meadowlands LLC (“AM VIE”), also entered into a long-term agreement with NMR for the exclusive right to operate food and beverage concessions serving the new raceway facilities (the “Racing F&B Concessions”) located in the new raceway grandstand constructed at the Meadowlands Racetrack in northern New Jersey. Under the agreement, NMR is responsible to pay for the costs and expenses incurred in the operation of the Racing F&B Concessions, and all revenues and profits thereof inure to the benefit of NMR. AM VIE receives an annual fee equal to 5% of the net profits received by NMR from the Racing F&B Concessions during each calendar year. AM VIE is a variable interest entity; however, based on qualitative consideration of the contracts with AM VIE, the operating structure of AM VIE, the Company’s role with AM VIE, and that the Company is not obligated to absorb expected losses of AM VIE, the Company has concluded that it is not the primary beneficiary and not required to consolidate the operations of AM VIE.

The Company’s maximum exposure to loss as a result of its involvement with AM VIE is limited to a receivable from AM VIE’s primary beneficiary (NMR, a related party). As of September 28, 2019 and September 29, 2018, no amounts were due AM VIE by NMR.

On April 25, 2014, the Company loaned \$1,500,000 to Meadowlands Newmark, LLC. The note bears interest at 3%, compounded monthly and added to the principal, and is due in its entirety on January 31, 2024. The note may be prepaid, in whole or in part, at any time without penalty or premium. On July 13, 2016, the Company made an additional loan to Meadowlands Newmark, LLC in the amount of \$200,000. Such amount is subject to the same terms and conditions as the original loan discussed above. The principal and accrued interest related to this note in the amounts of \$1,713,000 and \$1,928,000, are included in Investment In and Receivable From New Meadowlands Racetrack in the consolidated balance sheets at September 28, 2019 and September 29, 2018, respectively.

6. FIXED ASSETS

Fixed assets consist of the following:

	September 28, 2019	September 29, 2018
	(in thousands)	
Land and building	\$ 18,029	\$ 18,029
Leasehold improvements	53,570	53,310
Furniture, fixtures and equipment	38,207	37,910
Construction in progress	—	59
	<u>109,806</u>	<u>109,308</u>
Less: accumulated depreciation and amortization	62,025	64,044
Fixed Assets - Net	<u>\$ 47,781</u>	<u>\$ 45,264</u>

Depreciation and amortization expense related to fixed assets for the years ended September 28, 2019 and September 29, 2018 was \$5,056,000 and \$5,014,000, respectively.

Management continually evaluates unfavorable cash flows, if any, related to underperforming restaurants. Periodically it is concluded that certain properties have become impaired based on their existing and anticipated future economic outlook in their respective markets. In such instances, we may impair assets to reduce their carrying values to fair values. Estimated fair values of impaired properties are based on comparable valuations, cash flows and/or management judgment. As a result of the underperformance and increased competition at *Clyde Frazier's Wine and Dine*, the Company has recorded an impairment charge of \$2,857,000 in fiscal 2019 related to this property.

7. INTANGIBLE ASSETS, GOODWILL AND TRADEMARKS

Intangible assets consist of the following:

	September 28, 2019	September 29, 2018
	(in thousands)	
Purchased leasehold rights (a)	\$ 2,395	\$ 2,395
Noncompete agreements and other	253	253
	<u>2,648</u>	<u>2,648</u>
Less accumulated amortization	2,345	2,299
Intangible Assets - Net	<u>\$ 303</u>	<u>\$ 349</u>

(a) Purchased leasehold rights arose from acquiring leases and subleases of various restaurants.

Amortization expense related to intangible assets for the years ended September 28, 2019 and September 29, 2018 was \$46,000 and \$60,000, respectively. Amortization expense for each of the next five years is expected to be \$46,000.

Goodwill is the excess of cost over fair market value of tangible and intangible net assets acquired. Goodwill is not presently amortized but tested for impairment annually or when the facts or circumstances indicate a possible impairment of goodwill as a result of a continual decline in performance or as a result of fundamental changes in a market. Trademarks, which have indefinite lives, are not currently amortized and are tested for impairment annually or when facts or circumstances indicate a possible impairment as a result of a continual decline in performance or as a result of fundamental changes in a market.

The changes in the carrying amount of goodwill and trademarks for the years ended September 28, 2019 and September 29, 2018 are as follows:

	<u>Goodwill</u>	<u>Trademarks</u>
	(in thousands)	
Balance as of September 30, 2017	\$ 9,880	\$ 3,331
Acquired during the year	—	—
Impairment losses	—	—
Balance as of September 29, 2018	9,880	3,331
Acquired during the year	5,690	1,110
Impairment losses (see Note 4)	—	(721)
Balance as of September 28, 2019	<u>\$ 15,570</u>	<u>\$ 3,720</u>

8. ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

Accrued expenses and other current liabilities consist of the following:

	<u>September 28, 2019</u>	<u>September 29, 2018</u>
	(in thousands)	
Sales tax payable	\$ 1,141	\$ 820
Accrued wages and payroll related costs	2,942	3,226
Customer advance deposits	4,549	4,439
Accrued occupancy and other operating expenses	2,040	2,217
	<u>\$ 10,672</u>	<u>\$ 10,702</u>

9. NOTES PAYABLE – BANK

Long-term debt consists of the following:

	<u>September 28, 2019</u>	<u>September 29, 2018</u>
	(in thousands)	
Promissory Note - Rustic Inn purchase	\$ 4,043	\$ 4,327
Promissory Note - Shuckers purchase	4,675	5,015
Promissory Note - Oyster House purchase	4,728	5,346
Promissory Note - JB's on the Beach purchase	6,750	—
Promissory Note - Sequoia renovation	3,086	—
Revolving Facility	3,366	6,568
	26,648	21,256
Less: Current maturities	(2,701)	(1,251)
Less: Unamortized deferred financing costs	(161)	(145)
Long-term debt	<u>\$ 23,786</u>	<u>\$ 19,860</u>

On June 1, 2018, the Company refinanced its then existing indebtedness with its current lender, Bank Hapoalim B.M. (“BHBM”), by entering into an amended and restated credit agreement (the “Revolving Facility”), which expires on May 31, 2021. The Revolving Facility provides for total availability of the lesser of (i) \$10,000,000 and (ii) \$35,000,000 less the then aggregate amount of all indebtedness and obligations to BHBM. Borrowings under the Revolving Facility are payable upon maturity of the Revolving Facility with interest payable monthly at LIBOR plus 3.5%, subject to adjustment based on certain ratios. As of September 28, 2019 and September 29, 2018, borrowings of \$3,366,000 and \$6,568,000, respectively, were outstanding under the Revolving Facility and had a weighted average interest rate of 4.9% and 5.4%, respectively.

In connection with the refinancing, the Company also amended the principal amounts and payment terms of its outstanding term notes with BHBM as follows:

- *Promissory Note – Rustic Inn purchase* – On February 25, 2013, the Company issued a promissory note to BHBM for \$3,000,000. The note bore interest at LIBOR plus 3.5% per annum, and was payable in 36 equal monthly installments of \$83,333, commencing on March 25, 2013. On February 24, 2014, in connection with the acquisition of *The Rustic Inn*, the Company borrowed an additional \$6,000,000 from BHBM under the same terms and conditions as the original loan which was consolidated with the remaining principal balance from the original borrowing at that date. The new loan was payable in 60 equal monthly installments of \$134,722, which commenced on March 25, 2014. In connection with the above refinancing, this note was amended and restated and increased by \$2,783,333 of credit facility borrowings. The new principal amount of \$4,400,000, which is secured by a mortgage on *The Rustic Inn* real estate, is payable in 27 equal quarterly installments of \$71,333, which commenced on September 1, 2018, with a balloon payment of \$2,474,000 on June 1, 2025 and bears interest at LIBOR plus 3.5% per annum.
- *Promissory Note – Shuckers purchase* – On October 22, 2015, in connection with the acquisition of *Shuckers*, the Company issued a promissory note to BHBM for \$5,000,000. The note bore interest at LIBOR plus 3.5% per annum, and was payable in 60 equal monthly installments of \$83,333, commencing on November 22, 2015. In connection with the above refinancing, this note was amended and restated and increased by \$2,433,324 of credit facility borrowings. The new principal amount of \$5,100,000, which is secured by a mortgage on the *Shuckers* real estate, is payable in 27 equal quarterly installments of \$85,000, which commenced on September 1, 2018, with a balloon payment of \$2,805,000 on June 1, 2025 and bears interest at LIBOR plus 3.5% per annum.
- *Promissory Note – Oyster House purchase* – On November 30, 2016, in connection with the acquisition of the *Oyster House* properties, the Company issued a promissory note under the Revolving Facility to BHBM for \$8,000,000. The note bore interest at LIBOR plus 3.5% per annum, and was payable in 60 equal monthly installments of \$133,273, commencing on January 1, 2017. In connection with the above refinancing, this note was amended and restated and separated into two notes. The first note, in the principal amount of \$3,300,000, is secured by a mortgage on the *Oyster House Gulf Shores* real estate, is payable in 19 equal quarterly installments of \$117,857, which commenced on September 1, 2018, with a balloon payment of \$1,060,716 on June 1, 2023 and bears interest at LIBOR plus 3.5% per annum. The second note, in the principal amount of \$2,200,000, is secured by a mortgage on the *Oyster House Spanish Fort* real estate, is payable in 27 equal quarterly installments of \$36,667, which commenced on September 1, 2018, with a balloon payment of \$1,210,000 on June 1, 2025 and bears interest at LIBOR plus 3.5% per annum.
- *Promissory Note - JB's on the Beach purchase* – On May 15, 2019, in connection with the previously discussed acquisition of *JB's on the Beach*, the Company issued a promissory note under the Revolving Facility to BHBM for \$7,000,000 which is payable in 23 equal quarterly installments of \$250,000, commencing on September 1, 2019, with a balloon payment of \$1,250,000 on June 1, 2025 and bears interest at LIBOR plus 3.5% per annum.
- *Promissory Note - Sequoia renovation* – Also on May 15, 2019, the Company converted \$3,200,000 of Revolving Facility borrowings incurred in connection with the *Sequoia* renovation to a promissory note which is payable in 23 equal quarterly installments of \$114,286, commencing on September 1, 2019, with a balloon payment of \$571,429 on June 1, 2025 and bears interest at LIBOR plus 3.5% per annum.

Deferred financing costs incurred in connection with the Revolving Facility in the amount of \$207,000 are being amortized over the life of the agreements on a straight-line basis and are included in interest expense. Amortization expense was \$35,000 and \$21,000 for the years ended September 28, 2019 and September 29, 2018, respectively.

