

ODYSSEY MARINE EXPLORATION INC
Form 10-K
March 14, 2006
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U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-K

(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, 2005

TRANSITION REPORT UNDER SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934
Commission File Number 1-31895

ODYSSEY MARINE EXPLORATION, INC.

(Exact name of small business issuer as specified in its charter)

Nevada
(State or other jurisdiction of
incorporation or organization)

5215 W. Laurel Street, Tampa, Florida 33607

(Address of principal executive offices)

(813) 876-1776

(Registrant's telephone number including area code)

84-1018684
(I.R.S. Employer
Identification No.)

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

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

Check whether the issuer (1) filed all reports required to be filed by Section 13 or 15(d) of the 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. (Check one):

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 Act). Yes No

As of March 1, 2006, the Registrant had 46,062,678 shares of Common Stock, \$.0001 Par Value, outstanding, and the aggregate market value of the shares held by non-affiliates on that date was approximately \$123,164,746.

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As used in this Annual Report on Form 10-K, we, us, our company and Odyssey means Odyssey Marine Exploration, Inc. and our subsidiaries, unless the context indicates otherwise. Previously, Odyssey's fiscal year was a twelve-month period ending on the last day of February. As a result of a change in our fiscal year, Odyssey's 2004 transition period consisted of the ten-month period ended December 31, 2004, and in 2003 and 2005 Odyssey's fiscal year included twelve-month periods. For 2003, the twelve-month period ended February 29, 2004, and for 2005, the twelve month period ended December 31, 2005.

PART I

This Annual Report on Form 10-K contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Act of 1934. The statements regarding Odyssey Marine Exploration, Inc. and its subsidiaries contained in this report that are not historical in nature, particularly those that utilize terminology such as may, will, should, likely, expects, anticipates, believes or plans, or comparable terminology, are forward-looking statements based on current expectations and assumptions, and entail various risks and uncertainties that could cause actual results to differ materially from those expressed in such forward-looking statements.

Important factors known to us that could cause such material differences are identified in this report and in our RISK FACTORS in Item 1A. We undertake no obligation to correct or update any forward-looking statements, whether as a result of new information, future events or otherwise. You are advised, however, to consult any future disclosures we make on related subjects in future reports to the SEC.

ITEM 1. BUSINESS

Overview

Odyssey Marine Exploration, Inc. is engaged in the archaeologically sensitive exploration and recovery of deep-water shipwrecks throughout the world. We employ advanced state-of-the-art technology, including side scan sonar, remotely operated vehicles, or ROVs, and other advanced technology, that enables us to locate and recover shipwrecks at depths that were previously unreachable in an economically feasible manner. Odyssey continues to build on a foundation of shipwreck research, development of political relationships and advancement of techniques for deep ocean search and recovery. Odyssey is a Nevada corporation formed on March 5, 1986.

Our vision is to become the world leader in deep-ocean shipwreck exploration, archeological excavation, education, entertainment, and marketing of shipwreck cargoes and related merchandise.

Business Segments

The Company manages and evaluates the operating results of the business in two primary segments: shipwreck exploration and themed attractions.

Shipwreck Exploration This segment includes all operating activities for exploration and recovery of deep-ocean shipwrecks including the marketing, promotion and distribution of recovered artifacts, replicas, merchandise and books through various retail and wholesale sales channels. The departments included within this group include our marine operations, archaeology, conservation and research, marketing, sales and corporate administration.

Marine operations is tasked with the discovery and recovery of deep-ocean shipwrecks utilizing state-of-the-art technology, including side scan sonar, remotely operated vehicles (ROVs), and other advanced technology. They oversee ships, offshore technology, and ship and technical crews. The marine operations team has also developed proprietary procedures, software and equipment to improve the quality and speed of deep-ocean shipwreck operations.

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Our archaeology, conservation and research department supports marine operations by providing target information as well as conducting historical research on artifacts recovered from shipwrecks. After recovered items are returned to shore, our conservation department stabilizes the artifacts and ultimately brings them to their final state of conservation. This department also provides the curation of company-owned artifacts.

