SUSSEX BANCORP
Form 8-K/A
December 06, 2017

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K/A

(Amendment No. 1)

CURRENT REPORT

Pursuant to Section 13 or 15(d)

of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): December 5, 2017

SUSSEX BANCORP

(Exact name of registrant as specified in its charter)

New Jersey	001-12569	22-3475473
(State or other jurisdiction of incorporation or organization)	(Commission File Number)	(I.R.S. Employer Identification Number)

100 Enterprise Dr.

Rockaway, New Jersey 07866

(Address of principal executive offices, zip code)

Registrant s telephone number, including area code: (844) 256-7328

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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.

Explanatory Note

This Current Report on Form 8-K/A (Amendment No. 1) amends the Current Report on Form 8-K filed with the Securities and Exchange Commission by Sussex Bancorp on December 5, 2017 (the Initial Form 8-K), in order to provide additional supplemental disclosure to the joint proxy statement/prospectus that was inadvertently omitted from the Initial Form 8-K.

Item 8.01. Other Events.

On October 27, 2017, Sussex Bancorp (Sussex) filed with the Securities and Exchange Commission (the SEC) a definitive joint proxy statement/prospectus with respect to (A) the special meeting of Sussex s shareholders scheduled to be held on December 15, 2017 at which Sussex shareholders will be asked to, among other things, vote on a proposal to approve the agreement and plan of merger by and among Sussex, Sussex Bank, a New Jersey-chartered bank and wholly owned subsidiary of Sussex, and Community Bank of Bergen County, NJ, a New Jersey-chartered bank (Community), dated as of April 10, 2017, pursuant to which Community will merge with and into Sussex Bank with Sussex Bank surviving the merger, and (B) the special meeting of Community s shareholders scheduled to be held on December 15, 2017 at which Community shareholders will be asked to vote on the same.

A purported securities class action lawsuit has been filed against Sussex, Community and each of the members of the board of directors of Community in the Superior Court of New Jersey Chancery Division, Bergen County. Captioned Parshall v. Community Bank of Bergen County, NJ, et al., (No. C-222-17), the case was filed on August 17, 2017, purports to have been brought on behalf of all public shareholders of Community, and seeks to enjoin the defendants from proceeding with the shareholder vote on the proposed merger transaction at the special meetings or consummating the proposed merger unless and until Sussex and Community disclose allegedly omitted information, in addition to paying damages allegedly suffered by the plaintiffs as a result of the asserted omissions, as well as attorneys fees and expenses.

Sussex and Community believe that all allegations in the complaint are without merit, and further believe that no supplemental disclosure is required under applicable laws; however, Sussex and Community wish to make certain supplemental disclosures related to the merger transaction solely for the purpose of mooting the allegations contained in the complaint and avoiding the expense and burden of litigation. Nothing in the supplemental disclosures shall be deemed an admission of the legal necessity or materiality under applicable law of any of the supplemental disclosures.

Important information concerning the merger transaction is set forth in the joint proxy statement/prospectus. The joint proxy statement/prospectus is amended and supplemented by, and should be read as part of, and in conjunction with, the information set forth in this Current Report on Form 8-K.

SUPPLEMENT TO JOINT PROXY STATEMENT/PROSPECTUS

Sussex and Community have agreed to make the following amended and supplemental disclosures to the joint proxy statement/prospectus. This supplemental information should be read in conjunction with the joint proxy statement/prospectus, which should be read in its entirety. Page references in the below disclosures are to the joint proxy statement/prospectus, and certain terms used but not defined herein have the meanings set forth in the joint proxy statement/prospectus. Without admitting in any way that the disclosures below are material or otherwise required by law, Sussex and Community make the following amended and supplemental disclosures:

The section of the joint proxy statement/prospectus entitled The Merger Background of the Merger is amended and supplemented as follows:

The third, fourth and fifth sentences of the first paragraph under the subsection Background of the Merger on page 80 of the joint proxy statement/prospectus are replaced, in their entirety, with the following:

After discussing this analysis with FinPro, in January 2017, Mr. Michelotti contacted Mr. Labozzetta, and they met to discuss the possibility and relative merits of a business combination between the two institutions. They also discussed, among other things, Mr. Michelotti s possible position with the combined organization as a senior executive in order to retain Mr. Michelotti s expertise and market presence, but no terms of such position were discussed. After their discussion, it was decided that a follow-up meeting was warranted.

The ninth paragraph under the subsection Background of the Merger on page 81 of the joint proxy statement/prospectus is replaced, it its entirety, with the following:

Thereafter, Sussex offered to Community in a non-binding indication of interest dated February 7, 2017, a price between $22.00 and $23.00 per share, resulting in an aggregate deal value between $42.4 million and $44.4 million (including the cash out of options). Sussex Bank would merge with Community in a 100% stock transaction in which Sussex Bank would be the surviving institution. The non-binding indication of interest also invited three current Community directors (to be selected by Sussex after consultation with Community) to join the board of directors of the combined entity and requested a 45-day exclusivity period to continue confidential discussions. It also stated that Sussex looked forward to discussing an ongoing senior executive role with Mr. Michelotti to ensure that Sussex retained his expertise and market presence, and that Sussex would enter into a new employment contract with Mr. Michelotti after paying the change in control payments set forth in his current contract with Community. Sussex also stated that it would consider hiring certain of Community s existing executive officers based on needs identified in the pro forma company.

