

FIRST EQUITY PROPERTIES INC
Form SC 13D/A
January 06, 2011

**SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

SCHEDULE 13D

**Under the Securities Exchange Act of 1934
(Amendment No. 4)**

FIRST EQUITY PROPERTIES, INC.

(Name of Issuer)

Common Stock, par value \$0.01 per share

(Title of Class of Securities)

320097-20-7

(CUSIP Number)

Gene S. Bertcher

1800 Valley View Lane, Suite 300

Dallas, Texas 75234

469-522-4200

(Name, Address and Telephone Number of Person Authorized to
Receive Notices and Communications)

January 3, 2011

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition which is the subject of this Schedule 13D, and is filing this schedule because of Rules 13d-1(b)(3) or (4), check the following box o.

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting persons' s initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be filed for the purpose of Section 18 of the Securities Exchange Act of 1934 (Act) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP No. 320097-20-7

Names of Reporting Persons

- 1) Nevada Sea Investments, Inc.

Check the Appropriate Box if a Member of a Group (See Instructions)

- 2) (a)
(b)

- 3) SEC use only

- 4) Source of Funds (See Instructions) WC

- 5) Check if Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e)

- 6) Citizenship or Place of Organization Nevada

| | | | |
|--------------|----|------------------------|---------|
| | 7) | Sole Voting Power | 792,821 |
| Number of | | | |
| Shares | | | |
| Beneficially | 8) | Shared Voting Power | -0- |
| Owned by | | | |
| Each | | | |
| Reporting | 9) | Sole Dispositive Power | 792,821 |
| Person | | | |

With

- 10)** Shared Dispositive Power -0-
- 11)** Aggregate Amount Beneficially Owned by Each Reporting Person 792,821
- 12)** Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) o
- 13)** Percent of Class Represented by Amount in Row (11) 74.9%
- 14)** Type of Reporting Person (See Instructions) CO
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Item 1. Security and Issuer

This Amendment No. 4 to Statement on Schedule 13D (Amendment No. 4) is an amendment to Schedule 13D for original date of event of June 27, 1995 filed with the Securities and Exchange Commission (the Commission) on July 24, 1995, as amended by Amendment No. 1 thereto for event occurring on December 16, 1996, Amendment No. 2 thereto for event occurring February 11, 1997 and Amendment No. 3 thereto for event occurring June 1, 2004, all relating to shares of Common Stock, par value \$0.01 per share, of First Equity Properties, Inc., a Nevada corporation (the Issuer or FEPI), which has its principal executive offices located at 1800 Valley View Lane, Suite 300, Dallas, Texas 75234. This Amendment No. 4 is being filed in an abundance of caution to reflect the acquisition of Nevada Sea Investments, Inc. on January 3, 2011 by a newly created Trust. See Item 2 below.

The Issuer is a Nevada corporation originally incorporated December 19, 1996, and is the ultimate successor-in-interest to Wespac Investors Trust III, a California real estate investment trust (Wespac) originally established August 22, 1983. On November 19, 1996, the then shareholders of Wespac approved the conversion of Wespac into FEPI, which was accomplished by incorporating Wespac as a California corporation and merging it into FEPI, previously a wholly-owned subsidiary of Wespac, with FEPI as the surviving entity. The effective date of the merger of FEPI and the California corporation was December 24, 1996. Pursuant to such transaction, persons deemed to be prior holders of shares of beneficial interest, no par value, of Wespac became holders of FEPI Common Stock on a 1-for-1 exchange basis. The CUSIP number of the shares of beneficial interest, no par value, of Wespac was 951032-10-1. Certificates representing shares of FEPI Common Stock were distributed by FEPI s transfer agent to holders thereof on February 11, 1997. The CUSIP number for the shares of Common Stock of FEPI, par value \$0.01 per share, was 320097-10-8.