Our marketing and sales department includes support functions for the promotion and distribution of products through both retail and wholesale channels. Our direct retail sales efforts provide an alternative distribution channel for our shipwreck products. In addition to obtaining retail pricing through direct channels, the marketing team is building a client base of customers interested in shipwreck collectibles.

Our shipwreck exploration segment continues to rely significantly on the recovered shipwreck cargoes as a primary source of raw materials. The availability of raw materials is primarily dependent on the success of finding intrinsically valuable cargoes from shipwrecks. If we are not successful in the exploration and recovery of shipwrecks, we may not have sufficient raw materials to sell (see Item 1A. Risk Factors).

Our corporate administrative department oversees all aspects of business management and reporting including compliance. The department is also responsible for public and investor relations, finance and accounting, information technology, legal and human resources.

Themed Attractions Our themed attractions group is responsible for interactive attractions and exhibits that entertain and educate multi-generational audiences, and present Odyssey's unique shipwreck stories and artifacts. The exhibits showcase our proprietary technologies and the excitement of deep-ocean archeological shipwreck search and recovery. On June 8, 2005, we announced that a newly formed subsidiary, Odyssey Marine Entertainment, Inc., would open an interactive shipwreck and treasure attraction in the French Quarter of New Orleans, Louisiana. Located in the Jax Brewery, *Odyssey's Shipwreck & Treasure Adventure* appeals to the universal fascination with shipwrecks and sunken treasure. The attraction tells the stories behind some of the world's most famous shipwrecks, their treasure and historical artifacts, and allows visitors to experience the adventure and excitement of deep-ocean shipwreck exploration through multiple hands-on interactive exhibits.

We held the grand opening of our first themed attraction, *Odyssey's Shipwreck & Treasure Adventure*, on August 27, 2005, at the Jax Brewery complex in the French Quarter of New Orleans. The attraction was closed early on the grand opening day due to Hurricane Katrina. The Jax Brewery building in which the attraction resides remained closed until February 2006. The Odyssey attraction sustained minimal damage and we were able to safely remove all irreplaceable artifacts and valuables including coins and other high-value items. Odyssey carries \$4.5 million of insurance coverage for the attraction including property and business income. A preliminary insurance claim was filed in January 2006, however, we presently cannot estimate the amount of insurance proceeds we may receive. On February 15, 2006, we re-opened *Odyssey's Shipwreck & Treasure Adventure* in New Orleans. Unlike the rest of the city, the French Quarter escaped mostly intact and tourists are returning to the area. We are currently evaluating our business alternatives for our second attraction currently in development.

| (amounts in thousands) | Shipwreck Exploration | Themed Attractions | Consolidated |
|--|--------------------------|-----------------------|--------------|
| Segment Information | | | |
| <i>Twelve months ended December 31, 2005</i> | | | |
| Revenues from external customers | \$ 9,983 | \$ 54 | \$ 10,037 |
| Income (loss) before income taxes | \$ (9,499) | \$ (2,139) | \$ (11,638) |
| Segment assets | \$ 25,349 | \$ 4,841 | \$ 30,190 |

Note: The themed attractions segment began in 2005. Financial information for our shipwreck exploration segment for the years 2003 and 2004 can be found in the consolidated financial statements included in Item 15. of this annual report.

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Project Criteria

Since 1994, we have spent much of our time and resources conducting research in an attempt to identify shipwreck projects that meet the following criteria:

The shipwreck must be in deep water, thereby minimizing the possibility that it has been broken up and covered by shifting sands or the target of previous recovery efforts.

The research must indicate that the shipwreck was carrying enough intrinsically valuable cargo to pay for the high cost associated with deep-ocean archaeological recovery, and to provide an attractive return for our investors and stockholders.

The research must provide good navigational information concerning the sinking location in order to minimize the search area and provide a reasonable expectation that the wreck can be found.

The issues relating to ownership of the shipwreck and its cargo must be resolved or reasonably predictable prior to beginning any recovery in order to minimize the potential for litigation.