The following supplemental disclosure is added after the last sentence of the eighteenth paragraph under the subsection Background of the Merger on page 82 of the joint proxy statement/prospectus :

During such time, Sussex determined that Mr. Michelotti would be appointed to one of the three board seats being offered to Community directors, and that determination was reflected in the press release announcing the merger. Also Sussex and Mr. Michelotti negotiated the terms of his employment agreement with Sussex. In order to ensure the continued employment of Community s key officers, Sussex and Community also agreed to an amendment to the employment contracts of Mr. Michelotti, Ms. James and Mr. Fantacone requested by such officers providing for the automatic payment of their change in control payments at the closing of the merger without regard to any termination of employment.

The second sentence of the nineteenth paragraph under the subsection Background of the Merger on page 82 of the joint proxy statement/prospectus is replaced, in its entirety, with the following:

Representatives of FinPro and Stevens & Lee participated in the meeting. Representatives of Stevens & Lee reviewed in detail the terms of the merger agreement, the separate bank merger agreement, the voting agreements to be entered into by the directors and senior management, the amendments to the employment agreements of Mr. Michelotti, Ms. James and Mr. Fantacone, and Mr. Michelotti s employment agreement with Sussex. Stevens & Lee also summarized the directors fiduciary duties, specifically in the context of a change of control.

The section of the joint proxy statement/prospectus entitled The Merger Opinion of FinPro Capital Advisors, Inc., Financial Advisor to Community is amended and supplemented as follows:

The following supplemental disclosure is added before the last paragraph on page 89 of the joint proxy statement/prospectus under the subheading Comparable Regional Group.

Below is the full table and financial multiples and metrics that are shown above utilizing the 25th percentile, median and 75th percentile for the Regional Comparable Transactions:

				Transaction Pricing At Announcement				Target s Financials at Announceme						
ion Name	Target City	Target State	Announce Date	Deal Value ($mil)	Price/ LTM Earnings (x)	Price/ Tang. Book Value (%)	Franchise Premium/ Core Deposits (%)	Total Assets ($000s)	Tang. Equity/ Tang. Assets (%)	NPAs/ Assets (%)	ALLL/ NPLs (%)	LTM ROAA (%)	LTM ROAE (%)	A Gr (
/	Scottdale	PA	3/29/2017	59.1	NM	130.0	6.4	$ 263,308	17.3	0.3	128.0	0.2	1.2	
/ DCB	Damascus	MD	2/1/2017	40.7	37.2	160.8	7.3	310,225	8.2	1.3	75.6	0.4	4.4	
New	New Windsor	MD	11/22/2016	32.8	20.5	143.3	3.9	311,064	7.4	0.8	NA	0.5	7.1	
/ v Valley	Pittsburgh	PA	8/29/2016	53.4	15.0	123.5	3.5	434,990	10.1	1.3	67.3	0.8	7.1	
Monument	Rockville	MD	5/3/2016	65.1	20.3	161.5	7.3	513,820	9.0	1.2	63.9	0.7	7.3	
ancial / r	Philadelphia	PA	4/4/2016	49.0	21.2	154.9	11.5	310,742	9.8	0.5	248.7	0.8	7.7	
Financial e	Walton	NY	3/10/2016	15.2	25.7	114.5	0.7	371,689	3.6	0.5	NA	0.3	3.0	
/	Jackson	NJ	2/18/2016	31.7	20.5	125.4	3.4	295,091	9.4	1.1	95.8	0.6	5.7	
okins	Baltimore	MD	12/18/2015	23.2	NM	106.9	0.9	239,659	14.3	2.3	34.1	0.0	0.0	
BlueRidge	Frederick	MD	10/19/2015	20.1	38.8	121.1	2.7	205,096	8.1		NA	0.3	3.2	
l / Valley	Pennington	NJ	8/26/2015	55.3	22.4	147.8	5.2	495,016	9.4	1.4	69.7	0.5	5.3	
/ Pascack	Waldwick	NJ	8/4/2015	41.9	18.8	130.0	3.9	353,929	9.1	0.7	NA	0.7	7.8	
First	Fredericksburg	PA	6/30/2015	22.9	NM	144.3	3.4	238,080	6.7	2.1	24.9	0.1	1.9	
k Valley	Naugatuck	CT	6/4/2015	77.8	35.5	125.9	5.3	507,032	12.1	1.5	81.0	0.4	3.5	
nancial /	Broomall	PA	3/3/2015	93.4	35.5	135.5	9.3	420,829	15.8	2.2	54.9	0.6	3.8	
Bancorp, osco	Dundalk	MD	3/3/2015	10.1	6.1	100.6	NA	226,396	7.2	2.0	81.1	1.0	15.4	
entile:				23.1	20.3	122.9	3.4	257,396	7.9	0.6	61.6	0.3	3.1	
				41.3	**21.2**	**130.0**	**3.9**	**310,903**	**9.2**	**1.2**	**72.6**	**0.5**	**4.9**	
entile:				56.3	35.5	145.2	6.8	424,369	10.6	1.6	84.8	0.7	7.2	

ity Bank **a County,**	**45.4**	**27.0**	**157.2**	**6.2**	**$ 340,500**	**8.4**	**2.4**	**46.7**	**0.5**	**5.7**

The following supplemental disclosure is added before the last paragraph on page 90 of the joint proxy statement/prospectus under the subheading Comparable National Group.

