

SPIRIT FINANCE CORP
Form 10-K/A
May 04, 2007

**United States
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-K/A

(Amendment No. 1)

(Mark One)

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

For the fiscal year ended December 31, 2006

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: 01-32386

SPIRIT FINANCE CORPORATION

(Exact name of registrant as specified in its charter)

Maryland
(State of incorporation)
14631 N. Scottsdale Road, Suite 200
Scottsdale, Arizona
(Address of Principal Executive Offices)

20-0175773
(I.R.S. Employer Identification No.)
85254
(Zip Code)

Registrant's telephone number, including area code: (480) 606-0820

Securities Registered Pursuant to Section 12(b) of the Act:

| Title of each class | Name of each exchange on which registered |
|--|---|
| Common Stock, par value \$0.01 per share | New York Stock Exchange |

Securities Registered Pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes No

Edgar Filing: SPIRIT FINANCE CORP - Form 10-K/A

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark 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 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.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of accelerated filer and large accelerated filer in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

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

As of June 30, 2006 the aggregate market value of the registrant's common stock held by non-affiliates of the registrant was \$1.1 billion based on the closing sale price as reported on the New York Stock Exchange on that date.

The number of shares outstanding of the Registrant's common stock, as of February 23, 2007, was 107,935,085.

DOCUMENTS INCORPORATED BY REFERENCE

Part III, Items 10, 11, 12, 13 and 14 are incorporated by reference to the proxy statement for the Registrant's Annual Meeting of Stockholders filed pursuant to Regulation 14A.

EXPLANATORY NOTE

This Amendment No. 1 on Form 10-K/A (the Amendment) amends certain portions of the Annual Report on Form 10-K of Spirit Finance Corporation for the fiscal year ended December 31, 2006 as filed with the Securities and Exchange Commission (SEC) on March 1, 2007 (the Original Filing). Item 15 Exhibits and Financial Statement Schedules, of Part IV is being amended to include the audited financial statements of Specialty Retail Shops Holding Corp. and Subsidiaries as Exhibit 99.2 and the related consent of Deloitte & Touche LLP as Exhibit 23.2.

This Amendment contains only the section of the Original Filing which is being amended and the unaffected parts or exhibits are not included herein. This Amendment continues to speak as of the date of the Original Filing (except where noted in the Amendment) and we have not updated the disclosure contained herein to reflect events that have occurred since the filing of the Original Filing. Accordingly, this Amendment should be read in conjunction with the Original Filing and our other filings, if any, made with the SEC subsequent to the filing of the Original Filing.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) **Documents filed as part of this Report:**

1. **Financial Statements.** See Index to Financial Statements under Item 8 of this report.
2. **Financial Statements Schedules.** See Schedule III on page S-1 of this Report. All other financial statement schedules are omitted since they are not required, are inapplicable or the required information is included in the financial statements or notes thereto.
3. **Exhibits.** The following is a complete list of exhibits filed as part of this Form 10-K. Exhibit numbers correspond to the numbers in the Exhibit Table of Item 601 of Regulation S-K.

Exhibit

| No. | Description |
|------------|---|
| 2.1 | Stock Purchase Agreement by and between Spirit Finance Acquisitions, LLC and SKO Group Holding Corp. dated May 9, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 9, 2006, filed on May 10, 2006). |
| 3.1 | Articles of Amendment and Restatement (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 20, 2005, filed on May 20, 2005). |
| 3.2 | Bylaws (incorporated by reference to the Registrant's Registration Statement on Form S-11, Registration No. 333-116408). |
| 4.1 | Form of Common Stock Certificate (incorporated by reference to the Registrant's Registration Statement on Form S-11, Registration No. 333-116408). |
| 4.2 | Amended and Restated Master Indenture dated as of March 17, 2006, between Spirit Master Funding, LLC and Citibank, N.A., as indenture trustee (incorporated by reference to the Registrant's Current Report on Form 8-K dated March 17, 2006, filed on March 21, 2006). |
| 4.3 | Series 2005-1 Indenture Supplement dated as of July 26, 2005, between Spirit Master Funding, LLC and Citibank, N.A., as indenture trustee (incorporated by reference to the Registrant's Current Report on Form 8-K dated July 26, 2005, filed on August 1, 2005). |
| 4.4 | Series 2006-1 Indenture Supplement dated as of March 17, 2006, between Spirit Master Funding, LLC, Spirit Master Funding II, LLC and Citibank, N.A., as indenture trustee (incorporated by reference to the Registrant's Current Report on Form 8-K dated March 17, 2006, filed on March 21, 2006). |