The United Nations Educational Scientific and Cultural Organization, or UNESCO, has estimated that there are up to 3,000,000 shipwrecks contained within the oceans of the world. Historical records suggest that many were lost with verifiable cargoes of intrinsically valuable material.

Technology

Odyssey is a pioneer in the use of advanced deep-ocean technology for shipwreck exploration. We are not, for the most part, inventors of the technologies required for deep ocean search and recovery. We use technologies that others, primarily the military, oil industry, and telecommunications industry, have developed at great expense.

We have learned how to apply these technologies specifically to locate shipwrecks and to conduct precise archaeological recoveries at depths of 100 to 2,000 meters and beyond. Although we tend to use off the shelf technology because it is cost effective, we do have several proprietary software and equipment applications that maximize the effectiveness of our search and recovery systems. Software that precisely documents the archaeological excavation and advanced sediment removal and filtration systems are two examples of our technological innovations.

Equipment

Most of our projects are conducted in two phases. The search phase is usually conducted from a smaller vessel outfitted with survey equipment and an inspection ROV. The recovery phase requires a vessel equipped with a work-class ROV, sophisticated positioning systems, and certain Odyssey technology and proprietary software, which allows us to record the recovery in an archaeologically sound manner.

In 2003, we purchased the 113-foot search and survey vessel RV *Odyssey* and equipped it with sophisticated search and identification equipment. That ship and search team successfully concluded the SS *Republic* search operation with discovery of the shipwreck in August 2003. Prior to 2005, the RV *Odyssey* was our primary search vessel for coastal projects. This vessel operates with a minimum ship's crew of five and a technical crew of two to four.

During 2003, we purchased a 251-foot dynamically-positioned ship named *Odyssey Explorer* and a 2,500 meter 200-HP work-class ROV that we nicknamed *ZEUS*. Coupled with a sophisticated suite of cameras, lighting and positioning equipment, as well as advanced computer monitoring and proprietary data management systems, *ZEUS* provides us the ability to perform extensive archaeological excavation work to depths of 2,500 meters.

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The Odyssey Explorer and Zeus were mobilized in Baltimore and deployed to the SS *Republic* site in October 2003, where they conducted the archaeological excavation of the SS *Republic* shipwreck site and recovered over 51,000 gold and silver coins and approximately 14,000 other artifacts prior to being relocated to the western Mediterranean in February 2005.

We have also purchased new manipulators and integrated them with Zeus to provide the capability for recording the X, Y and Z position of each artifact as it is recovered. This resulted in a more efficient and accurate site excavation. We have also integrated a new high-definition, or HD, camera system that has added HD filmmaking to our intellectual property and media capabilities.

Substantial additions to our computer control, navigation and guidance systems have also been integrated that significantly improve our capability for conducting pre-disturbance surveys and creating photomosaics. We have also added a new flotation pack that significantly increases the payload capabilities of *ZEUS*, enabling us to operate multiple tooling packages simultaneously.

During early 2005, we acquired a new side-scan sonar system which we believe will allow us to map the seafloor twice as fast as previous searches. Also, we entered into a charter agreement for a search vessel which we used during 2005 search operations and expect to use for continued search in our Atlas project area.

Active Operational Projects

In the past we have from time to time disclosed information concerning each of our existing and planned search operations. In order to protect the identities of the targets of our planned search operations, we have decided to defer disclosing specific information relating to our search targets until we have located the targeted shipwreck or shipwrecks and determined a course of action to protect our property rights.

SS Republic Project

The SS *Republic* was a side-wheel steamer lost in deep water in 1865 after battling a hurricane for several days. The ship, en-route from New York to New Orleans, was reportedly carrying \$400,000 in specie (1865 face value) when it sank. The ship's history includes service in both the Confederate and Union navies during the American Civil War.

We discovered the shipwreck in the summer of 2003 nearly 1,700 feet below the surface of the Atlantic Ocean approximately 100 miles off the Georgia coast. In March 2004, Odyssey was awarded title and ownership to the SS *Republic* shipwreck and cargo, including the hull, artifacts and the specie on board when she sank.