Borrowings under the Revolving Facility, which include all of the above promissory notes, are secured by all tangible and intangible personal property (including accounts receivable, inventory, equipment, general intangibles, documents, chattel paper, instruments, letter-of-credit rights, investment property, intellectual property and deposit accounts) and fixtures of the Company.

The loan agreements provide, among other things, that the Company meet minimum quarterly tangible net worth amounts, as defined, maintain a fixed charge coverage ratio of not less than 1.1:1 and minimum annual net income amounts, and contain customary representations, warranties and affirmative covenants. The agreements also contain customary negative covenants, subject to negotiated exceptions, on liens, relating to other indebtedness, capital expenditures, liens, affiliate transactions, disposal of assets and certain changes in ownership. The Company was in compliance with all of its financial covenants under the Revolving Facility as of September 28, 2019.

As of September 28, 2019, the aggregate amounts of notes payable maturities (excluding borrowings under the Revolving Facility) are as follows:

2020	\$	2,701
2021		2,701
2022		2,701
2023		3,526
2024		2,229

10. COMMITMENTS AND CONTINGENCIES

Leases — The Company leases its restaurants, bar facilities, and administrative headquarters through its subsidiaries under terms expiring at various dates through 2033. Most of the leases provide for the payment of base rents plus real estate taxes, insurance and other expenses and, in certain instances, for the payment of a percentage of the restaurants’ sales in excess of stipulated amounts at such facility and in one instance based on profits.

As of September 28, 2019, future minimum lease payments under non-cancelable leases are as follows:

Fiscal Year	Amount (in thousands)
2020	\$ 9,570
2021	9,553
2022	9,654
2023	8,022
2024	7,197
Thereafter	33,487
Total minimum payments	\$ 77,483

In connection with certain of the leases included in the table above, the Company obtained and delivered irrevocable letters of credit in the aggregate amount of approximately \$388,000 as security deposits under such leases.

Rent expense was approximately \$13,879,000 and \$14,649,000 for the years ended September 28, 2019 and September 29, 2018, respectively. Contingent rentals, included in rent expense, were approximately \$5,336,000 and \$5,454,000 for the years ended September 28, 2019 and September 29, 2018, respectively.

Legal Proceedings — In the ordinary course its business, the Company is a party to various lawsuits arising from accidents at its restaurants and workers’ compensation claims, which are generally handled by the Company’s insurance carriers. The employment by the Company of management personnel, waiters, waitresses and kitchen staff at a number of different restaurants has resulted in the institution, from time to time, of litigation alleging violation by the Company of employment discrimination laws. Management believes, based in part on the advice of counsel, that the ultimate resolution of these matters will not have a material adverse effect on the Company’s consolidated financial position, results of operations or cash flows.

On May 1, 2018, two former tipped service workers (the “Plaintiffs”), individually and on behalf of all other similarly situated personnel, filed a putative class action lawsuit (the “Complaint”) against the Company and certain subsidiaries as well as certain officers of the Company (the “Defendants”). Plaintiffs allege, on behalf of themselves and the putative class, that the Company violated certain of the New York State Labor Laws and related regulations. The Complaint seeks unspecified money damages, together with interest, liquidated damages and attorney fees. There has been no discovery on the merits of the Complaint and the matter is still in the initial stages of discovery concerning whether the named Plaintiffs are seeking to represent an appropriate class of tipped service workers and, if so, whether the named Plaintiffs are appropriate class representatives. The Company’s Motion to Dismiss the Complaint was denied on June 27, 2019. The Company believes that the allegations and claims in the Complaint are without merit, and it intends to defend itself vigorously in this litigation. However, the outcomes of legal actions are unpredictable and subject to significant uncertainties, and thus it is

inherently difficult to determine the probability or quantification of any loss. Based on information currently available, including the Company's assessment of the facts underlying the Complaint and advice of counsel, the amount or range of reasonably possible losses, if any, cannot be estimated. Accordingly, the Company has not recorded any accrual related to this matter as of September 28, 2019.

11. STOCK OPTIONS

The Company has options outstanding under two stock option plans: the 2010 Stock Option Plan (the "2010 Plan") and the 2016 Stock Option Plan (the "2016 Plan"). Options granted under both plans are exercisable at prices at least equal to the fair market value of such stock on the dates the options were granted and expire ten years after the date of grant.

On August 10, 2018, options to purchase 5,000 shares of common stock were granted at an exercise price of \$20.36 per share and on September 4, 2018, options to purchase 20,000 shares of common stock were granted at an exercise price of \$22.30 per share. Both grants are exercisable as to 50% of the shares commencing on the date of grant and as to an additional 50% commencing on the first anniversary of the date of grant. Such options had an aggregate grant date fair value of \$3.46 per share and \$3.82 per share, respectively and totaled approximately \$94,000.

During the year ended September 28, 2019, options to purchase 23,000 shares of common stock at an exercise price of \$19.61 per share were granted to employees of the Company. Such options are exercisable as to 50% of the shares commencing on the date of grant and as to an additional 50% commencing on the first anniversary of the date of grant. Such options had an aggregate grant date fair value of \$3.48 per share and totaled approximately \$80,000.

During the year ended September 28, 2019, options to purchase 11,000 shares of common stock at an exercise price of \$20.18 per share were granted to employees of the Company. Such options are exercisable as to 25% of the shares commencing on the first anniversary of the date of grant and 25% on the second, third and fourth anniversary thereof. Such options had an aggregate grant date fair value of \$3.55 per share and totaled approximately \$39,000.