Edgar Filing: SPIRIT FINANCE CORP - Form 10-K/A

- 10.1 Amended and Restated Employment Agreement between the Registrant and Morton H. Fleischer dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006).
- 10.2 Amended and Restated Employment Agreement between the Registrant and Christopher H. Volk dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006).
- 10.3 Amended and Restated Employment Agreement between the Registrant and Catherine F. Long dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006).
- 10.4 Amended and Restated Employment Agreement between the Registrant and Michael T. Bennett dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006).
- 10.5 Amended and Restated Employment Agreement between the Registrant and Jeffrey M. Fleischer dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006).
- 10.6 Amended and Restated Employment Agreement between the Registrant and Gregg A. Seibert dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006).
- 10.7 Amended and Restated Spirit Finance Corporation 2003 Stock Option and Incentive Plan (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 20, 2005, filed on May 20, 2005).
- 10.8 Stockholder Agreement between the Registrant and Spirit Finance Holdings, LLC dated as of October 15, 2003 (incorporated by reference to the Registrant's Registration Statement on Form S-11, Registration No. 333-116408).
- 10.9 Master Repurchase Agreement among Spirit Finance Corporation, Spirit SPE Warehouse Funding, LLC, Spirit Finance Acquisitions, LLC and Citigroup Global Markets Realty Corp. dated as of October 13, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 13, 2006, filed on October 19, 2006).
- 10.10 Amended and Restated Master Repurchase Agreement between Citigroup Global Markets Realty Corp. and the Registrant dated as of December 7, 2005 (incorporated by reference to the Registrant's Current Report on Form 8-K dated December 7, 2005, filed on December 8, 2005).
- 10.11 Extension Agreement between Spirit Finance Corporation and Citigroup Global Markets Realty Corp. dated September 11, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated September 11, 2006, filed on September 14, 2006).
- 10.12 Master Repurchase Agreement among the Registrant and Alpine Securitization Corp., Credit Suisse, New York Branch, as buyers, and Credit Suisse, New York Branch, as agent for the buyers, dated as of November 7, 2005 (incorporated by reference to the Registrant's Current Report on Form 8-K dated November 7, 2005, filed on November 8, 2005).
- 10.13 Second Amended and Restated Servicing Agreement Dated as of August 9, 2004 between the Registrant and Midland Loan Services, Inc. (incorporated by reference to the Registrant's Registration Statement on Form S-11, Registration No. 333-116408).

