NITCHES INC
Form 10-K/A
May 16, 2006

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K/A

Amendment No. 1

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

For the fiscal year ended August 31, 2005

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from ________________ to _________________.
Commission File Number 0-13851

NITCHES, INC.

(Exact name of registrant as specified in its charter)

California	**95-2848021**
(State of Incorporation)	**(I.R.S. Employer Identification No.)**
10280 Camino Santa Fe **San Diego, California**	**92121**
(Address of principal executive offices)	**(Zip Code)**

Registrant s telephone number: (858) 625-2633

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

Title of each class	Name of each exchange on which registered
Common Stock, no par value	**NASDAQ Capital Market**

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 x No o

Indicate by check mark whether the registrant is an accelerated filer (as defined in rule 12b-2 of the Exchange Act).

Yes o No x

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. x

As of October 31, 2005, 1,171,169 shares of the Registrant s common stock were outstanding.

The aggregate market value of all equity securities held by non-affiliates of the Registrant as of the last business day of the most recently completed second fiscal quarter (February 28, 2005) based on the closing price of the Registrant s stock in the NASDAQ Capital Market on that date was $5,047,738.

EXPLANATORY NOTE

This amendment to the annual report of Nitches, Inc. on form 10-K for the fiscal year ended August 31, 2005 is being made to:

1) Revise the cover page to eliminate the note for documents incorporated by reference;
2) Revise the presentation of the Company s Consolidated Balance Sheets, Consolidate Statements of Cash Flows and Trade Receivables footnote to eliminate the netting of receivables due from factor with advances due to factor as required by Rule 5-02.19(2) of Regulation S-X;
3) Change the terminology for shipping and handling costs billed to customers as freight costs ;
4) Include a schedule under the Income Taxes footnote disclosing the amount and expiration of our net operating loss carry forward;
5) Present that information required under Part III which had been incorporated by reference to the Company s Definitive Proxy Statement, as the proxy was not timely filed to allow such incorporation by reference;
6) File as Exhibit 14.1 the Company s Code of Ethics and Business Conduct and provide the website address where the Company makes the most current version publicly available;
7) Revise the certifications required under Section 302 of Sarbanes Oxley and Item 601(b)(31) to reflect the exact language required by these regulations.

Items included in the original report that are not included herein are not amended and remain in effect as of the date of the original filing.

Report of Independent Registered Public Accounting Firm

Board of Directors and Shareholders
Nitches, Inc. and Subsidiaries
San Diego, California

We have audited the accompanying consolidated balance sheets of Nitches, Inc. and subsidiaries as of August 31, 2005 and the related consolidated statements of operations, shareholders equity and cash flows for the year then ended. These consolidated financial statements are the responsibility of the Company s management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Nitches, Inc. and subsidiaries as of August 31, 2005 and the results of their operations and their cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

As discussed in note 14, the accompanying consolidated financial statements have been restated.

Berenson LLP

New York, New York
October 14, 2005, except note 13, as to which the
date is October 24, 2005 (May 6, 2006 as to the
restatement described in note 14)