During the year ended September 28, 2019, options to purchase 19,500 shares of common stock with a strike price of \$12.04 were exercised on a net issue basis as provided in the 2010 Plan. Accordingly, 11,774 shares were immediately repurchased and retired from treasury.

The Company generally issues new shares upon the exercise of employee stock options.

The fair value of each of the Company's stock options is estimated on the date of grant using a Black-Scholes option-pricing model that uses assumptions that relate to the expected volatility of the Company's common stock, the expected dividend yield of the Company's stock, the expected life of the options and the risk free interest rate. The assumptions used for the 2019 grants include a risk free interest rate of 2.52% - 2.61%, volatility of 30.6%, a dividend yield of 5.1% and an expected life of 10 years. The assumptions used for the 2018 grants include a risk free interest rate of 2.87% - 2.90%, volatility of 30.7%, a dividend yield of 5.6% and an expected life of 10 years.

During the year ended September 28, 2019, options to purchase 8,750 shares of common stock at a weighted average price of \$18.76 per share expired unexercised or were forfeited. During the year ended September 29, 2018, options to purchase 26,050 shares of common stock at an exercise price of \$18.60 per share expired unexercised.

The following table summarizes stock option activity under all plans:

	2019			2018			
	Shares	Weighted Average Exercise Price	Weighted Average Contractual Term	Aggregate Intrinsic Value	Shares	Weighted Average Exercise Price	Aggregate Intrinsic Value
Outstanding, beginning of period	378,750	\$ 18.46	4.8 years		421,800	\$ 17.86	
Options:							
Granted	34,000	\$ 19.79			25,000	\$ 21.91	
Exercised	(40,500)	\$ 12.42			(42,000)	\$ 14.39	
Canceled or expired	(8,750)	\$ 18.76			(26,050)	\$ 18.60	
Outstanding and expected to vest, end of period	<u>363,500</u>	\$ 19.25	4.7 years	\$ 807,000	<u>378,750</u>	\$ 18.46	\$ 1,824,400
Exercisable, end of period	<u>328,500</u>	\$ 19.11	4.2 years	\$ 797,000	<u>366,250</u>	\$ 18.35	\$ 1,807,300
Shares available for future grant	441,000				475,000		

Compensation cost charged to operations for the years ended September 28, 2019 and September 29, 2018 for share-based compensation programs was approximately \$112,000 and \$47,000, respectively. The compensation cost recognized is classified as a general and administrative expense in the consolidated statements of income.

As of September 28, 2019, there was approximately \$53,000 of unrecognized compensation cost related to unvested stock options, which is expected to be recognized over a period of 3.5 years.

The following table summarizes information about stock options outstanding as of September 28, 2019:

Range of Exercise Prices	Options Outstanding			Options Exercisable		
	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining contractual life (in years)	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining contractual life (in years)
\$14.40	132,500	\$ 14.40	2.7	132,500	\$ 14.40	2.7
\$22.50	172,000	\$ 22.50	4.7	172,000	\$ 22.50	4.7
\$19.61 - \$22.30	59,000	\$ 20.69	9.2	24,000	\$ 20.81	9.1
	<u>363,500</u>	\$ 19.25	4.7	<u>328,500</u>	\$ 19.11	4.2

The Company also maintains a Section 162(m) Cash Bonus Plan. Under the Section 162(m) Cash Bonus Plan, compensation paid in excess of \$1,000,000 to any employee who is the chief executive officer, or one of the three highest paid executive officers on the last day of that tax year (other than the chief executive officer or the chief financial officer) is not tax deductible.

12. INCOME TAXES

On December 22, 2017, the U.S. government enacted comprehensive tax reform commonly referred to as the Tax Cuts and Jobs Act ("TCJA"). Under Accounting Standards Codification ("ASC") 740, the effects of changes in tax rates and laws are recognized in the period in which the new legislation is enacted. The TCJA makes broad and complex changes to the U.S. tax code, including, but not limited to: (1) reducing the U.S. federal corporate tax rate from 35% to 21% effective January 1, 2018; (2) changing rules related to uses and limitations of net operating loss carryforwards created in tax years beginning after December 31, 2017; (3) accelerated expensing on certain qualified property; (4) creating a new limitation on deductible interest expense to 30% of tax adjusted EBITDA through 2021 and then 30% of tax adjusted EBIT thereafter; (5) eliminating the corporate alternative minimum tax; and (6) further limitations on the deductibility of executive compensation under IRC §162(m) for tax years beginning after December 31, 2017. As the reduction in the U.S. federal corporate tax rate is administratively effective on January 1, 2018, our blended U.S. federal tax rate for the year ended September 29, 2018 was approximately 24%.

In connection with the TCJA, the Company recorded an income tax benefit of \$1,382,000 related to the re-measurement of our deferred tax assets and liabilities for the reduced U.S. federal corporate tax rate of 21%. The Company's accounting for the TCJA was complete as of September 29, 2018 with no significant differences from our provisional estimates.