Pursuant to the requirements of NRS 78.2055 and NRS 78.320, the requisite number of stockholders of FEPI approved a 1-for-10 reverse split of the shares of Common Stock, without any change in the par value and without any reduction in the authorized number of shares of Common Stock of FEPI pursuant to the Articles of Incorporation. The 1-for-10 reverse stock split was effective on July 12, 2004. The CUSIP number for the post-split shares of Common Stock of FEPI, par value \$0.01 per share, is 320097-20-7. Under the approved action, based upon the 10,570,944 old shares outstanding on the Effective Date, the 1-for-10 reverse stock split decreased the number of outstanding shares by approximately 90% which, after giving effect to an upward adjustment or rounding up for any fractional shares, added 534 shares to result in 1,057,628 post-split shares outstanding. The 1-for-10 reverse stock split did not adversely affect any stockholders proportionate equity interest in FEPI subject to the provisions for elimination of fractional shares by rounding up to the next whole share which slightly increased the proportionate holdings of all stockholders other than Nevada Sea Investment, Inc.

Item 2. Identity and Background

(a)-(c) and (f). This Amendment No. 4 is filed by Nevada Sea Investments, Inc. (NSII), a Nevada corporation which has its principal executive offices located at 1800 Valley View Lane, Suite 300, Dallas, Texas 75234. NSII s principal business activity is investment in real estate and securities of other business ventures. The name, business address and capacity with NSII of each of the executive officers or directors of NSII are as set forth on Schedule 1 attached hereto. Each

of the individuals listed on Schedule 1 is a citizen of the United States of America. NSII is wholly-owned by the Nevada Sea Trust, a trust governed by the laws of the State of Texas. The Nevada Sea Trust was established by Trust Agreement dated January 3, 2011 for the benefit of the children of Gene E. Phillips (the NS Trust) who, although he is not an officer or director of NSII or a Trustee of the NS Trust, continues to have substantial contact with the management of NSII and has a significant influence on matters as a representative of the NS Trust. Shortly after its creation, the NS Trust acquired from another entity all of the issued and outstanding Common Stock of NSII.

(d) During the last five years, neither NSII nor any of its executive officers or directors has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors).

During the past five years, neither NSII nor any of its executive officers or directors has been a party to any civil proceeding of a judicial or administrative body of competent jurisdiction which resulted in a judgment, decree or final order enjoining future violations of, or prohibiting activities subject to, federal or state securities laws or finding any violations with respect to such laws.

Item 3. Source and Amount of Funds or Other Consideration

No funds were required of NSII to acquire the new shares of FEPI Common Stock on a 1-for-10 exchange basis pursuant to the transaction involving a 1-for-10 reverse share split.

With respect to the acquisition by NSII from Greenbriar Corporation, a Nevada corporation (GBR) on June 1, 2004, of 2,642,736 pre-split shares of Common Stock of FEPI (264,274 shares post-split), no consideration was paid by NSII.

Item 4. Purpose of Transaction

NSII originally acquired the shares of beneficial interest of Wespac in order to assume day-to-day operating control and management of Wespac (the Issuer's predecessor), and to attempt to resolve a bankruptcy proceeding involving Wespac through proposing and effectuating a Confirmed Plan and its ultimate modification. At the time of consummation of such transaction, NSII acquired 50% of the issued and outstanding pre-reverse share split shares of FEPI. Subsequently, GBR transferred to NSII effective June 1, 2004 an additional 25% of the pre-reverse split shares of FEPI which, after giving effect to the 1-for-10 reverse share split became an aggregate ownership of 792,821 shares, or approximately 74.9% of the 1,057,628 post-split shares of Common Stock outstanding. NSII has no present plans or proposals which would result in NSII seeking to acquire the entire equity interest in the Issuer. Except as set forth in this Amendment No. 4, NSII has no present plans or proposals which relate to or would result in:

(a) the acquisition by any person of any additional securities of the Issuer or the disposition of securities of the Issuer, except that NSII may, if the appropriate opportunity exists, acquire additional securities of the Issuer or dispose of any portion or all of its securities of the Issuer presently owned; or

(b) an extraordinary corporation transaction such as a merger, reorganization or liquidation involving the Issuer; or

(c) a sale or transfer of a material amount of assets of the Issuer; or

(d) a change in the present Board of Directors or management of the Issuer, including any plans or proposals to change the number or term of directors or fill any existing vacancies on the Board of Directors except that the following individuals who are also designees of NSII, Co-Trustees of the NS Trust and employees of one of NSII's affiliates have been elected as the two members of the Board of Directors:

Gene S. Bertcher
Steven A. Shelley;

or

(e) any material change in the present capitalization or dividend policy of the Issuer; or

(f) any other material change in the Issuer's business or corporate structure; or

(g) changes in the Issuer's charter, bylaws or instruments corresponding thereto or other actions which may impede the acquisition of control of the Issuer by any person, except that the ownership of the number of shares of FEPI Common Stock (post-reverse split) by NSII described in Item 5 below could have the effect of making it more difficult for persons to obtain control of the Issuer in the future; or

(h) causing a class of securities of the Issuer to be de-listed from a national securities exchange or cease to be authorized to be quoted in an inter-dealer quotation system of registered national securities association; or

(i) a class of equity securities of the Issuer becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Securities Exchange Act of 1934; or

(j) any action similar to any of those enumerated above.

Item 5. Interest and Securities of the Issuer

(a) As of January 3, 2011, an aggregate of 792,821 Shares of FEPI post-split Common Stock were held by NSII, which constitutes an aggregate of 74.9% of the total number of 1,057,628 post-split shares of Common Stock outstanding as of such date.

(b) NSII has the sole power to vote 792,821 shares of FEPI post-split Common Stock and, subject to compliance with applicable securities laws, NSII has the sole power to dispose of all of such 792,821 shares of Common Stock of the Issuer.

(c) During the sixty calendar days ended January 3, 2011, NSII did not engage in any transaction in pre or post-split shares of FEPI Common Stock or any other equity interest derivative

thereof. Effective June 1, 2004, GBR conveyed and transferred to NSII an aggregate of 2,642,736 pre-split shares of Common Stock of FEPI (264,274 post-split shares) for no consideration.

(d) No person other than NSII or its Board of Directors is known to have the right to receive or the power to direct receipt of dividends from, or proceeds from the sale of, the 792,821 post-split shares of FEPI Common Stock held by NSII.

(e) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships With Respect to Securities of the Issuer

Neither NSII nor the NS Trust have any contracts, arrangements, understandings or relationships (legal or otherwise) with any person with respect to any securities of the Issuer, including, but not limited to, transfer of voting of any of the securities, finders fees, joint ventures, loan or option arrangements, puts or calls, guarantees of profits, division of profits or loss, or the giving or withholding of proxies.

Item 7. Material to be Filed as Exhibits

None.

SIGNATURE

After reasonable inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this Amendment No. 4 to Statement on Schedule 13D is true, complete and correct.

Dated: January 5, 2011

NEVADA SEA INVESTMENTS, INC.

By: /s/ Gene S. Bertcher
Gene S. Bertcher, Vice President and
Treasurer

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**SCHEDULE 1
EXECUTIVE OFFICERS AND DIRECTORS OF
NEVADA SEA INVESTMENTS, INC.**

| Name and Capacity with Nevada Sea Investments, Inc. | Business Address | Present Business in which Employment is Conducted |
|--|--|---|
| Louis J. Corna, Vice President and Secretary | 1800 Valley View Lane Suite 300 Dallas, TX 75234 | Executive Vice President, Tax Counsel, General Counsel and Secretary, Prime Income Asset Management LLC |
| Gene S. Bertcher, Director, Vice President and Treasurer | 1800 Valley View Lane Suite 300 Dallas, TX 75234 | Executive Vice President and Chief Financial Officer, Prime Income Asset Management LLC |
| Daniel J. Moos, Director | 1800 Valley View Lane Suite 300 Dallas, TX 75234 | President, Prime Income Asset Management LLC |

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=>Name Shares Percent Dispose Dispose

J. Joe Ricketts⁽¹⁾
83,747,610 13.8% 13,840,113 69,907,497
Marlene M. Ricketts⁽²⁾
78,426,537 13.0% 8,519,040 69,907,497

| Name | Number of Shares | Percent | Sole Power to Vote or Dispose | Shared Power to Vote or Dispose |
|---|----------------------------|---------|-------------------------------|---------------------------------|
| Ricketts Grandchildren's Trust ⁽¹⁾ | 19,008,000 | 3.1% | 19,008,000 | 0 |
| Total: | 111,274,650 ⁽⁴⁾ | 18.4% | 41,367,153 | 69,907,497 ⁽⁵⁾ |