Odyssey completed the pre-disturbance survey work on the SS *Republic* shipwreck site in October 2003. Over 4,600 digital still photographs were taken over the course of 23 dives. The detailed photomosaic produced a high-resolution image of the shipwreck site and debris field. This served as a map to help the Odyssey team determine excavation priorities and can be used in later study and documentation of the SS *Republic*. Shortly after commencement of archaeological excavation of the site, a substantial number of gold and silver coins were revealed using Odyssey's Sediment Removal and Filtration, or SeRF, system.

In late 2003, when it appeared that all the coins might have been located in one small area, we anticipated recovering them all within 60 days. We recovered significantly more coins than were expected because many of them were smaller denomination silver half dollar coins. The coin recovery was efficient, allowing for recovery of up to 2,000 coins or more per day, even though they were picked up one at a time. The necessity of excavating the entire shipwreck site in an attempt to locate the balance of the coins, which our research suggests should still be there, required a significantly longer timeframe for the site excavation.

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The archaeological excavation and recovery was completed in February 2005. During the SS *Republic* excavation, more than 51,000 gold and silver coins and approximately 14,000 artifacts were recovered. Our ROV *ZEUS* completed 262 dives to the shipwreck site and debris field, logging almost 3,500 hours of bottom time. The coins recovered to date represent approximately 25 percent of the \$400,000 in specie (1865 face value) that historical research indicates was on board the *Republic* when she sank. We have been declared the owners of the wreck and there is a federal injunction in place preventing others from disturbing the site.

Coins recovered from the SS *Republic* have been divided into two categories. The first category, our numismatic collection, consists of coins that are indistinguishable from coins that have never been underwater. These have been priced to correlate with their numismatic value. The second category includes ungraded shipwreck coins (shipwreck effect) that have been conserved and encased in a certified tamper-resistant holder by Numismatic Conservation Services, or NCS, and Numismatic Guaranty Corporation, or NGC.

There are no Revenue Participation Certificates or revenue sharing arrangements related to the SS *Republic* recovery.

Western Mediterranean Project

In April 2005, the Odyssey Explorer performed survey and archaeological work in the western Mediterranean. We located 23 shipwreck sites, produced 14 pre-disturbance photomosaics, and completed preliminary excavations on seven sites. The archaeological work resulted in the recovery of approximately 400 artifacts plus a substantial number of trading beads currently undergoing conservation and study by Odyssey's research department.

Atlas Search Project

On May 4, 2005, we announced that search operations had begun on our 2005 shipwreck search program, code-named the Atlas project, with our chartered side-scan survey vessel. The Atlas project is the result of an extensive target development program and consists of a minimum of five target shipwrecks. It is believed to be the most extensive shipwreck search operation ever launched. Utilizing our new, advanced side-scan system allowed us to map the seafloor twice as fast as previous searches we have conducted.

The Odyssey Explorer joined the Company's chartered side-scan survey vessel in the Atlas search area in June 2005 to inspect promising side-scan targets utilizing the Remotely Operated Vehicle (ROV) *ZEUS*. Using one ship for survey and a second ship with an ROV for inspections resulted in a more efficient search process.

The 2005 Atlas search operations resulted in the mapping of over 4,600 square miles of the search area. Results include the discovery of 2,421 anomalies on the sea floor using our advanced high-resolution side-scan sonar system. After post-processing data, over 1,100 of those anomalies were selected for possible further examination. Of those, 577 sites have been inspected and at least 180 are believed to be manmade or shipwreck sites. Of the shipwrecks inspected by *ZEUS*, several exhibit key characteristics of some of the target shipwrecks being sought as part of the Atlas search project, but to-date we have not positively identified any of our primary targets. We are currently analyzing high-definition video, digital photos and collected artifacts to determine the potential identity, cultural significance, and economic value of the inspected sites.

On November 7, 2005, we announced that operations on the Atlas search project would be suspended through the winter months due to inclement weather while the *Odyssey Explorer* was deployed to the western Mediterranean to begin operations on the *Sussex* project. We intend to complete the search of the Atlas area in 2006 when the weather window re-opens. For reasons of security and strategic confidentiality, we do not disclose the location of the Atlas project area.