Below is a table and financial multiples and metrics that are shown above utilizing the 25th percentile, median and 75th percentile for the National Comparable Transactions:

				Transaction Pricing At Announcement			
Transaction Name	**Target City**	**Target State**	**Announce Date**	**Deal Value ($mil)**	**Price/ LTM Earnings (x)**	**Price/ Tang. Book Value (%)**	**Franchis Premium Core Deposit (%)**
Old Line / DCB	Damascus	MD	2/1/2017	40.7	37.2	160.8	7.3
ACNB / New Windsor	New Windsor	MD	11/22/2016	32.8	20.5	143.3	3.9
Glacier / TFB	Yuma	AZ	11/15/2016	63.6	17.5	171.8	10.2
Seacoast / GulfShore	Tampa	FL	11/4/2016	52.6	39.9	145.3	6.5
Bay Banks / Virginia	Petersburg	VA	11/3/2016	29.6	12.5	84.2	(2.8)
United Community / Liberty	Alton	IL	9/30/2016	36.0	25.7	115.7	2.0
HomeTrust / TriSummit	Kingsport	TN	9/21/2016	31.8	19.5	123.6	3.1
United Community / Ohio Legacy	North Canton	OH	9/8/2016	40.2	31.5	139.5	6.4
United Community / Illini	Springfield	IL	6/8/2016	30.9	37.8	138.2	NA
Sunshine / FBC	Orlando	FL	5/10/2016	39.2	17.1	133.1	3.8
DNB Financial / East River	Philadelphia	PA	4/4/2016	49.0	21.2	154.9	11.5
25% Percentile:				32.3	18.5	128.4	3.3
Median:				**39.2**	**21.2**	**139.5**	**5.2**

upon standards related to a traditional debt
on feature was not afforded the exemption
ity in the conversion price, and it further did
BSIDIARY NOTES TO CONSOLIDATED
nditions for equity classification. Therefore,
nd carry it as a liability. We also concluded
debt-type instruments are generally
ut is indexed to certain events, noted above,
embedded features that required bifurcation
f derivative liabilities. In addition, due to the
rred Stock, we classified this instrument as
September 2002, February 2003 and May
es, respectively, of Series J Preferred Stock
te of 14,000,000 shares of our common

nts have terms of five years and an exercise
$1,190,867 from the financing
to the warrants, respectively. Since these
required to be carried as derivative
bound derivative on the inception dates, and
use that technique embodies all of the
atility and conversion estimates) that are
mated the fair value of the warrants on the
erton Valuation technique, because that
, expected terms, and risk free rates) that are
se estimates, our valuation model resulted in
erred Stock of $6,014,000 and $5,628,000
e amounts are included in Derivative
fair value adjustments that we have recorded
ne Series J Preferred Stock. Six months Six
June 30, 2006 June 30, 2006 June 30, 2005 June 30, 2006

---- Compound derivative $(1,400,000)

==================================

==================================
efore, derivative income (expense) related to
our trading stock price and the credit risk
warrant derivative is significantly affected
underlying market conditions will have a
th these instruments. The discounts to the
allocations are being accreted through
The following table illustrates the
three and six months ended June 30, 2006
AND SUBSIDIARY NOTES TO
ED) Six months Six months Three months
), 2005 June 30, 2006 June 30, 2005
---- Cumulative dividends at 8% $ 40,000 $
164,694
198,397 $128,346 $375,281 $244,694
============================== As
ars on Series J Preferred Stock. (c) Series K
500,000 shares of our preferred stock as
and liquidation value of $10.00 per share.
% of the stated amount, ranks senior to
common stock at a fixed conversion price of
datorily redeemable for common stock on
em the Series K Preferred Stock for cash at
the Series K Preferred Stock for cash at
her contingent events, including events
rtible, listing of our common stock and
(the "Default Put"). Based upon our
d Stock, we concluded that it was more akin
at our accounting conclusions are based
uld afforded the conventional convertible

the conversion price is fixed. Therefore, we
nd carry it as a liability. However, we
hile puts on debt-type instruments are
Default Put is indexed to certain events,
addition, due to the default and contingent
ied this instrument as redeemable preferred
d 80,000 shares of Series K Preferred Stock
f Series K Preferred Stock to extinguish debt
es, the trading market price of our common
llocated $160,000 and $60,000 from the
y which amount represented a beneficial
nent loss of $60,000 in connection with the
e estimated that it had a fair value that
nount. Finally, we allocated approximately
es, in connection with the March and April
ult Puts on the inception dates, and
ility-weighting multiple outcomes at net
lity-weighted outcomes included both our
t our business plans that could give rise to or
lts. As a result of these subjective estimates,
RP. AND SUBSIDIARY NOTES TO
ED) model resulted in Default Put balances
206,200 as of June 30, 2006 and December
ve Liabilities on our balance sheet. The
ecorded related to the Default Puts on the
s ended Three months ended Ended ended

---- Derivative income (expense) $(62,912)