NITCHES, INC. AND SUBSIDIARIES
Consolidated Balance Sheets

	August 31, 2005	August 31, 2004
ASSETS		
Current assets:		
Cash	$ 192,000	$ 219,000
Receivables:		
Due from factor, net	3,749,000	4,762,000
Non-factored trade receivables, net	473,000	732,000
Due from affiliates and employees	11,000	32,000
Total receivables	4,233,000	5,526,000
Refundable income taxes	212,000	
Inventories	4,582,000	3,373,000
Deferred income taxes, current	867,000	288,000
Other current assets	302,000	89,000
Total current assets	10,388,000	9,495,000
Furniture, fixtures and equipment, net	38,000	37,000
Deferred income taxes, non-current	10,000	12,000
Other assets	17,000	17,000
Total assets	$ 10,453,000	$ 9,561,000
LIABILITIES AND SHAREHOLDERS EQUITY		
Current liabilities:		
Due to factor	$ 3,131,000	$ 1,939,000
Accounts payable	2,276,000	1,366,000
Accrued expenses	640,000	519,000
Income taxes payable		54,000
Total current liabilities	6,047,000	3,878,000
Long term liabilities:		
Loss on equity investment	146,000	222,000
Shareholders equity:		
Preferred stock, no par value; 25,000,000 shares authorized, no shares issued or outstanding		
Common stock, no par value; 50,000,000 shares authorized; 1,171,169 shares in 2005 and 2004 issued and outstanding	1,495,000	1,495,000
Retained earnings	2,765,000	3,966,000
Total shareholders equity	4,260,000	5,461,000
Total liabilities and shareholders equity	$ 10,453,000	$ 9,561,000

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

NITCHES, INC. AND SUBSIDIARIES
Consolidated Statements of Cash Flows

	Year ended August 31,		
	2005	2004	2003
Cash flows from operating activities:			
Net income(loss)	$ (1,201,000)	$ 557,000	$ (970,000)
Adjustments to reconcile net income (loss) to net cash used by operating activities:			
Share of (income) loss from equity investment	64,000	(14,000)	236,000
Depreciation and amortization	27,000	26,000	33,000
Deferred income taxes	(577,000)	(55,000)	(79,000)
(Increase) decrease in due from factor	1,013,000	(2,598,000)	1,942,000
(Increase) decrease in trade receivables	259,000	(460,000)	45,000
(Increase) decrease in due from affiliates and employees	21,000	(4,000)	82,000
(Increase) decrease in income taxes refundable/payable	(266,000)	520,000	(348,000)
(Increase) decrease in inventories	(1,209,000)	1,601,000	332,000
(Increase) decrease in other current assets	(213,000)	(32,000)	49,000
Increase (decrease) in accounts payable and accrued expenses	1,031,000	178,000	(2,570,000)
Net cash used by operating activities	(1,051,000)	(281,000)	(1,248,000)
Cash flows from investing activities:			
Purchases of furniture, fixtures and equipment	(28,000)	(7,000)	(4,000)
Capital contribution in equity investment	(140,000)		
Net cash used by investing activities	(168,000)	(7,000)	(4,000)
Cash flows from financing activities:			
Advances from factor	1,192,000	397,000	1,532,000
Dividends paid, common stock			(352,000)
Net cash provided by financing activities	1,192,000	397,000	1,180,000
Net increase (decrease) in cash	(27,000)	109,000	(72,000)
Cash at beginning of year	219,000	110,000	182,000
Cash at end of year	$ 192,000	$ 219,000	$ 110,000
Supplemental disclosures of cash flow information:			
Cash paid during the year:			
Interest	$ 102,000	$ 93,000	$ 83,000
Income taxes	$ 118,000	$ 349,000	$

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

5

Nitches Inc, and Subsidiaries
Notes to the Consolidated Financial Statements

2. Summary of Significant Accounting Policies

Freight Costs:

Freight costs billed to customers for the handling and delivery of products to their locations are included in net sales. Freight costs incurred from third party delivery services are included in cost of goods sold. Freight costs of $268,000, $367,000and $245,000 for the years ended August 31, 2005, 2004 and 2003, respectively, are included in cost of goods sold.

5. Accounts Receivable and Amounts Due to Factor

Pursuant to the terms of an agreement between Nitches and a factor, Nitches sells a majority of its trade accounts receivable to the factor on a pre-approved, non-recourse basis. The price at which the accounts are sold is the invoice amount reduced by the factor commission (.3% of the invoice amount) and all selling discounts. For accounts sold to the factor without recourse, the factor is responsible for collection, assumes all credit risk, and obtains all of the rights and remedies against the company s customers. For such accounts, payment is due from the factor upon the earlier of the payment of the receivable to the factor by the customer, or the maturity of the receivable (generally 180 days from the date of shipment to the customer). As of August 31, 2005, non-recourse receivables totaled $3.8 million.