The provision for income taxes consists of the following:

	Year Ended	
	September 28, 2019	September 29, 2018
	(in thousands)	
Current provision (benefit):		
Federal	\$ 260	\$ 30
State and local	267	320
	<u>527</u>	<u>350</u>
Deferred provision (benefit):		
Federal	(931)	(798)
State and local	(187)	(699)
	<u>(1,118)</u>	<u>(1,497)</u>
	<u>\$ (591)</u>	<u>\$ (1,147)</u>

The effective tax rate differs from the U.S. income tax rate as follows:

	Year Ended	
	September 28, 2019	September 29, 2018
	(in thousands)	
Provision at Federal statutory rate (21% in 2019 and 24% in 2018)	\$ 393	\$ 953
State and local income taxes, net of tax benefits	(160)	—
Tax credits	(1,029)	(789)
Income attributable to non-controlling interest	45	(102)
Changes in tax rates	2	181
Impact of Federal tax reform	—	(1,382)
Change in valuation allowance	81	(43)
Other	77	35
	<u>\$ (591)</u>	<u>\$ (1,147)</u>

Deferred income taxes reflect the net effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting and tax purposes. Significant components of the Company's deferred tax assets and liabilities are as follows:

	September 28, 2019	September 29, 2018
	(in thousands)	
Deferred tax assets:		
State net operating loss carryforwards	\$ 4,406	\$ 4,141
Operating lease deferred credits	422	513
Deferred compensation	313	364
Tax credits	1,253	802
Partnership investments	347	—
Other	—	98
Deferred tax assets, before valuation allowance	<u>6,741</u>	<u>5,918</u>
Valuation allowance	(392)	(311)
Deferred tax assets, net of valuation allowance	<u>6,349</u>	<u>5,607</u>
Deferred tax liabilities:		
Depreciation and amortization	(2,049)	(2,080)
Partnership investments	—	(329)
Prepaid expenses	(194)	(210)
Deferred tax liabilities	<u>(2,243)</u>	<u>(2,619)</u>
Net deferred tax assets	<u>\$ 4,106</u>	<u>\$ 2,988</u>

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that the deferred tax assets will be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income. In the assessment of the valuation allowance, appropriate consideration was given to all positive and negative evidence including recent operating profitability, forecasts of future earnings and the duration of statutory carryforward periods. The Company recorded a valuation allowance of \$392,000 and \$311,000 as of September 28, 2019 and September 29, 2018, respectively, attributable to state and local net operating loss carryforwards which are not realizable on a more-likely-than-not basis. During the year ended September 28, 2019, the Company's valuation allowance increased by approximately \$81,000 as the Company determined that certain state net operating losses became unrealizable on a more-likely-than-not basis.

As of September 28, 2019, the Company had General Business Credit carryforwards of approximately \$1,117,000 which expire through fiscal 2039. In addition, as of September 28, 2019, the Company has New York State net operating loss carryforwards of approximately \$23,061,000 and New York City net operating loss carryforwards of approximately \$21,576,000 that expire through fiscal 2039.

A reconciliation of the beginning and ending amount of unrecognized tax benefits excluding interest and penalties is as follows:

	September 28, 2019	September 29, 2018
	(in thousands)	
Balance at beginning of year	\$ 110	\$ 152
Additions based on tax positions taken in current and prior years	407	125
Settlements	(205)	(167)
Lapse in statute of limitations	(109)	—
Decreases based on tax positions taken in prior years	(45)	—
Balance at end of year	<u>\$ 158</u>	<u>\$ 110</u>

The entire amount of unrecognized tax benefits if recognized would reduce our annual effective tax rate. For the years ended September 28, 2019 and September 29, 2018, the Company has \$0 and \$38,000, respectively, accrued for the payment of interest and penalties. The Company does not expect a significant change to its unrecognized tax benefits within the next 12 months.

The Company files tax returns in the U.S. and various state and local jurisdictions with varying statutes of limitations. The 2016 through 2019 fiscal years remain subject to examination by the Internal Revenue Service and most state and local tax authorities.

13. INCOME PER SHARE OF COMMON STOCK

Basic earnings per share is computed by dividing net income attributable to Ark Restaurants Corp. by the weighted-average number of common shares outstanding for the period. Diluted earnings per share is computed similarly to basic earnings per share, except that it reflects the effect of common shares issuable upon exercise of stock options, using the treasury stock method in periods in which they have a dilutive effect.

A reconciliation of shares used in calculating earnings per basic and diluted share follows:

	Year Ended	
	September 28, 2019	September 29, 2018
	(in thousands)	
Basic	\$ 3,479	\$ 3,439
Effect of dilutive securities:		
Stock options	52	110
Diluted	<u>\$ 3,531</u>	<u>\$ 3,549</u>

For the year ended September 28, 2019, the dilutive effect of options to purchase 208,000 shares of common stock at exercise prices ranging from \$20.18 per share to \$22.50 per share were not included in diluted earnings per share as their impact would have been anti-dilutive.

For the year ended September 29, 2018, no options were excluded from diluted earnings per share as all were dilutive.

14. RELATED PARTY TRANSACTIONS

Employee receivables totaled approximately \$414,000 and \$386,000 at September 28, 2019 and September 29, 2018, respectively. Such amounts consist of loans that are payable on demand and bear interest at the minimum statutory rate (1.85% at September 28, 2019 and 1.63% at September 29, 2018).

Prior to joining the Company on September 4, 2018, the Chief Financial Officer was a member of a firm that provided consulting services to the Company. Total fees billed by this firm were \$0 and \$303,000 for the years ended September 28, 2019 and September 29, 2018, respectively. The Company ceased utilizing the services of this firm upon hiring him as the Chief Financial Officer.