============================
s changes to the fair value arising from
and amortization of the time-value element
three and six months ended June 30, 2006,
eased probability that the Default Put would
eports with the Securities and Exchange
eport on Form 10-QSB. While the Default
Preferred Stock did not exercise their right
olders of the Series K Preferred Stock would
unts to the Series K Preferred Stock that
d through periodic charges to paid-in capital
omponents of preferred stock dividends and
d 2005: Six months Six months Three
June 30, 2005 June 30, 2006 June 30, 2005
---- Cumulative dividends at 8% $19,000
878
),186 $29,519 $60,201 $58,878
========================== As of
on Series K Preferred Stock. (d) Other
ed: We have designated 500,000 shares of
here were no Series A Preferred Stock
Ve have designated 1,260,000 shares of our

stated and liquidation value of $1.00 per
%, ranks senior to common stock and has
it may be converted. Series B Preferred is
n our evaluation of the terms and conditions
s all of the requirements for equity
utstanding as of June 30, 2006 and December
AND SUBSIDIARY NOTES TO
ED) Series D Preferred: We have designated
Convertible Preferred Stock with a stated and
ulative dividend rights of 6.0%, ranks senior
ies D Preferred Stock outstanding during any
ontinue to have 611,250 warrants outstanding
rred Stock Financing arrangement. Series F
stock as Series F Convertible Preferred
re were 5,248 shares of Series F Preferred
Series F Preferred is non-voting and
qual to the lower of $0.60 or 75% of the
has the option to redeem the convertible
f defaults and certain other contingent
h the instrument is convertible, registration
l filing of reports with the Securities and
the conversion feature was not afforded the
able conversion feature and it did not
quity classification is not available for the
d conversion feature and carry it as a
efault Put required bifurcation because, while
and closely related to the host, the Default
iated debt-type instruments. These two
ve instrument. In addition, due to the default
ock, we classified this instrument as
ries I Preferred: We have designated 200,000
Stock with a stated and liquidation value of
ghts at 8.0% of the stated value, ranks senior
rtible into a variable number of common
ding market price. There were no Series I
31, 2005. However, we had 30,000 shares
counted for Series I Preferred Stock while it
nstrument. We also bifurcated the
with the financing and carried these
reflects derivative income and (expense)
ncial instrument. The following table
derivatives and freestanding warrant
nsactions discussed above. Three months
d Derivative income (expense) June 30,

$ (6,205) $ (977,522) Series F Preferred:
BSIDIARY NOTES TO CONSOLIDATED
ivative (11,490) (279,306) (6,187) (122,124)
ries I Preferred: Compound derivative --
2)
6 $(5,133,035) $100,181 $(4,771,605)

======================= Note 7. -
e-based plans that provide for the grant of up
nployees. As of June 30, 2006, there were
ur stock plans. Options granted under plans
d are under plans which become exercisable
exercisable on grant date, provided that the
ptions during the six months ended June 30,
tandard 123 (revised 2004), Share-Based
using the modified prospective method.
onths ended June 30, 2006 includes
anted prior to but not yet vested as of,
accordance with the original provisions of
ight-line basis over the requisite service
f SFAS 123R. As we had previously adopted
2005, the adoption of FAS 123(R) had a
costs of $111,365 and $222,957 for the
0 for the second quarter and first half of
ion arrangements due to the fact that we are
ur Consolidated Statement of Operations. As
tock options and recognize compensation
determined for two groups of employees -
rience. We adjust estimated forfeitures to
f adopting FAS 123(R) of $17,000, which
ate of adoption, was not material and
ompensation costs in Selling and General
arately as a cumulative change in accounting
ption of SFAS No. 123(R) had no effect on
activities for the six months ended June 30,
te of grant using a Black-Scholes-Merton
ions and amortize that value to expense over
proach: F-33 BRAVO! FOODS
CONSOLIDATED FINANCIAL
ix months Quarter ended Quarter ended
---- Expected Term (in years) n/a n/a 6 6
141% 141% Expected dividends n/a n/a 0%
0, 2006. Expected Term: The expected term
pected to be outstanding. It has been
d of the contractual term. Risk-Free Interest
ns on the implied yield currently available
uivalent to the stock option award's expected
mptions is based on the historical price of
xpected term of the stock option award.
n our common stock for the foreseeable
mptions. A summary of option activity
0, 2006 is presented below: Weighted-
e Exercise Term Intrinsic Options Shares
- --------- ----------- --------- Outstanding at
ed - $0.00 Forfeited (33,333) $0.30 Expired
8.51 $3,088,060 ========= =====
6 9,355,365 $0.30 8.50 $2,993,924
30 , 2006 6,769,838 $0.31 8.37 $2,130,133

anted during the six months ended June 30,
g the second quarter of 2005 was $0.15.
d June 30, 2006 and the same period in 2005.
BSIDIARY NOTES TO CONSOLIDATED
06, the Company had $422,826 of total
k options, which is expected to be
y 2005, we extended the contractual life of
of that modification, we have recognized, on
for the second quarter of 2005 Note 8. -
-------------------------- During the period
ck upon the conversion of certain of our
ation statements declared effective by the
g the period ended June 30, 2006, we issued
ts associated with certain of our convertible
ents declared effective by the Securities and
ded June 30, 2006, we issued 807,692
associated with certain of our convertible
stor pursuant to Regulation D and Section
e 30, 2006, we issued 196,078 shares of our
pursuant to Section 4(2) of the Securities
mount $2,500,000 and issued a promissory
lso issued five year warrants for 1,500,000
connection with this financing. The warrants
ion D F-35 BRAVO! FOODS
CONSOLIDATED FINANCIAL
--------------------- As of June 30, 2006, we
Options Exercise Warrants Grant date date
/17/2008 17,500 0.100 Series D Preferred
referred Stock Financing 2/1/2000
2/1/2000 11/17/2008 455,000 0.100 Series F
0 Series H Preferred Stock Financing
Financing 1/30/2002 1/30/2007 375,000
125,000 0.500 Series H Preferred Stock
Convertible Debt Financing 11/20/2003
below) 6/20/2005 6/19/2007 1,000,000
0 Warrant to Distributor 8/30/2005
Financing 11/28/2005 11/27/2010 15,667,188
1/27/2010 1,012,500 0.500 May 2006 Debt
ngs 12/27/2001 2/28/2007 25,000 0.400
version features in our debt and preferred
d upon our trading stock price. Accordingly,
hares to share-settle all of our contracts that
lt, current accounting standards require us to
settle these other warrants and, therefore,
ied in stockholders' equity to derivative
ation were indexed to 48,679,688 and
d December 31, 2005, respectively, We are
e stock options, so those items are not
d with these other warrants are summarized
nded Three months ended Ended ended June
e income (expense)