Edgar Filing: SPIRIT FINANCE CORP - Form 10-K/A

- 10.14 Amended and Restated Property Management and Servicing Agreement dated as of March 17, 2006, among Spirit Master Funding, LLC, Spirit Finance Corporation and Midland Loan Services, Inc. (incorporated by reference to the Registrant's Current Report on Form 8-K dated March 17, 2006, filed on March 21, 2006).
- 10.15 Master Lease between Spirit SPE Portfolio 2006-1, LLC and Spirit SPE Portfolio 2006-2, LLC, collectively as landlord, and ShopKo Stores Operating Co., LLC dated May 31, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 31, 2006, filed on June 6, 2006).
- 10.16 Master Lease between Spirit SPE Portfolio 2006-3, LLC and Pamida Stores Operating Co., LLC dated May 31, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 31, 2006, filed on June 6, 2006).
- 10.17 Loan Agreement among Spirit SPE Portfolio 2006-1, LLC and Spirit SPE Portfolio 2006-2, LLC, collectively as borrowers, and Barclays Capital Real Estate Inc. and Citigroup Global Markets Realty Corp. dated May 31, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 31, 2006, filed on June 6, 2006).
- 12.1 Computation of Ratio of Earnings to Fixed Charges.*
- 21.1 Subsidiaries of the Registrant.*
- 23.1 Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.*
- 23.2 Consent of Deloitte & Touche LLP.
- 31.1 Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32.1 Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 32.2 Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 99.1 Unaudited quarterly financial statements of SKO Group Holding Corp. and Subsidiaries as of October 28, 2006 (Successor), January 28, 2006 (Successor) and October 29, 2005 (Predecessor) and for the 13 and 39 Weeks Ended October 28, 2006 (Successor) and October 29, 2005 (Predecessor).*
- 99.2 Audited financial statements of Specialty Retail Shops Holding Corp. and Subsidiaries (f/k/a SKO Group Holding Corp. and subsidiaries) as of February 3, 2007 and January 28, 2006, and for the 53 weeks ended February 3, 2007 (successor), the four weeks ended January 28, 2006 (successor), the 48 weeks ended December 31, 2005 (predecessor) and the 52 weeks ended January 29, 2005 (predecessor).

* Previously filed.

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, thereunto duly authorized.

Date: May 3, 2007

SPIRIT FINANCE CORPORATION

By:

/s/ CHRISTOPHER H. VOLK

Christopher H. Volk

President and Chief Executive Officer

4

Edgar Filing: SPIRIT FINANCE CORP - Form 10-K/A

Exhibit Index

Exhibit

| No. | Description |
|------|---|
| 2.1 | Stock Purchase Agreement by and between Spirit Finance Acquisitions, LLC and SKO Group Holding Corp. dated May 9, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 9, 2006, filed on May 10, 2006). |
| 3.1 | Articles of Amendment and Restatement (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 20, 2005, filed on May 20, 2005). |
| 3.2 | Bylaws (incorporated by reference to the Registrant's Registration Statement on Form S-11, Registration No. 333-116408). |
| 4.1 | Form of Common Stock Certificate (incorporated by reference to the Registrant's Registration Statement on Form S-11, Registration No. 333-116408). |
| 4.2 | Amended and Restated Master Indenture dated as of March 17, 2006, between Spirit Master Funding, LLC and Citibank, N.A., as indenture trustee (incorporated by reference to the Registrant's Current Report on Form 8-K dated March 17, 2006, filed on March 21, 2006). |
| 4.3 | Series 2005-1 Indenture Supplement dated as of July 26, 2005, between Spirit Master Funding, LLC and Citibank, N.A., as indenture trustee (incorporated by reference to the Registrant's Current Report on Form 8-K dated July 26, 2005, filed on August 1, 2005). |
| 4.4 | Series 2006-1 Indenture Supplement dated as of March 17, 2006, between Spirit Master Funding, LLC, Spirit Master Funding II, LLC and Citibank, N.A., as indenture trustee (incorporated by reference to the Registrant's Current Report on Form 8-K dated March 17, 2006, filed on March 21, 2006). |
| 10.1 | Amended and Restated Employment Agreement between the Registrant and Morton H. Fleischer dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006). |
| 10.2 | Amended and Restated Employment Agreement between the Registrant and Christopher H. Volk dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006). |
| 10.3 | Amended and Restated Employment Agreement between the Registrant and Catherine F. Long dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006). |
| 10.4 | Amended and Restated Employment Agreement between the Registrant and Michael T. Bennett dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006). |
| 10.5 | Amended and Restated Employment Agreement between the Registrant and Jeffrey M. Fleischer dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006). |
| 10.6 | Amended and Restated Employment Agreement between the Registrant and Gregg A. Seibert dated October 16, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 16, 2006, filed on October 19, 2006). |
| 10.7 | Amended and Restated Spirit Finance Corporation 2003 Stock Option and Incentive Plan (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 20, 2005, filed on May 20, 2005). |