Trade accounts receivable not sold to the factor remain in the custody and control of the Company and the Company maintains all credit risk on those accounts as well as accounts which are sold to the factor with recourse. The combined credit risk for non-factored and recourse receivables as of August 31, 2005, totaled $667,000.

The Company may request payment from the factor in advance of the collection date or maturity. Any such advance payments are assessed an interest charge through the collection date or maturity at the factor s prime rate less 1.5% (one and one half percent) per annum. The company s obligations with respect to advances from the factor are limited to the interest charges thereon. Advance payments are limited to a maximum of 85% (eighty-five percent) of eligible accounts receivable. The factoring agreement also provides for the issuance of irrevocable letters of credit for the Company s purchase of inventory in the normal course of its business. Letters of credit are subject to a $6 million limit. All assets of the company collateralize the advances and letters of credit. The Company s Chairman has also provided a personal guaranty in connection with the factoring arrangement. The factoring agreement can be terminated by CIT on 30-days written notice.

The status of the Company s trade accounts receivable, amounts due to factor and letters of credit are as follows:

	August 31,	
	2005	**2004**
Receivables assigned to factor:		
Non-recourse	$ 3,827,000	$ 5,028,000
Recourse	110,000	121,000
Allowance for customer credits and doubtful accounts	(188,000)	(387,000)
Due from factor, net	$ 3,749,000	$ 4,762,000
Non-factored accounts receivable	557,000	837,000
Allowance for customer credits and doubtful accounts	(84,000)	(105,000)
Trade receivables, net	$ 473,000	$ 732,000
Due to factor	$ 3,131,000	$ 1,939,000
Contingent liabilities for irrevocable letters of credit	$ 3,520,000	$ 2,390,000

Nitches Inc, and Subsidiaries
Notes to the Consolidated Financial Statements

6. Income Taxes

The components of the provision/(benefit) for income taxes are as follows:

	Year ended August 31,		
	2005	2004	2003
Current:			
Federal	$ (320,000)	$ 346,000	$ (334,000)
State	3,000	80,000	(12,000)
	(317,000)	426,000	(346,000)
Deferred	(577,000)	(55,000)	(79,000)
Provision/(Benefit)	$ (894,000)	$ 371,000	$ (425,000)

Net deferred income tax assets at August 31, 2005 and 2004 consist of the tax effects of temporary differences related to the following:

	August 31,	
	2005	2004
Current deferred assets:		
Inventories	$ 160,000	$ 140,000
Sales returns and doubtful account reserves	106,000	144,000
Accrued compensation	28,000	42,000
Federal NOL benefit	573,000	
Other items		(38,000)
	$ 867,000	$ 288,000
Non-current deferred assets:		
Fixed assets	$ 10,000	$ 12,000
	$ 10,000	$ 12,000

Differences between the statutory Federal income tax rate and the effective tax rate as a percentage of pre-tax income are as follows:

	Year ended August 31,		
	2005	2004	2003
Statutory rate	(34.0)%	34.0%	(34.0)%
State income taxes, net of Federal benefit	(5.8)%	5.8%	(5.8)%
State NOL limitation	0.0%	0.0%	2.0%
(Income)/loss on equity investment	(2.8)%	(0.5)%	6.7%
Nondeductible entertainment expenses	0.0%	0.2%	0.0%
Other items	(0.1)%	0.5%	0.6%
Effective rate	(42.7)%	40.0%	(30.5)%

7

Nitches Inc, and Subsidiaries
Notes to the Consolidated Financial Statements

The amount and expiration dates of net operating loss carry forwards are as follows:

	Expiring August 31,		
	2014	2015	2025
Federal	$	$	$ 1,644,978
State	520,039	1,146,187	

14. Restatement

After filing its annual report on form 10-K for 2005, the Company reviewed its presentation of factored trade receivables and factor advances on the balance sheet and determined that, in accordance with generally accepted accounting principles, factor advances should be presented as a separate liability on the balance sheet and not on a net basis with factored accounts receivable. This amended report includes the restatement of the balance sheets and statements of cash flows to reflect this presentation. The changes are summarized in the tables below.