15. SUBSEQUENT EVENTS

On November 26, 2019, the Board of Directors declared a quarterly dividend of \$0.25 per share on the Company's common stock to be paid on January 7, 2020 to shareholders of record at the close of business on December 16, 2019.

Signatures

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ARK RESTAURANTS CORP.

By: /s/ Michael Weinstein

Michael Weinstein

Chairman of the Board and Chief Executive Officer

(Principal Executive Officer)

Date: December 17, 2019

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Michael Weinstein</u> (Michael Weinstein)	Chairman of the Board and Chief Executive Officer	December 17, 2019
<u>/s/ Vincent Pascal</u> (Vincent Pascal)	Senior Vice President and Director	December 17, 2019
<u>/s/ Anthony J. Sirica</u> (Anthony J. Sirica)	Chief Financial Officer and Director (Principal Financial and Accounting Officer)	December 17, 2019
<u>/s/ Marcia Allen</u> (Marcia Allen)	Director	December 17, 2019
<u>/s/ Steven Shulman</u> (Steven Shulman)	Director	December 17, 2019
<u>/s/ Paul Gordon</u> (Paul Gordon)	Senior Vice President and Director	December 17, 2019
<u>/s/Bruce R. Lewin</u> (Bruce R. Lewin)	Director	December 17, 2019
<u>/s/ Arthur Stainman</u> (Arthur Stainman)	Director	December 17, 2019
<u>/s/ Stephen Novick</u> (Stephen Novick)	Director	December 17, 2019

Exhibits Index

- 3.1 Certificate of Incorporation of the Registrant, filed with the Secretary of State of the State of New York on January 4, 1983.
- 3.2 Certificate of Amendment of the Certificate of Incorporation of the Registrant filed with the Secretary of State of the State of New York on October 11, 1985.
- 3.3 Certificate of Amendment of the Certificate of Incorporation of the Registrant filed with the Secretary of State of the State of New York on July 21, 1988.
- 3.4 Certificate of Amendment of the Certificate of Incorporation of the Registrant filed with the Secretary of State of the State of New York on May 13, 1997.
- 3.5 Certificate of Amendment of the Certificate of Incorporation of the Registrant filed on April 24, 2002 incorporated by reference to Exhibit 3.5 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended March 30, 2002 (the "Second Quarter 2002 Form 10-Q").
- 3.6 By-Laws of the Registrant, incorporated by reference to Exhibit 3.2 to the Registrant's Registration Statement on Form S-18 filed with the Securities and Exchange Commission on October 17, 1985.
- 10.1 Amended and Restated Redemption Agreement dated June 29, 1993 between the Registrant and Michael Weinstein, incorporated by reference to Exhibit 10.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 2, 1999 ("1994 10-K").
- 10.2 Form of Indemnification Agreement entered into between the Registrant and each of Michael Weinstein, Ernest Bogen, Vincent Pascal, Robert Towers, Jay Galin, Robert Stewart, Bruce R. Lewin, Paul Gordon and Donald D. Shack, incorporated by reference to Exhibit 10.2 to the 1994 10-K.
- 10.3 Ark Restaurants Corp. 2004 Stock Option Plan, as amended, incorporated by reference to the Registrant's Definitive Proxy Statement pursuant to Section 14(a) of the Securities Exchange Act of 1934 filed on January 26, 2004.
- 10.4 Ark Restaurants Corp. 2010 Stock Option Plan, incorporated by reference to the Registrant's Definitive Proxy Statement pursuant to Section 14(a) of the Securities Exchange Act of 1934 filed on February 1, 2010.
- 10.5 Securities Purchase Agreement, by and between the Registrant and Estate of Irving Hershkowitz, incorporated by reference to Exhibit 10.01 to the Registrant's Current Report on Form 8-K filed on December 15, 2011.
- 10.6 Promissory Note, in the principal amount of \$2,125,000, issued by the Company to Estate of Irving Hershkowitz, incorporated by reference to Exhibit 10.02 to the Registrant's Current Report on Form 8-K filed on December 15, 2011.
- 10.7 Promissory Note made by the Registrant to Bank Hapoalim B.M., issued as of February 25, 2013, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed on March 1, 2013.
- 10.8 Asset Purchase Agreement dated as of November 22, 2013 by and between W and O, Inc. and Ark Rustic Inn LLC, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed on November 26, 2013.
- 10.9 Amended and Restated Promissory Note made by the Company to Bank Hapoalim B.M., issued as of February 24, 2014, incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed on February 28, 2014.

