

RED ROBIN GOURMET BURGERS INC
Form SC TO-I/A
January 27, 2009

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE TO

**Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934**

(Amendment No. 1)

RED ROBIN GOURMET BURGERS, INC.

(Name of Subject Company (Issuer) and Filing Person (Offeror))

OPTIONS TO PURCHASE COMMON STOCK, PAR VALUE \$0.001 PER SHARE
(Title of Class of Securities)

75689M101

(CUSIP Number of Common Stock Underlying Class of Securities)

Dennis B. Mullen

**Chief Executive Officer and Chairman of the Board
Red Robin Gourmet Burgers, Inc.
6312 S. Fiddler s Green Circle, Suite 200N
Greenwood Village, CO 80111**

(Name, Address, and Telephone numbers of person authorized
to receive notices and communications on behalf of filing persons)

Copy to:

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Chief Legal Officer
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Calculation of Filing Fee

Transaction Valuation*
\$3,669,615.83

Amount of filing fee**
\$144.22

*Calculated solely for purposes of determining the filing fee. The calculation of the transaction valuation assumes that options to purchase 1,645,248 shares of common stock that are eligible to participate in this offer will be purchased by the issuer for an aggregate of \$3,669,615.83 in cash. The actual transaction value will be based on the number of options tendered, if any, which may result in a lesser aggregate amount.

**The amount of the filing fee, calculated in accordance with Rule 0-11 of the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory No. 6 for fiscal year 2008, equals \$39.30 per million dollars of the transaction value. The transaction valuation set forth above was calculated for the sole purpose of determining the filing fee and should not be used for any other purpose.

Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$144.22

Form or Registration No.: Schedule TO-I, File No. 5-7855

Filing Party: Red Robin Gourmet Burgers, Inc.

Date Filed: January 14, 2009

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- third-party tender offer subject to Rule 14d-1.
- issuer tender offer subject to Rule 13e-4.
- going-private transaction subject to Rule 13E-3.
- amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

INTRODUCTORY STATEMENT

This Amendment No. 1 to Tender Offer Statement (the **Amendment**) amends and supplements the Tender Offer Statement on Schedule TO (the **Schedule TO**) originally filed with the Securities and Exchange Commission (the **SEC**) on January 14, 2009 by Red Robin Gourmet Burgers, Inc. (the **Company**). The Company has made an offer to purchase stock options for cash from eligible employees, upon the terms and subject to the conditions set forth in the Offer to Purchase Outstanding Stock Options for Cash, dated January 14, 2009 (the **Offering Document**), the Introductory Letter, the Election Form and the Election Withdrawal Notice, copies of which are filed as Exhibits (a)(1)(i), (a)(1)(ii), (a)(1)(iv) and (a)(1)(v), respectively, to Schedule TO. This Amendment is intended to satisfy the reporting requirements of Rule 13e-4(c)(3) under the Securities Exchange Act of 1934, as amended. Except as specifically provided herein, this Amendment does not modify any of the information previously reported in Schedule TO or any of the exhibits attached thereto.

This Amendment should be read together with the Schedule TO and the exhibits attached thereto, including, without limitation, the Offering Document. The information in the Schedule TO, the Offering Document, the Introductory Letter, the Election Form and the Election Withdrawal Notice is incorporated in this Amendment by reference to all of the applicable items in the Schedule TO, except to the extent such information is amended and supplemented as specifically provided in this Amendment. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Offering Document and the Schedule TO.

Items 1, 2(b), 4(a), 4(b), 6(a) and 6(b).

Items 1, 2(b), 4(a), 4(b), 6(a) and 6(b) of Schedule TO, which incorporate by reference certain information contained in the Offering Document, are hereby amended and supplemented to incorporate the amended information set forth below in Item 12.

Item 12. Exhibits.

Exhibit (a)(1)(i) Offer to Purchase Outstanding Stock Options for Cash

The Offering Document attached to Schedule TO as Exhibit (a)(1)(i) is hereby amended and supplemented as follows:

(1) *Summary Term Sheet (Section I) Question 9 (When will I receive my cash payment)- page 4.* The second sentence of the answer to Question 9 is hereby deleted in its entirety and replaced with the following sentence:

You will be entitled to a single lump sum cash payment equal to the amount of the cash payment set forth on your Cash Payment Statement, reduced by any required income and payroll tax withholding (see Question 32), promptly upon the expiration of the Offer.

(2) *Offer Terms (Section III) Section 4 (Cash Payment for Eligible Options) page 14.* The Risk-free interest rate assumption set forth under the Valuation heading of Section 4 is hereby amended to state 1.017%.

(3) *Offer Terms (Section III) Section 7 (Acceptance of and Payment for Eligible Options) page 17.* The first sentence under the Cash Payment heading of Section 7 is hereby deleted in its entirety and replaced with the following sentence:

You will be entitled to a single lump sum cash payment equal to the amount of the cash payment set forth on your Cash Payment Statement, reduced by any required income and payroll tax withholding (see Section 9), promptly upon the expiration of the Offer.

(4) *Offer Terms (Section III) Section 20 (Miscellaneous; Forward-Looking Statements) page 26.* The first sentence under the Forward-Looking Statements heading of Section 20 is hereby deleted in its entirety and replaced with the following sentence:

Certain information and statements contained in this Offering Document and our SEC reports are forward-looking statements.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: January 27, 2009

RED ROBIN GOURMET BURGERS, INC.

/s/ Katherine L. Scherping
By: Katherine L. Scherping
Title: Chief Financial Officer