Balance Sheets

	As previously reported	Adjustments	As restated
August 31, 2005			
Accounts receivable, net	$ 1,091,000	$ (1,091,000)	$
Due from factor, net		3,749,000	3,749,000
Trade receivables, net		473,000	473,000
Due to factor		3,131,000	3,131,000
August 31, 2004			
Accounts receivable, net	$ 3,555,000	$ (3,555,000)	$
Due from factor, net		4,762,000	4,762,000
Trade receivables, net		732,000	732,000
Due to factor		1,939,000	1,939,000

Consolidated Statements of Cash Flows

	As previously reported	Adjustments	As restated
Year ended August 31, 2005			
(Increase) decrease in accounts receivable	$ 1,272,000	$ (1,272,000)	$
(Increase) decrease in due from factor		1,013,000	1,013,000
(Increase) decrease in trade receivables		259,000	259,000
Year ended August 31, 2004			
(Increase) decrease in accounts receivable	$ (3,058,000)	$ 3,058,000	$
(Increase) decrease in due from factor		(2,598,000)	(2,598,000)
(Increase) decrease in trade receivables		(460,000)	(460,000)
Year ended August 31, 2003			
(Increase) decrease in accounts receivable	$ 1,987,000	$ (1,987,000)	$
(Increase) decrease in due from factor		1,942,000	1,942,000
(Increase) decrease in trade receivables		45,000	45,000

PART III

Item 10 - Directors and Executive Officers of the Registrant

The following table sets forth certain information with respect to the Directors and executive officers of the Company:

NAME	AGE	POSITION
Steven P. Wyandt	61	Chairman, Chief Executive Officer and Chief Financial Officer
Paul M. Wyandt	37	Director, President and Chief Operating Officer
Eugene B. Price II	62	Director (Independent)
Michael D. Sholtis	58	Director (Independent)
T. Jefferson Straub	64	Director (Independent)

Mr. Steven Wyandt has been a director since 1989. He has been CEO of the Company since 1987. Mr. Wyandt was a director and Chairman of Body Drama, Inc. until August 31, 1998, which at the time was a wholly owned subsidiary of the Company but was merged into the Company as of that date. Steven Wyandt is the father of Paul Wyandt, an officer and director of the Company.

Mr. Paul Wyandt has been a director since 2001. He has been President and COO since 2001. He has been with the Company in the areas of finance, accounting, marketing and technology since 1997. Prior to that, he was Vice President of Finance and Operations of CMS Technologies, a company that designed hardware and software for personal computer security.

Mr. Price has been a director since 1973. From 1973 until he retired in May 1987, Mr. Price was a Vice President of the Company with primary responsibilities in sales and administration.

Mr. Sholtis is a seasoned retail executive with over 30 years of management experience with regional and national retailers including Belk Stores, McCraes, Sears, May Company and Allied Stores. He is a current member of the Retail, Textile and Marketing Board of the University of North Carolina, Greensboro.

Mr. Straub has served since 1975 as the president of Profit Management Consultants, a firm specializing in strategic planning, capital finance, and mergers & acquisitions. He also teaches courses in finance and international business as an adjunct professor at Webster University. Mr. Straub was previously a founder and executive team member of Fotomat Corporation, a retail film development company, from 1967-1975. Mr. Straub is Chairman of the Audit Committee and Financial Expert of the Audit Committee.

Mr. Price, Mr. Sholtis and Mr. Straub are independent directors as defined in NASD Rule 4200.