- 10.10 Term or Installment Loan Rider to Promissory Note to Bank Hapoalim B.M, incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed on February 28, 2014.
- 10.11 Commercial Contract Agreement and Rider to Commercial Contract Agreement both dated as of August 10, 2015 by and between Ark Shuckers Real Estate LLC and D.C. Holding Company, Inc., incorporated by reference to Exhibit 10.1 and 10.2 to the Registrant's Current Report on Form 8-K filed on October 28, 2015.
- 10.12 Restaurant Asset Purchase Agreement dated as of August 10, 2015 by and between Ark Shuckers LLC and Ocean Enterprises, Inc. incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed on October 28, 2015.
- 10.13 Management Purchase Agreement dated as of August 10, 2015 by and between Ark Island Beach Resort LLC and Island Beach Resort, Inc. incorporated by reference to Exhibit 10.4 to the Registrant's Current Report on Form 8-K filed on October 28, 2015.
- 10.14 Credit Agreement (Term Facility) between the Company and Bank Hapoalim B.M. issued as of October 21, 2015 incorporated by reference to Exhibit 10.5 to the Registrant's Current Report on Form 8-K filed on October 28, 2015.
- 10.15 Term Promissory Note issued by the Company in favor of Bank Hapoalim B.M. on October 21, 2015 incorporated by reference to Exhibit 10.6 to the Registrant's Current Report on Form 8-K filed on October 28, 2015.
- 10.16 Credit Agreement (Revolving Facility) and Form of Revolving Promissory Note between the Company and Bank Hapoalim B.M. issued as of October 21, 2015 incorporated by reference to Exhibit 10.7 and 10.8 to the Registrant's Current Report on Form 8-K filed on October 28, 2015.
- 10.17 Asset Purchase Agreement dated as of October 21, 2016, by and between Ark Gulf Shores Real Estate, LLC, Ark Oyster House Gulf Shores I, LLC, Original Oyster House, Inc. and Premium Properties, Inc. including the Real Estate Purchase and Sale Agreement incorporated by reference to Exhibit 2.1 to the Registrant's Current Report on Form 8-K filed on November 16, 2016.
- 10.18 Asset Purchase Agreement dated as of October 21, 2016, by and between Ark Oyster House Causeway II, LLC, Ark Causeway Real Estate, LLC, Original Oyster House II, Inc. and Gumbo Properties, L.L.C. including the Real Estate Purchase and Sale Agreement incorporated by reference to Exhibit 2.2 to the Registrant's Current Report on Form 8-K filed on November 16, 2016.
- 10.19 ROFR Purchase and Sale Agreement dated as of October 13, 2016 by and between SCFRC-HWG, LLC and Ark Jupiter RI, LLC incorporated by reference to Exhibit 2.3 to the Registrant's Current Report on Form 8-K filed on November 16, 2016.
- 10.20 Purchase and Sale Agreement between Ark Jupiter RI, LLC and 1065 A1A, LLC, incorporated by reference to Exhibit 2.4 to the Registrant's Current Report on Form 8-K filed on November 16, 2016.
- 10.21 Second Amendment to Credit Agreement (Revolving Facility) dated as of November 30, 2016, by and between Ark Restaurant Corp. and Bank Hapoalim B.M incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K/A filed on January 27, 2017.
- 10.22 Mortgage and Security Agreement (Alabama) dated as of November 30, 2016, by and between Ark Gulf Shores Real Estate LLC and Ark Causeway Real Estate LLC and Bank Hapoalim B.M incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K/A filed on January 27, 2017.
- 10.23 Amended and Restated Credit Agreement (Revolving Facility) dated as of June 1, 2018, by and between Ark Restaurants Corp. and Bank Hapoalim B.M.

- 10.24 Amended and Restated Promissory Note, dated as of June 1, 2018, by and between Ark Restaurants Corp. and Bank Hapoalim B.M. that restates and renews the Term Promissory Note, dated October 21, 2015 secured by the assets of Ark Shuckers Real Estate LLC.
- 10.25 Amended and Restated Promissory Note, dated as of June 1, 2018, by and between Ark Restaurants Corp. and Bank Hapoalim B.M. that restates and renews the Term Promissory Note, dated February 24, 2014 secured by the assets of Ark Rustic Inn Real Estate LLC.
- 10.26 Amended and Restated Promissory Note, dated as of June 1, 2018, by and between Ark Restaurants Corp. and Bank Hapoalim B.M. that restates and renews the Term Promissory Note, dated November 30, 2016 secured by the assets of Ark Gulf Shores Real Estate LLC.
- 10.27 Amended and Restated Promissory Note, dated as of June 1, 2018, by and between Ark Restaurants Corp. and Bank Hapoalim B.M. that restates and renews the Term Promissory Note, dated November 30, 2016 secured by the assets of Ark Causeway Real Estate LLC.
- *10.28 [Amended and Restated Credit Agreement \(Revolving Facility\), dated as of May 15, 2019, by and between Ark Restaurants Corp. and Bank Hapoalim B.M.](#)
- *10.29 [Asset Purchase Agreement, dated as of February 21, 2019, by and between Ark Restaurants Corp., Beach House, LLC and Boyle Beach House, LLC.](#)
- *10.30 [Promissory Note in the amount of \\$7,000,000, dated as of May 15, 2019, by and between Ark Restaurants Corp. and Bank Hapoalim B.M.](#)
- *10.31 [Promissory Note in the amount of \\$3,200,000, dated as of May 15, 2019, by and between Ark Restaurants Corp. and Bank Hapoalim B.M.](#)
- 14 Code of Ethics, incorporated by reference to Exhibit 14.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 27, 2003.
- *21 [Subsidiaries of the Registrant.](#)
- *23 [Consent of CohnReznick LLP.](#)
- *31.1 [Certification of Chief Executive Officer.](#)
- *31.2 [Certification of Chief Financial Officer.](#)
- *32 [Section 1350 Certification.](#)
- 101.INS** XBRL Instance Document
- 101.SCH** XBRL Taxonomy Extension Schema Document
- 101.CAL** XBRL Taxonomy Extension Calculation Linkbase Document
- 101.DEF** XBRL Taxonomy Extension Definition Linkbase Document
- 101.LAB** XBRL Taxonomy Extension Label Linkbase Document

101.PRE** XBRL Taxonomy Extension Presentation Linkbase Document

* Filed herewith.