(1) Shares of Common Stock beneficially owned by Mr. Ricketts consist of 69,907,497 shares held jointly with Marlene M. Ricketts, his spouse, in brokerage margin accounts; 8,186,112 shares held by the Marlene M. Ricketts 1994 Dynasty Trust, over which Mr. Ricketts has sole voting and dispositive power; 332,352 shares held in the J. Ricketts IRA; 5,153 shares held in Mr. Ricketts 401(k) account; and 2,841,496 shares issuable upon the exercise of options exercisable within 60 days.

(2)

Shares of
Common Stock
beneficially
owned by
Mrs. Ricketts
consist of
69,907,497
shares held
jointly with J.
Joe Ricketts, her
spouse, in
brokerage
margin
accounts;
8,186,688
shares held by
the J. Joe
Ricketts 1996
Dynasty Trust,
over which
Mrs. Ricketts
has sole voting
and dispositive
power; and
332,352 shares
held in the M.
Ricketts IRA.

- (3) The trustee of
the Ricketts
Grandchildren's
Trust is First
National Bank
of Omaha, 16th
and Dodge
Streets, Omaha,
Nebraska
68102.
- (4) The amount
reflected does
not include
69,907,497
shares of
Common Stock
reported above
by Marlene M.
Ricketts as such
share ownership
is shared with
her spouse and

already reflected
under
Mr. Ricketts
reported shares
of Common
Stock.

- (5) The amount
reflected does
not include
69,907,497
shares of
Common Stock
reported above
by Marlene M.
Ricketts as such
share ownership
is shared with
her spouse and
already reflected
under
Mr. Ricketts
reported shares
of Common
Stock.

Based on the provisions relating to voting agreements and (except with respect to the Ricketts Grandchildren's Trust) the grant of proxies contained in the Stockholders Agreement, the Reporting Persons may be deemed to share voting power over the shares beneficially owned by the TD Entities. Based on information provided by the TD Entities, as of January 24, 2006, the TD Entities beneficially owned, in the aggregate, 196,300,000 shares of Common Stock, representing approximately 32.5% of the outstanding shares of Common Stock. The Reporting Persons disclaim beneficial ownership of all shares held by the TD Entities. However, as described in response to Item 6, the Reporting Persons and the TD Entities acknowledge that they constitute a group for purposes of Section 13(d) of the Exchange Act with respect to TD Ameritrade.

All information contained in this Statement relating to the TD Entities is based on information provided to the Reporting Persons by the TD Entities. While the Reporting Persons have no reason to believe that such information is inaccurate or incomplete, the Reporting Persons do not assume any responsibility for the accuracy or completeness of such information.

(c) None of the Reporting Persons, or, to the knowledge of the Reporting Persons, any of the individuals named in Schedule B hereto, has engaged in any transaction during the past 60 days in any shares of Common Stock.

(d) Not applicable.

(e) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

Except as set forth in this Statement, to the knowledge of the Reporting Persons, there are no other contracts, arrangements, understandings or relationships (legal or otherwise) between the Reporting Persons or any of the individuals named in Schedule B hereto and any other person with respect to the securities of the Issuer, including but not limited to transfer or voting of any of the securities of the Issuer, joint ventures, loan or option arrangements, puts or calls, guarantees of profits, division of profits or loss, or the giving or withholding of proxies, or a pledge or contingency the occurrence of which would give another person voting power over the securities of the Issuer.

a. Stockholders Agreement

In connection with the Transaction, the Issuer, the Reporting Persons and TD entered into the Stockholders Agreement, which, among other things, contains certain governance arrangements and various provisions relating to board composition, stock ownership, stock transfers by the Reporting Persons and TD, voting and other matters. The following is a summary of selected provisions of the Stockholders Agreement. While the Reporting Persons believe this description covers the material terms of the Stockholders Agreement, it is qualified in its entirety by reference to the Stockholders Agreement, a copy of which is included as Exhibit 99.1 of this Statement and incorporated herein by reference.