---- Warrant derivative $(2,628,946)

==============================
ended June 30, 2006 we settled a legal
n by one year on 1,000,000 warrants
on as a reissuance and remeasurement of
BSIDIARY NOTES TO CONSOLIDATED
hich resulted in a charge to our income of
Merton valuation model. Note 9-
We lease office space, used for our
es October 31, 2015. Future non-cancelable
s of June 30, 2006 are as follows: Amount
nding December 31, 2007 92,868 2008
d six months ended June 30, 2006 amounted
months ended June 30, 2005 amounted to
ks and trade dress from certain Licensors for
ed royalties on a negotiated basis for these
each Licensor to which our licenses require
pective licenses as well as the advance
lty payments, as of June 30, 2006. We
Marvel Enterprises on our license for the
ow for Marvel (UK) Aggregate Advance
------------ Marvel (UK) Two years $
nstitute One year 2,500 Employment
rren, has a two-year employment contract,
, plus a bonus of one quarter percent
ntract has a minimum two-year term plus a
. Officers Toulan, Patipa, Edwards and Kee
0,000 annually, plus discretionary bonuses
two-year terms plus severance packages
OODS INTERNATIONAL CORP. AND
STATEMENTS (UNAUDITED) Our Chief
piring November 2008, that provides a base
20,000 for year three, plus discretionary
imum three-year term plus a severance
g Commitments --------------------
a Master Distribution Agreement with CCE.
pend an aggregate of $5,000,000 on
distributed by CCE. Beginning in 2007, we
try within a defined territory equal or greater
try by country basis). Such national and
he Slammers mark, based on a plan to be
ellectual property rights necessary for the
. During the period commencing at the
30, 2006, we have spent $1.6 million on
10. Restatement Our statements of
ur statement of cash flows for the six months
have been restated to reflect our estimation
eements entered into in connection with
nting Standard No. 5, Accounting for
expenses as they had been incurred. The

f operations that were restated: Three
----------------- ---------------- Net income
nages expense (1,822,501) (2,430,000)
4,926,521) $(15,203,188)
ended Six months ended June 30, 2006 June
non shareholders, as reported $(13,386,497)
,000) --------------------------------- Loss
$(15,744,448)
ended Six months ended June 30, 2006 June
on share, basic and diluted as reported
---------------------- Income (loss) per
============= F-38 BRAVO! FOODS
CONSOLIDATED FINANCIAL
ths ended June 30, 2006 June 30, 2006
reported $(13,081,891) $(12,751,749)
e income (loss), as restated $(14,904,392)
The following table reflects the significant
ed: Redeemable Stockholders Total Total
--- As
5) Adjustments: Accrued liabilities --
------------------ As restated $23,324,420

================= Note 11- Subsequent
es of common stock pursuant to an exercise
ote financing. The common stock underlying
declared effective by the Securities and
we issued 1,444,453 shares of common stock
of our convertible preferred stock. These
on D and Section 4(2) of the Securities Act
es of common stock pursuant to a conversion
the preferred were issued pursuant to a
Exchange Commission in 2004. Subsequent
ursuant to a conversion of our Series H
eferred were issued pursuant to Regulation
r common stock in a private placement,
an accredited investor. On July 27, 2006,
convertible notes that are due in 2010 to
ment exempt from registration under the
payable quarterly and are convertible into
n may decline to LIBOR upon the Company
amortize in equal, bi-monthly payments
rchase 12,857,143 shares of common stock
e private placement. Under the terms of the
on of the notes will be held in escrow. The
er approval. We intend to file a proxy
al. As a result of our failure to file our June
under the terms of the Notes, and the
n 9% to 14% per annum. Pursuant to the
holders of the Notes may, upon written
l or any portion of their Notes, at a default
We have entered into an Amendment