Edgar Filing: SPIRIT FINANCE CORP - Form 10-K/A

- 10.8 Stockholder Agreement between the Registrant and Spirit Finance Holdings, LLC dated as of October 15, 2003 (incorporated by reference to the Registrant's Registration Statement on Form S-11, Registration No. 333-116408).
 - 10.9 Master Repurchase Agreement among Spirit Finance Corporation, Spirit SPE Warehouse Funding, LLC, Spirit Finance Acquisitions, LLC and Citigroup Global Markets Realty Corp. dated as of October 13, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated October 13, 2006, filed on October 19, 2006).
 - 10.10 Amended and Restated Master Repurchase Agreement between Citigroup Global Markets Realty Corp. and the Registrant dated as of December 7, 2005 (incorporated by reference to the Registrant's Current Report on Form 8-K dated December 7, 2005, filed on December 8, 2005).
 - 10.11 Extension Agreement between Spirit Finance Corporation and Citigroup Global Markets Realty Corp. dated September 11, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated September 11, 2006, filed on September 14, 2006).
 - 10.12 Master Repurchase Agreement among the Registrant and Alpine Securitization Corp., Credit Suisse, New York Branch, as buyers, and Credit Suisse, New York Branch, as agent for the buyers, dated as of November 7, 2005 (incorporated by reference to the Registrant's Current Report on Form 8-K dated November 7, 2005, filed on November 8, 2005).
 - 10.13 Second Amended and Restated Servicing Agreement Dated as of August 9, 2004 between the Registrant and Midland Loan Services, Inc. (incorporated by reference to the Registrant's Registration Statement on Form S-11, Registration No. 333-116408).
 - 10.14 Amended and Restated Property Management and Servicing Agreement dated as of March 17, 2006, among Spirit Master Funding, LLC, Spirit Finance Corporation and Midland Loan Services, Inc. (incorporated by reference to the Registrant's Current Report on Form 8-K dated March 17, 2006, filed on March 21, 2006).
 - 10.15 Master Lease between Spirit SPE Portfolio 2006-1, LLC and Spirit SPE Portfolio 2006-2, LLC, collectively as landlord, and ShopKo Stores Operating Co., LLC dated May 31, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 31, 2006, filed on June 6, 2006).
 - 10.16 Master Lease between Spirit SPE Portfolio 2006-3, LLC and Pamida Stores Operating Co., LLC dated May 31, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 31, 2006, filed on June 6, 2006).
 - 10.17 Loan Agreement among Spirit SPE Portfolio 2006-1, LLC and Spirit SPE Portfolio 2006-2, LLC, collectively as borrowers, and Barclays Capital Real Estate Inc. and Citigroup Global Markets Realty Corp. dated May 31, 2006 (incorporated by reference to the Registrant's Current Report on Form 8-K dated May 31, 2006, filed on June 6, 2006).
 - 12.1 Computation of Ratio of Earnings to Fixed Charges.*
 - 21.1 Subsidiaries of the Registrant.*
 - 23.1 Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.*
 - 23.2 Consent of Deloitte & Touche LLP.
 - 31.1 Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
-

Edgar Filing: SPIRIT FINANCE CORP - Form 10-K/A

- 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32.1 Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 32.2 Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 99.1 Unaudited quarterly financial statements of SKO Group Holding Corp. and Subsidiaries as of October 28, 2006 (Successor), January 28, 2006 (Successor) and October 29, 2005 (Predecessor) and for the 13 and 39 Weeks Ended October 28, 2006 (Successor) and October 29, 2005 (Predecessor).*
- 99.2 Audited financial statements of Specialty Retail Shops Holding Corp. and Subsidiaries (f/k/a SKO Group Holding Corp. and subsidiaries) as of February 3, 2007 and January 28, 2006, and for the 53 weeks ended February 3, 2007 (successor), the four weeks ended January 28, 2006 (successor), the 48 weeks ended December 31, 2005 (predecessor) and the 52 weeks ended January 29, 2005 (predecessor).

* Previously filed.