** Pursuant to Rule 406T of Regulation S-T, the Interactive Data Files on Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.

Exhibit 21

Subsidiaries of the Registrant

<u>Subsidiary</u>	<u>Trade name(s)</u>	<u>Jurisdiction of Incorporation</u>
Ark 37 38 Events LLC	N/A	Delaware
Ark AC Burger Bar LLC	Broadway Burger Bar and Grill	Delaware
Ark Atlantic City Corp.	Gallagher's Burger Bar	Delaware
Ark Atlantic City Restaurant Corp.	Gallagher's Steakhouse	Delaware
Ark Boston RSS Corp.	Durgin Park and Blackhorse Tavern	Delaware
Ark Bryant Park LLC	Bryant Park Grill & Café	Delaware
Ark Bryant Park Southwest LLC	Southwest Porch	Delaware
Ark Causeway Real Estate LLC	N/A	Delaware
Ark Connecticut Corp.	N/A	Delaware
Ark Connecticut Investment LLC	N/A	Delaware
Ark Connecticut Pizza LLC	Lucky 7	Delaware
Ark Deerfield Beach LLC	JB's on the Beach	Delaware
Ark Fifth Avenue Corp.	N/A	New York
Ark Gulf Shores Real Estate LLC	N/A	Delaware
Ark Hollywood/Tampa Corp.	N/A	Delaware
Ark Hollywood/Tampa Investments LLC	N/A	Delaware
Ark Hollywood LLC	N/A	Delaware
Ark Island Beach Real Estate LLC	N/A	Delaware
Ark Island Beach Resort LLC	N/A	Delaware
Ark Las Vegas Restaurant Corp.	N/A	Nevada
Ark Mad Events LLC	N/A	Delaware
Ark Meadowlands LLC	N/A	Delaware
Ark Museum LLC	Robert	Delaware
Ark Operating Corp.	El Rio Grande	New York
Ark Oyster House Causeway II, LLC	The Original Oyster House	Delaware
Ark Oyster House Gulf Shores I, LLC	The Original Oyster House	Delaware
Ark Private Events LLC	N/A	Delaware
Ark Potomac Corporation	Sequoia	District of Columbia
Ark Rio Corp.	El Rio Grande	New York
Ark Rustic Inn LLC	N/A	Delaware
Ark Rustic Inn Real Estate	N/A	Delaware
Ark Shuckers LLC	Shuckers	Delaware
Ark Shuckers Real Estate LLC	N/A	Delaware
Ark Southwest D.C. Corp.	Thunder Grill	District of Columbia
Ark Superb Foods, LLC	N/A	Delaware
Ark Tampa LLC	N/A	Delaware
ArkMod LLC	N/A	New York
Chefmod LLC	N/A	New York
Clyde Ark LLC	Clyde Frazier's Wine and Dine	New York
Las Vegas America Corp.	America	Nevada
Las Vegas Festival Food Corp.	(1) Gonzalez y Gonzalez and (2) Village Eateries (New York-New York Hotel Food Court) (3) Broadway Burger Bar	Nevada
Las Vegas Planet Mexico Corp.	Yolos	Nevada
Las Vegas Steakhouse Corp.	Gallagher Steakhouse	Nevada
Rio Restaurant Associates, L.P.	N/A	New York

EXHIBIT 23

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in Registration Statement Nos. 333-165369, 333-145424 and 333-227801 of Ark Restaurants Corp. on Form S-8 of our report dated December 17, 2019 on our audits of the consolidated financial statements of Ark Restaurants Corp. and Subsidiaries as of September 28, 2019 and September 29, 2018 and for each of the years in the two-year period ended September 28, 2019 appearing in this Annual Report on Form 10-K of Ark Restaurants Corp. for the year ended September 28, 2019.

/s/ CohnReznick LLP
Jericho, New York
December 17, 2019

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

I, Michael Weinstein, certify that:

1. I have reviewed this annual report on Form 10-K of Ark Restaurants Corp.
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's accountants and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: December 17, 2019

/s/MICHAEL WEINSTEIN

Michael Weinstein

Chairman and Chief Executive Officer

(Principal Executive Officer)

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

I, Anthony J. Sirica, certify that:

1. I have reviewed this annual report on Form 10-K of Ark Restaurants Corp.
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's accountants and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: December 17, 2019

/s/Anthony J. Sirica

Anthony J. Sirica

Chief Financial Officer

(Authorized Signatory and Principal Financial and Accounting Officer)

Certificate of Chief Executive and Chief Financial Officers

The following statement is being made to the Securities and Exchange Commission solely for purposes of Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1350), which carries with it certain criminal penalties in the event of a knowing or willful misrepresentation.

In accordance with the requirements of Section 906 of the Sarbanes-Oxley Act of 2002 (18 USC 1350), each of the undersigned hereby certifies that:

- (i) this report on Form 10-K for the year ended September 28, 2019 fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- (ii) the information contained in this report fairly presents, in all material respects, the financial condition and results of operations of Ark Restaurants Corp.

Dated as of this 17th day of December 2019

/s/ Michael Weinstein

Michael Weinstein

Chairman and Chief Executive Officer

(Authorized Signatory and Principal Executive Officer)

/s/ Anthony J. Sirica

Anthony J. Sirica

Chief Financial Officer

(Authorized Signatory and Principal Financial and Accounting Officer)