certain respects as consideration for the
ay in the filing of this quarterly report. See
rities", for a description of the terms of the
SCUSSION AND ANALYSIS OF
NS FORWARD-LOOKING STATEMENTS
out our prospects and strategies and our
d-looking statements" within the meaning of
ction 21E of the Securities Exchange Act of
the present expectations or beliefs
g statements involve known and unknown
al results, performance or achievements to
achievements expressed or implied by such
things, the uncertainty as to our future
odel can be implemented successfully; the
ain financing on acceptable terms to finance
odel includes the development and
M) trademarked brands, the obtaining of
ights to other trademarked brands, logos and
nks through third party processors. In the
om the unit sales of finished branded
venue in our Middle East business through
s of an invoiced price for a fixed amount of
a fee charged to the dairy processors for the
l milk. Our business in the United Kingdom
ess has not been profitable owing to the
products introduced in the last half of 2005
gative gross margin for our UK operations.
, while we are making this determination,
ntain a normal supply pipeline. Our new
ensive, and we reported a loss from
Ve had a net loss during this period of
$2.1 million associated with our failure to
n stock underlying our November 2005
ntly is pending, and we are working to
ave that registration statement declared
our annual report on Form 10-KSB for the
m 10-QSB for the quarterly period ended
o-date results for June 30, 2005 in the
s. Notwithstanding these restatements, the
based on the restated financial results that
d to adjust and further modify our proposed
tments and modifications, if any, may have
CORPORATE GOVERNANCE The Board
e elected as Class A or Class B directors at
current directors of our board are
rate. The board meets regularly either in
nd all directors have access to the
The board, as a whole, and the audit
formance on an estimated vs. actual basis
periodic board meetings, based upon
Chief Accounting Officer. Our shareholders

ints directors when a vacancy arises prior to
based upon a rotating nomination
up for election. The board presently is
e audit and compensation committees,
ommittee Our audit committee is composed
in overseeing our accounting and reporting
Chief Accounting Officer's office, from
independent registered public accountants
Accounting Officer reviews the preliminary
our securities counsel and the reports of the
and unaudited periodic financial reporting
Officer. The committee reviews significant
mendations presented by our internal
Our compensation committee is composed
ructure and policies concerning executive
endations for executive compensation and
tion. The committee periodically reviews the
ommendations of the chief executive officer
e size of our company, the board
must approve all compensation packages
y, there is one vacancy on the compensation
was established in the second quarter 2002
election. The committee is charged with
reholders for election at the next scheduled
appointment. 42 CRITICAL
and analysis of our consolidated financial
ed financial statements, which have been
eports that are generally accepted in the
nts in conformity with accounting principles
nagement to make estimates and
lities and disclosure of contingent assets and
d amounts of revenues and expenses during
luded in our financial statements are the
that are carried at net realizable values. -
hat are carried at lower of cost or market. -
equired to be carried at fair value. -
ll available information and appropriate
uld differ from our estimates. Revenue
-------------- Our revenues are derived from
ates of America, Great Britain and the
nd 2% between the United States of
ne customer in the United States that
ded June 30, 2006 and 2005, respectively.
ents with our customers, at contracted prices,
y is reasonably assured. We extend
t otherwise do not afford our customers with
cant. Our revenue arrangements often
payments to the respective customer to
pulated period of time. We also engage in
ales activities. We believe our participation
e and revenue growth in the competitive

corded as reductions to our reported revenue.
ir accounts receivable are exposed to credit
ed credit to our customers with normal and
s to be made by the thirtieth day following
ss of each customer. We provide an
ation of our customers' credit risk and our
1, 2005, the allowance of doubtful accounts
n, our accounts receivable are concentrated
ble balances at June 30, 2006.
6 are due from international customers.
of finished goods, are stated at the lower of
entories are perishable. Accordingly, we
entory reserves based upon a combination of
Impairment of Long-Lived Assets
iture and equipment and intangible assets.
ived assets when circumstances warrant
nting Standard No. 144, Accounting for the
AS 144 requires that long-lived assets be
nstances indicate that the carrying amount of
unted cash flows expected to result from the
mpairment exists, an impairment loss will
eds the fair value. Financial Instruments
instruments to hedge exposures to
uently enter into certain other financial
, redeemable preferred stock arrangements,
fforded equity classification, (ii) embody
ay be net-cash settled by the counterparty.
arried as derivative liabilities, at fair value,
ve financial instruments using various
e consistent with the objective measuring fair
ong other factors, the nature of the
means of settlement. For less complex
rally use the Black Scholes option valuation
(including trading volatility, estimated terms
or complex derivative instruments, such as
Monte Carlo valuation technique because it
, interest-rate risk and exercise/conversion
instruments. For forward contracts that
of settlement, we project and discount
ossible outcomes. Estimating fair values of
gnificant and subjective estimates that may,
th related changes in internal and external
volatile and sensitive to changes in our
e derivative financial instruments are
l reflect the volatility in these estimate and
onths Ended June 30, 2006 Compared to Six
--------------------------------- Consolidated
006 of $7,266,441, with product costs of
s margin of $321,708. Our reported revenues
3, or 117%, compared to revenues of
the result of an increase in market