We have adopted a Code of Ethics and Business Conduct that applies to all of our directors, officers, and employees. The Code of Ethics is filed as Exhibit 14.1 to this report and is posted on our website at www.nitches.com. Amendments to, and waivers granted under, our Code of Ethics, if any, will be posted to our website as well.

Item 11 - Executive Compensation

The following table shows the compensation provided to the Chief Executive Officer and each of the other most highly-compensated executive officers who served as such at the end of fiscal 2005 and whose annual compensation exceeds $100,000:

Name/Title Year	Annual Compensation: Salary $	Annual Compensation: Bonus $	Annual Compensation: Other Annual Comp. $	Long Term Compensation — Awards: Restricted Stock Awards $	Long Term Compensation — Awards: Securities Underlying Options/ SARs #	Long Term Compensation — Payouts: LTIP Payouts $	All Other Comp.
Steven P. Wyandt							
CEO & CFO							
2005	250,000						
2004	250,000						
2003	250,000						
Paul M. Wyandt							
President & COO							
2005	160,000						
2004	160,000						
2003	160,000						

There were no stock options outstanding or granted during fiscal year 2005.

The Company extended an employment agreement with Steven P. Wyandt, effective September 1, 2001 through August 31, 2004. Pursuant to this agreement, Mr. Wyandt serves as Chief Executive Officer and Chief Financial Officer of the Company. The agreement provides for a base annual salary of $250,000, or a higher amount as the Board of Directors may approve. In addition, Mr. Wyandt may receive a bonus at the discretion of the Board of Directors. No bonus was paid to Mr. Wyandt during fiscal 2003, 2004, or 2005. The agreement continues on a month-to-month basis after August 31, 2004.

The Company entered into an employment agreement with Paul M. Wyandt, effective September 1, 2001 through August 31, 2004. Pursuant to this agreement, Mr. Wyandt serves as President and Chief Operating Officer of the Company. The agreement provides for a base annual salary of $160,000, or a higher amount as the Board of Directors may approve. In addition, Mr. Wyandt may receive a bonus at the discretion of the Board of Directors. No bonus was paid to Mr. Wyandt during fiscal 2003, 2004, or 2005. The agreement continues on a month-to-month basis after August 31, 2004.

All directors who are not employees of the Company receive $12,000 annually, plus $1,000 for attendance at each Board of Directors and Committee meeting and reimbursement of reasonable expenses. The $1,000 fee is not paid for attendance at a Committee meeting that is held the same day the Board of Directors meets nor for participation in any meeting telephonically.

Compensation Committee

The Compensation Committee is responsible for setting base compensation, awarding bonuses and setting the number and terms of options for the Company s executive officers and approval of the number and terms of options for all other employees. The Committee establishes base salaries for executive officers at levels that it believes are sufficient to attract and retain such executives. The Committee may use independent survey reports for comparable companies to assist in establishing the base salaries. The Committee did not meet during fiscal year 2005.

Compensation Committee Interlocks and Insider Participation. The Committee consisted of Mr. Price and Mr. Sholtis. Neither Mr. Price nor Mr. Sholtis is an officer or employee of the Company.

Item 12 - Security Ownership of Certain Beneficial Owners and Management

The following table sets forth, as of February 10, 2006, certain information with respect to the beneficial ownership of Common Stock by (a) each person known by the Company to be the beneficial owner of more than 5% of its outstanding Common Stock, (b) any of the Company s directors and (c) all directors and officers as a group. Except as noted below, to the best of the Company s knowledge, each of such persons has sole voting and investment power with respect to the shares beneficially owned.