Due to certain agreements contained in the Stockholders Agreement, the Reporting Persons and the TD Entities have acknowledged that they constitute a group for purposes of Section 13(d) of the Exchange Act with respect to TD Ameritrade.

Governance of TD Ameritrade

Under the terms of the Stockholders Agreement, the board of directors of TD Ameritrade is classified into three classes, with each class serving staggered, three-year terms. The board of directors consists of twelve members, and the persons to be nominated for election as directors of TD Ameritrade were initially designated as follows:

the Reporting Persons initially had the right to designate three of the directors, initially J. Joe Ricketts, J. Peter Ricketts and Thomas S. Ricketts (each of whom was assigned to a different class of directors, as designated by the Reporting Persons);

TD initially had the right to designate five of the directors, initially W. Edmund Clark, Fredric J. Tomczyk, Daniel A. Marinangeli, Marshall A. Cohen and Wilbur J. Prezzano (one of whom is a class I director, two of whom are class II directors and two of whom are class III directors, as designated by TD);

the individual serving as chief executive officer of TD Ameritrade, initially Joseph H. Moglia (who is a class I director); and

three of the directors are to be outside independent directors, who initially are Michael D. Fleisher, Glenn H. Hutchins and Dan W. Cook III (each of whom was assigned to a different class of directors).

The number of directors designated by the Reporting Persons (the Ricketts directors) may increase or decrease from time to time depending on the ownership position of the Reporting Persons. Generally, the number of Ricketts directors relates to the Reporting Persons ownership as set forth in the table below, subject to specified cure periods in the event of a decrease in ownership from one threshold to another and minimum holding periods in the event of an increase in ownership from one threshold to another. Any vacancy resulting from the reduction of the number of Ricketts directors will be filled with an outside independent director, effective immediately prior to the following annual meeting of TD Ameritrade stockholders. In the event that the number of Ricketts directors increases as a result of an increase in the Reporting Persons ownership position, the corresponding outside independent directors will be removed and replaced with new Ricketts directors.

| Reporting Persons Ownership Level | Total Number of Ricketts Directors |
|--|---|
| Greater than 20.83% | 3 |
| Greater than 12.50% to 20.83% | 2 |
| Greater than 4.17% to 12.50% | 1 |
| 4.17% or less | 0 |

If, on the first anniversary of the closing date of the Transaction, the Reporting Persons do not beneficially own at least 20.83% of the outstanding voting securities of TD Ameritrade, and the number of Ricketts directors has not already been reduced, then one of the Ricketts directors must resign from the board of directors of TD Ameritrade, and the resulting vacancy will be filled by an outside independent director, effective immediately prior to the following annual meeting of TD Ameritrade stockholders. Following any such resignation, however, the number of Ricketts directors may continue to increase or decrease based on the ownership position of the Reporting Persons, as described above.

The number of directors designated by TD (the TD directors) may increase or decrease from time to time depending on the ownership position of TD. Generally, the number of TD directors relates to TD s ownership as set forth in the table below, subject to specified cure periods in the event of a decrease in ownership from one threshold to another and minimum holding periods in the event of an increase in ownership from one threshold to another. Any vacancy resulting from the reduction of the number of TD directors will be filled with an outside independent director, effective immediately prior to the following annual meeting of TD Ameritrade stockholders. In the event that the number of TD directors increases as a result of an increase in TD s ownership position, the corresponding outside independent directors will be removed and replaced with new TD directors.

| TD Ownership Level Directors | Total Number of TD Directors |
|-------------------------------------|-------------------------------------|
| Greater than 37.5% | 5 |
| Greater than 29.17% to 37.50% | 4 |
| Greater than 20.83% to 29.17% | 3 |
| Greater than 12.50% to 20.83% | 2 |
| Greater than 4.17% to 12.50% | 1 |
| 4.17% or less | 0 |

If, on the first anniversary of the closing date of the Transaction, TD s percentage ownership of the outstanding voting securities of TD Ameritrade is not at least 37.5%, and the number of TD directors has not already been reduced, then one of the TD directors must resign from the board of directors of TD Ameritrade, and the resulting vacancy will be filled by an outside independent director, effective immediately prior to the following annual meeting of TD Ameritrade stockholders. Following any such resignation, however, the number of TD directors may continue to increase or decrease based on the ownership position of TD, as described above.