ation of our Master Distribution Agreement
and gross margin are net of slotting fees and
in the amount of $294,332 compared to
nically, our revenues are dispersed 98% and
respectively. We plan to take measures to
revenues. In addition, we currently have one
r revenue during the six months ended June
urtailment in business with this customer
ated Product Costs We incurred product
ely, for the six months ended June 30, 2006.
ncrease compared to $2,358,127 for the same
0, a 73% increase compared to $430,836 for
an increase in revenues and the concomitant
l with that increase. Consolidated Operating
ix months ended June 30, 2006. Our selling
ease compared to our selling expenses of
 expenses in the current period was due to
ociated with increased revenues and our
nd administrative expense for the six months
ative expense for this period increased by
e period in 2005. As a percentage of total
n 77.5% in the period ended June 30, 2005,
ed effort to reduce this expense as a
fforts and the refinement of business
 for the current period is the result of the
nagement and implementation of our
ribution Agreement. 45 We incurred product
of $277,319 representing a 28.5% increase
f the prior year. This increase resulted from
new products under our license agreement
nse for the six months ended June 30, 2006
71% decrease compared to $1,491,890 for
of debt to common stock in late 2005 that
al Settlement In June 2005, we issued
ur common stock in connection with the
arrant contained an expiration date of June
ecuted a registration rights agreement with
use the effectiveness of a registration
Marvel of the shares purchasable under the
tatement under From SB-2 that included the
, 2006, however, the Registration Statement
 Marvel filed a complaint against the
re to cause a registration statement to
out the necessity of filing an answer to the
nt extending its term through June 16, 2007,
guishment We reported a gain on debt
164, resulting from the modification of the
arises from changes in the fair value of our
 losses when the fair value of embedded and
l in financing transactions exceed the
e freestanding warrants, compound

ebt and preferred stock financings. In
lassification of other non-financing
e share settlement is not within our control
s are outstanding. Our derivative expense
compared to $75,839,650 for the
e of compound derivatives indexed to our
ing stock price and the credit risk associated
tives is significantly affected by changes in
nstruments that are settled solely with cash
stimates following the financing inception
f default events on debt and preferred stock
due to the decline in our common stock
e, future changes in assumptions, arising
cause further variation in the fair value of
and external market conditions will have a
ivative financial instruments. In addition, we
006 that will require the bifurcation of
nounts of these derivatives, but their effects
tent with the derivatives that we carry as of
onths ended June 30, 2006, we recorded
ne in the comparable periods of 2005.
the fourth fiscal quarter of our year ended
greements with certain investors that require
shares, become effective on the registration
tain the listing of the underlying shares.
nent of cash penalties to the investors in the
l liquidated damages penalties as liabilities
e and estimable. We will evaluate our
estimates for changes, if any, in the facts
had a net loss for the six months ended June
66 for the same period in 2005. The
r recording changes in derivative expense
o Common Shareholders Loss applicable to
ividends and accretion of our redeemable
. Diluted loss per common share reflects the
le preferred stock, convertible debt,
e The Company's basic loss per common
pared with a basic loss per common share
xperienced net losses for all periods
ur financial instruments would have an
s per common share equals basic loss per
common shares outstanding increased from
409 for the same period in 2006. The
e debt and preferred instruments into
ded from the computation of diluted
r the six month periods ending June 30,
(Loss) Comprehensive income (loss) differs
and 2005 by $21,439 and ($5,327),
ranslation on the financial statements of our
erations are currently not significant.
cts of foreign currency translation

June 30, 2006 Compared to the Three
---------- June 30, 2005 -------------
ee months ended June 30, 2006 of
ts of $351,185, resulting in a gross margin of
ended June 30, 2006 increased by
8 for the three months ended June 30, 2005.
ns ended June 30, 2006 is the result of the
prises. Consolidated Product Costs The
osts of $351,185 for the three months ended
3,173, a 93.6% increase compared to
ease in product costs and shipping costs in
he result of increased revenues. Consolidated
or the three months ended June 30, 2006 of
ded June 30, 2006 by $2,332,262, a 225%
e three months ended June 30, 2005. The
Company incurred general and
006 of $1,628,317. General and
006 decreased by $208,507, an 11.3%
The decrease in general and administrative
of warrant costs recognized in 2005 for
The Company incurred interest expense for
pense for the three months ended June 30,
597,729, for the same period in 2005. This
k in late 2005 that eliminated the accrual of
ng the three months ended June 30, 2006,
n the comparable period of 2005. However,
fiscal quarter of our year ended December
with certain investors that require us to file a
ome effective on the registration statement,
ting of the underlying shares. Certain of
h penalties to the investors in the event we
d damages penalties as liabilities and
d estimable. We will evaluate our estimate of
or changes, if any, in the facts and
had a net loss for the three months ended
,445,296 for the same period in 2005. The
ing changes in the fair value in our
agement's Plans: As reflected in the
rred operating losses and negative cash flow
013 as of June 30, 2006. This negative
derivative liabilities. In addition, we are
and, we have experienced delays in filing
rs in our historical accounting that currently
ing in our recognition of penalties payable
nplete our filings and register the common
rtible. Finally, our revenues are significantly
er or curtailment in business with this
These conditions raise substantial doubt
dependent upon third party financings as we
rves have been substantially depleted as of
financing in July 2006 that is expected to