Name and Address of Beneficial Owner (1)(2)	Number of Shares	Percent of Class Outstanding
Steven P. Wyandt (3)	1,298,349	32.0%
Eugene B. Price II	69,417	1.7%
All directors and current officers as a group (5 persons)	1,367,766	33.7%
Haresh T. Tharani 1400 Broadway, 33rd Floor New York, NY 10018	450,000	11.1%

(1) Except as otherwise indicated, the address of each beneficial owner is c/o Nitches, Inc., 10280 Camino Santa Fe, San Diego, CA 92121.
(2) Except as otherwise indicated, the persons named in this table have sole voting and investment power with respect to all shares of common stock listed.
(3) A portion of the shares of Steven P. Wyandt are owned indirectly in Trusts, the terms of which establish sole voting power in Mr. Wyandt.
(4) Includes 300,000 restricted shares (adjusted for the 200% stock dividend of January 3, 2006) Mr. Tharani received as a result of the Company s acquisition of Designer Intimates, Inc.

Item 13 - Certain Relationships and Related Transactions

None.

PART IV

Item 15 - Exhibits, Financial Statement Schedules and Reports on Form 8-K

(a) Documents filed as part of this report:

1. The following consolidated financial statements of the Registrant are included as part of this report:

Report of Independent Registered Public Accounting Firm

Consolidated Balance Sheets as of August 31, 2005 and 2004;

Consolidated Statements of Income for the years ended August 31, 2005, 2004 and 2003;

Consolidated Statements of Shareholders Equity for the years ended August 31, 2005, 2004 and 2003;

Consolidated Statements of Cash Flows for the years ended August 31, 2005, 2004 and 2003;

Notes to Consolidated Financial Statements

2. The following financial statement schedules of the Registrant are included as part of this report:

Report of independent auditors on Schedule II

Schedule II - Valuation and Qualifying Accounts and Reserves

All other schedules are omitted because they are not required, are inapplicable or the information is otherwise shown in the financial statements or notes thereto.

3. The following exhibits are filed herewith or incorporated by reference as indicated. Exhibit numbers refer to Item 601 of Regulation S-K:

3.1 Articles of Incorporation of the Company, as amended (1)

3.2 Bylaws of the Company, as amended (2)

10.1 Form of Indemnification Agreement for Officers and Directors (1)

10.2 Asset Purchase Agreement and related agreements between the Company and Design and Source Holding Company, Ltd. effective July 1, 1995 (3)

14.1 Nitches, Inc. Code of Ethics and Business Conduct

(b) Exhibits and Reports on Form 8-K. None

Footnotes

(1) Incorporated by reference from Registrant s Form 10-K filed on November 23, 1992 for the fiscal year ended August 31, 1992.

(2) Incorporated by reference from Registrant s Form 10-K filed on November 23, 1988 for the fiscal year ended August 31, 1988.

(3) Incorporated by reference from Registrant s Form 10-K filed on November 3, 1995 for the fiscal year ended August 31, 1995.

SIGNATURES

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

Date: May 12, 2006

NITCHES, INC.

By: /s/ Steven P. Wyandt

Steven P. Wyandt, Chairman

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

/s/ Steven P. Wyandt Steven P. Wyandt	Chief Executive Officer (Principal Executive Officer), Chief Financial Officer (Principal Financial Officer) and Director	May 12, 2006
/s/ Paul M. Wyandt Paul M. Wyandt	President, Chief Operating Officer (Principal Operating Officer), and Director	May 12, 2006
/s/ Eugene B. Price II Eugene B. Price II	Director	May 12, 2006
/s/ Michael Sholtis Michael Sholtis	Director	May 12, 2006
/s/ T. Jefferson Straub T. Jefferson Straub	Director	May 12, 2006

EXHIBIT INDEX

Exhibit Number	Exhibit
*3.1	Articles of Incorporation of the Company, as amended
*3.2	Bylaws of the Company, as amended
*10.1	Form of Indemnification Agreement for Officers and Directors
*10.2	Asset Purchase Agreement and related agreements between the Company and Design and Source Holding Company, Ltd effective July 1, 1995
14.1	Nitches, Inc. Code of Ethics and Business Conduct
31	Certification required under Section 302
32	Certification required under Section 906

* Incorporated by reference