The Stockholders Agreement also sets forth procedures by which outside independent directors are selected. A committee of the board of directors of TD Ameritrade comprised solely of all of the outside independent directors, referred to as the outside independent director committee, has the sole authority on behalf of the board of

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directors to nominate candidates for election to serve as outside independent directors, except that TD and the Reporting Persons have the right to reject a director candidate, but not without a reasonable basis for doing so.

Subject to applicable laws and certain conditions, TD Ameritrade is required to cause each committee of its board of directors (other than the outside independent director committee and a committee of the board of directors comprised solely of all directors who are not TD directors) to consist of two TD directors, one Ricketts director, and two outside independent directors. These levels of committee representation are subject to adjustment from time to time based on TD's and the Reporting Persons' maintenance of specified ownership levels.

The parties to the Stockholders Agreement have agreed to vote their shares of Common Stock in favor of the election of each director nominated for election in the manner provided for in the Stockholders Agreement and in favor of the removal of each director designated for removal in the manner provided for in the Stockholders Agreement, and have agreed not to vote in favor of any candidate for director who is not nominated in accordance with the Stockholders Agreement. The Reporting Persons (other than the Ricketts Grandchildren's Trust) and TD irrevocably appointed an officer of Ameritrade as their respective proxy and attorney-in-fact to vote in accordance with the terms of the Stockholders Agreement in the event they fail to comply with its terms. TD Ameritrade has agreed to take all actions within its control to effectuate the corporate governance provisions of the Stockholders Agreement.

Tender Offer and Share Ownership

TD is required pursuant to the Stockholders Agreement to commence a cash tender offer pursuant to which TD will offer to purchase a number of shares of Common Stock such that, upon successful completion of the offer, TD will own up to 39.9% of the outstanding shares of Common Stock. J. Joe Ricketts has the option of participating as a co-bidder in the tender offer, in which case he may offer to purchase up to the number of shares of Common Stock such that, upon successful completion of the tender offer, he and the other Reporting Persons collectively own up to 29% of the voting securities of TD Ameritrade. Mr. Ricketts does not intend to participate as a co-bidder in the tender offer.

Following the tender offer:

TD may acquire additional shares of Common Stock only up to an aggregate beneficial ownership interest of 39.9% of the outstanding voting securities of TD Ameritrade for a period of three years following completion of the Transaction, and up to an aggregate beneficial ownership of 45% for the remaining term of the Stockholders Agreement; and

the Reporting Persons may acquire additional shares of Common Stock only up to an aggregate beneficial ownership interest of 29% of the outstanding voting securities of TD Ameritrade.

Notwithstanding the limitations on TD's ownership described above, TD may make a non-public proposal to the board of directors of TD Ameritrade to acquire additional shares pursuant to a tender offer, merger or other business combination for 100% of the outstanding shares of Common Stock not owned by TD, and TD may complete such a transaction, subject to the approval of a majority of the outside independent directors and the holders of a majority of the outstanding shares of Common Stock not affiliated with TD. TD may not, subject to certain exceptions, solicit proxies with respect to Common Stock.

If TD Ameritrade receives a bona fide inquiry or proposal from a third party that could result in a proposal with respect to a merger, acquisition or other business combination involving TD Ameritrade or its subsidiaries in which more than 25% of the voting securities or consolidated assets of TD Ameritrade would be acquired or received by the third party, TD Ameritrade must promptly notify TD of receipt of the inquiry or proposal and offer TD the opportunity to participate in parallel discussions with TD Ameritrade, and must consider proposals from TD regarding a comparable transaction.

Right to Purchase Securities

The Reporting Persons and TD have the right to purchase up to their respective proportionate share of future issuances of Common Stock, options, warrants or other debt or equity securities that are convertible into or exchangeable or exercisable for Common Stock, other than issuances of Common Stock as consideration in connection with an acquisition by TD Ameritrade and certain other issuances specified in the Stockholders Agreement. If TD Ameritrade proposes to issue shares as consideration in an acquisition, TD Ameritrade must discuss in good faith with the Reporting Persons and TD alternative structures in which a portion of such shares would be sold to the Reporting Persons or TD, with the proceeds of such sale used to fund the acquisition.