ever, $15.0 million of this financing is held
elay in filing our quarterly financial report
into an Amendment Agreement with the
consideration for the holders' release of the
quarterly report. We plan to increase our
l business and, if necessary, obtain
ndent upon the achievement of profitable
vailable at acceptable terms, if at all, or that
financial statements do not reflect any
y. Information about our cash flows As of
ities was $7,385,239, net cash provided by
ing activities was $736,514 during the six
al of $51,012,013 as of June 30, 2006. This
,561 for derivative liabilities. Compared to
nths ended June 30, 2005, our current
,727 to $7,385,239. This increase was the
providers in this current period and our
ve expense in the consolidated statement of
hs ended June 30, 2006 resulted in a cash
bles of $26,778 for the same period in 2005,
d during this period by $2,490,676,
005. This increase was the result of our
ation of our Master Distribution Agreement
nd accrued liabilities in the six months
86, whereas the changes in accounts payable
nted to an increase of $893,461. Cash flows
ver all of our cash disbursement needs in the
ew convertible debt financing to cover
6 in our investing activities was $736,514
and our purchase of eight vans in the U.S.,
ovided by our financing activities for the six
d by financing activities for the same period
forward, our primary requirements for cash
usiness model in the United States and on an
rt for the capacity demands presented by
s; o general overhead expenses for personnel
nd marketing costs for our line of new
ed license royalties. We estimate that our
ll continue through the third or fourth
g activities will approach the anticipated
eed for 50 additional financing in 2006 to
olders' equity status, and we secured $30
ave received half of the proceeds from this
ending a shareholder vote to increase our
s can be given that we will be able to obtain
res, or that operating cash flows will be
orking capital needs of approximately
er expenses in 2006 in order to derive more
support of our new products and the
ca-Cola Enterprises. Certain of these
ced as a function of unit sales costs as we

blished markets. Freight charges will be
given the reduced per unit cost associated
slotting fees, which are paid to warehouses
ly one-time charges per new customer. We
e average unit selling expenses and
ient to mitigate cash needs. In addition, we
onal needs and to develop an expanded
uidity ---------------------------- On May 12,
ed promissory notes in that aggregate
stors has exercised rights of participation
financing described below. The remaining
part of the July 27, 2006 financing proceeds.
$30 million senior convertible notes (the
ited investors in a private placement exempt
itially carry a 9% coupon, payable
0.70 per share. In 2007, the coupon may
al milestones. The Notes will begin to
7. We issued warrants to purchase
ire in July 2011 to the investors in the
30 million notes, of which $15.0 million of
l be subject to stockholder approval of the
,000 and the effectiveness of a registration
Additional Notes and associated warrants.
king capital needs. We have filed a proxy
ng of Shareholders. As a result of our failure
ult has occurred under the terms of the Notes
ased from 9% to 14% per annum. Pursuant to
ult, holders of the Notes may, upon written
l or any portion of their Notes, at a default
We have entered into an Amendment
certain respects as consideration for the
ay in the filing of this quarterly report. See
rities", for a description of the terms of the
elieve that inflation has not had any material
TROLS AND PROCEDURES Evaluation of
ontrols and procedures," as such term is
hange Act of 1934 (the "Exchange Act")
n reports that we file or submit under the
d within the time periods specified in
such information is accumulated and
ve officer and chief accounting officer, as
osure. We have carried out an evaluation,
mmittee and management, including our
ctiveness of the design and operation of our
ules 13a-15(b) and 15d-15(b). During this
eaknesses and other deficiencies in our
losure controls and procedures. Based upon
kness existed: Inadequate controls over the
accounting for complex and non-routine
tives, which has caused the Company to
years ended December 31, 2004 and 2005,

ectively, the "financial statements") in order
erial weakness identified in connection with
s of June 30, 2006 has not been fully
ng Officer concluded our disclosure controls
ess these control weaknesses, the Company
sis and performed other procedures in order
ncial statements appearing in this Form
ciples in the United States of America. In
al controls to the Company's internal control
ol subsequent to the date of the evaluation.
l responsibilities as they relate to the
enced full-time accountant to our accounting
implementation of proper accounting
porting issues which apply to the Company.
eview for the purpose of evaluating the
II - OTHER INFORMATION Item 2.
e Note 8 of Notes to Consolidated Financial
006, we entered into definitive agreements to
due in 2010 to several institutional and
ation under the Securities Act of 1933.
which $15.0 million were issued upon
onal Notes") held in escrow until our
non-timely filing of its Form 10-QSB for
ccurred under the terms of the $30 million
al interest rate on the Notes and Additional
hat such event of default is subsequently
num. In addition, upon the occurrence of an
y, upon written notice to the Company,
s. On August 31, 2006, the Company
otes and Additional Notes, pursuant to the
ents of default that occurred under the terms
0-QSB for the quarterly period ended June
ses, to exchange the $15 million Additional
ted Notes). The Amendment Agreement
of the transactions contemplated by the
due to one party's failure to satisfy its
es for the extension of certain time limits
connection with the Securities Purchase
ted Notes will be issued upon closing of the
terms of the Amended and Restated Notes
. The conversion price applicable to the
Restated Notes is $0.51, which price is
d Restated Notes also provide that, from and
ckholder Approval is obtained, the holder
y portion of the holder's Amended and
edeemed. Notwithstanding the foregoing,
l the Company meets certain conditions, the
redeem any portion of such holder's notes. In
t to any such optional redemptions shall
a request, its right to deliver a subsequent
and Restated Notes, each will also agree,

to waive certain debt and equity restrictions
ation in connection with the Securities
Events See Note 11 of Notes to
Required by Item 601 of Regulation S-B:
n Documents for $30 million financing
4, 2006 Item 7.01 Triggering Events of
August 22, 2006 Item 4.02 Non-Reliance on
nce) No. 20.4: Form 8-K Filed September 5,
ncorporated by reference) No. 31: Rule
fications SIGNATURES In accordance with
aused this report to be signed on its behalf of
ATIONAL CORP. (Registrant) Date:
utive Officer In accordance with the
Corp. has caused this report to be signed on
stated. Signature Title Date --------- ----- ----
d Director /S/ Tommy E. Kee Chief