Transfer and Other Restrictions

In general, absent approval of a majority of the independent directors, the Reporting Persons and TD may not transfer shares of Common Stock to any holders of 5% or more of the outstanding shares of Common Stock, subject to certain exceptions.

Obligation to Repurchase Shares

If TD Ameritrade issues shares of its common stock pursuant to any compensation or similar program or arrangement, then TD Ameritrade will, subject to certain exceptions, use its reasonable efforts to repurchase a corresponding number of shares of its common stock in the open market within 120 days after any such issuance.

Non-Competition Covenants

Subject to certain exceptions described below, none of J. Joe Ricketts (so long as he is serving as a director of TD Ameritrade), TD or any of their respective affiliates may participate in or own any portion of a business engaged in the business of providing securities brokerage services in the U.S. (or, solely in the case of Mr. Ricketts and his affiliates, in Canada) to retail traders, individual investors and registered investment advisors. If TD acquires indirectly such a competing business as a result of its acquisition of a non-competing business, TD must offer to sell the competing business to TD Ameritrade at its appraised fair value as determined in accordance with the terms of the Stockholders Agreement. If TD Ameritrade decides not to purchase the competing business, TD must use commercially reasonable efforts to divest the competing business within two years. Notwithstanding the foregoing, J. Joe Ricketts, TD and their respective affiliates are permitted under the terms of the Stockholders Agreement to own a passive investment representing less than 2% of a class of equity securities of a competing business so long as the class of equity securities is traded on a national securities exchange in the U.S. or the Toronto Stock Exchange or quoted on the NASDAQ National Market.

Termination of the Stockholders Agreement

The Stockholders Agreement will terminate (1) with respect to the Reporting Persons, when their aggregate ownership of Common Stock falls below approximately 4% of the outstanding voting securities of TD Ameritrade, and (2) upon the earliest to occur of:

the consummation of a merger, tender offer or other business combination pursuant to which TD offers to acquire 100% of the Common Stock not owned by TD;

the 10th anniversary of the consummation of the Transaction;

the date on which TD's ownership of Common Stock falls below approximately 4% of the outstanding voting securities of TD Ameritrade;

the commencement by a third party of a tender offer or exchange offer for not less than 25% of the Common Stock unless the TD Ameritrade board recommends against such tender offer or exchange offer and continues to take all reasonable steps to oppose such tender offer or exchange offer (as reasonably determined by TD);

the approval by the TD Ameritrade board of a business combination that would result in another party owning 25% of TD Ameritrade's voting securities or its consolidated assets or which would otherwise result in a change of control of TD Ameritrade; or

the acquisition of 20% of the voting securities of TD Ameritrade by a third party.

For a period of up to one year following a termination due to events described in the fourth, fifth or sixth bullet points above, the Reporting Persons and TD will be prohibited from acquiring shares of Common Stock that would cause TD's aggregate ownership to exceed 45% of the outstanding voting securities of TD Ameritrade (39.9% in the first three years) or the aggregate ownership of the Reporting Persons to exceed 29% of the outstanding voting securities of TD Ameritrade, except that either TD or the Reporting Persons may exceed these thresholds in connection with a merger, tender offer or other business combination for 100% of the outstanding shares of Common Stock approved by the holders of a majority of the outstanding shares of Common Stock (other than the Reporting Persons and TD). Furthermore, during that period of up to one year following such termination, the provisions of the Stockholders Agreement relating to the designation and election of directors, transfer restrictions and certain other provisions will remain in effect. In the event that TD's or the Reporting Persons' beneficial ownership of Common Stock falls below approximately 4% of the outstanding voting securities of TD Ameritrade, TD or the Reporting Persons, as the case may be, must cause each of the TD or Reporting Persons' directors to immediately resign as directors of TD Ameritrade.

b. Amended and Restated Registration Rights Agreement

Concurrently with entering into the Purchase Agreement and the Stockholders Agreement, TD, the Issuer, the Reporting Persons and certain persons who are no longer parties entered into the Amended and Restated Registration Rights Agreement (the Registration Rights Agreement) to, among other things, include TD as a party to the existing registration rights agreement among the Issuer, the Reporting Persons and such other persons. The Registration Rights Agreement is substantially the same as the preexisting registration rights agreement except for the provision of registration rights to TD, the elimination of the term of the registration rights and the provision of additional registration rights to the Reporting Persons. The following is a summary of selected provisions of the Registration Rights Agreement. While the Reporting Persons believe this description covers the material terms of the Registration Rights Agreement, it is qualified in its entirety by reference to the Registration Rights Agreement, a copy of which is included as Exhibit 99.2 to this Statement and incorporated herein by reference.

Demand Registrations

TD Ameritrade has granted the Reporting Persons and TD, collectively, the right to demand registration of the shares of Common Stock held by them on nine separate occasions. Six of the nine demand rights, including two shelf registrations, are allocated to TD, and three of the nine demand rights, including one shelf registration, are allocated to the Reporting Persons.

Piggy Back Registrations

TD Ameritrade has also agreed to provide the Reporting Persons and TD with piggy back registration rights, such that if at any time TD Ameritrade proposes to file a registration statement with respect to any offering of its securities for its own account or for the account of any stockholder who holds its securities (subject to certain exceptions) then, as expeditiously as reasonably possible (but in no event less than 20 days prior to the proposed date of filing such registration statement), TD Ameritrade shall give written notice of such proposed filing to all holders of securities subject to registration rights pursuant to the Registration Rights Agreement, and such notice shall offer the holders of such registrable securities the opportunity to register such number of registrable securities as each such holder may request in writing.

The registration rights granted in the Registration Rights Agreement are subject to customary restrictions such as minimums, blackout periods and limitations on the number of shares to be included in any underwritten offering imposed by the managing underwriter. In addition, the Registration Rights Agreement contains other limitations on the timing and ability of stockholders to exercise demands.

Item 7. Material to Be Filed as Exhibits

Exhibit 99.1. Stockholders Agreement, dated as of June 22, 2005 (incorporated by reference to Exhibit 10.1 on Form 8-K filed by the Issuer on June 22, 2005 (SEC File No. 0-49992)).

Exhibit 99.2. Amended and Restated Registration Rights Agreement, dated as of June 22, 2005 (incorporated by reference to Exhibit 99.1 on Form 8-K filed by the Issuer on September 12, 2005 (SEC File No. 0-49992)).

Exhibit 99.3. Joint Filing Agreement by and among J. Joe Ricketts, Marlene M. Ricketts and the Ricketts Grandchildren's Trust, dated as of January 24, 2006.

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SIGNATURES

After reasonable inquiry and to the best of my knowledge and belief, the undersigned certifies that the information set forth in this Statement is true, complete and correct.

Date: January 24, 2006

/s/ J. Joe Ricketts

J. Joe Ricketts, individually

/s/ Marlene M. Ricketts

Marlene M. Ricketts, individually

RICKETTS GRANDCHILDREN S
TRUST

By: /s/ John E. Lenihan

First National Bank of Omaha,
trustee

Name: John E. Lenihan

Title: Senior Trust Officer

Schedule A
Persons Filing Schedule 13D

| Name and Business Address | Occupation or Principal Business | Citizenship or Place of Organization |
|---|---|--------------------------------------|
| J. Joe Ricketts c/o TD Ameritrade Holding Corporation 4211 South 102 nd Street Omaha, Nebraska 68127 | Chairman of the Board of Directors of TD Ameritrade Holding Corporation | U.S.A. |
| Marlene M. Ricketts c/o J. Joe Ricketts TD Ameritrade Holding Corporation 4211 South 102 nd Street Omaha, Nebraska 68127 | | U.S.A. |
| Ricketts Grandchildren's Trust c/o First National Bank of Omaha 16 th and Dodge Streets Omaha, Nebraska 68102 | | |

Schedule B

Persons Enumerated in Instruction C of Schedule 13D

Ricketts Grandchildren's Trust

Set forth below is information concerning the trustee of Ricketts Grandchildren's Trust

| Name and Business Address | Occupation or Principal Business | Citizenship or Place of Organization |
|------------------------------|----------------------------------|--------------------------------------|
| First National Bank of Omaha | Trustee | U.S.A. |