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HMS Sussex Project

The *Sussex* project is an expedition to locate and recover artifacts and cargo of a large colonial-period British warship, HMS *Sussex*, which was lost in a severe storm in 1694. Based on documentary research conducted by contract researchers and our in-house research team in libraries and historical archives in Great Britain, France and other countries, we believe that there is a high probability the ship was carrying a cargo of coins with a substantial numismatic value. Our analysis of the data was accumulated from a review of ship's logs, court martial records, state papers, treasury books and various other letters and reports. We conducted offshore search operations on this project in 1998, 1999, 2000 and 2001. Based on the results of these search operations, we believe there is a high probability we have located the remains of HMS *Sussex*.

On September 27, 2002, we entered into an agreement with the Government of the United Kingdom of Great Britain and Northern Ireland, which we refer to as Her Majesty's Government (HMG), which allows us to conduct an archaeologically sensitive exploration of the shipwreck believed to be HMS *Sussex* and to recover artifacts from the shipwreck site. The agreement provided for us to submit a Project Plan to HMG concerning the equipment, personnel and methodologies we intend to use in the exploration of the shipwreck, and the conservation and documentation of any artifacts and cargo that may be recovered. This Plan was submitted and was declared fit for purpose during 2004 with the exception of the staffing plan, which could not be completed until the actual start date was agreed upon and the availability of personnel could be determined. The staffing plan was approved during 2005 and we began exploration of the site during December 2005.

In December 2005, our 251' deep-ocean archaeological platform, the *Odyssey Explorer*, returned to the western Mediterranean from the Atlas search area. The ship and crew conducted the initial phases of Odyssey's *Sussex* project plan previously approved by HMG.

During January 2006, we announced we had completed archaeological and environmental survey operations believed to fulfill the requirements of Phase 1A, and a substantial portion of Phase 1B, which included gathering archaeological evidence to identify the site believed to be HMS *Sussex*. A report was submitted to HMG, which detailed the work completed by Odyssey to satisfy Phase 1A requirements of the *Sussex* project plan. The report was reviewed by the Ministry of Defence (MoD) and the *Sussex* Archaeological Executive committee. HMG has notified Odyssey that the work detailed in the report met or exceeded all requirements of Phase 1A of the *Sussex* Project plan and Odyssey is authorized to proceed to complete Phase 1B of the project. A public version of the project plan is available at www.shipwreck.net.

Odyssey's archaeological team has also completed a report detailing results of Phase 1B accomplished during the month of January, which was submitted to HMG in early March 2006.

A subsequent nota verbal was communicated to us through the same diplomatic channels on January 26, 2006, requesting that we suspend operations until the Junta of Andalucia appoints an expert to observe operations on the site believed to be the *Sussex*. It was further declared that the Junta did not appoint an expert because the Junta believed that Odyssey was working without appropriate authorization and that the Project Plan presented by us did not comply with the applicable Andalucian legislation as requested by the Spanish Ministry of Foreign Affairs.

When operating in territorial waters of any country, we have always done so with the appropriate authorizations. In the case of the *Sussex* project, because of regional sensitivities over the issue of the territorial status of the waters, and in accordance with diplomatic requests, our agreements of cooperation were made without prejudice to any jurisdictional claims relative to the territorial status of waters. Thus, the assertion of any claim to those waters or the assertion of any rights based on such claims, is not consistent with the diplomatic discussions relative to the project.

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We did, in fact, submit a Project Plan to the Spanish Government through diplomatic channels that was believed to comply with all applicable requirements. In good faith, we began operations on the *Sussex* after submission of the Project Plan and subsequent assurance by the Spanish Government through diplomatic channels that failure of the Junta to appoint an expert to join the operation would not be considered a failure of Odyssey to comply with the cooperative agreement pursuant to the nota verbal. In addition, assurances were provided to us through diplomatic channels during January 2006 that there would be no interference with operations relating to the *Sussex*.

The January 2006 nota verbal from Spain appears to be a contradiction of that position, and we trust that the inconsistency has resulted from ambiguity and possible miscommunications relative to jurisdictional issues.

During meetings held in Spain in February 2006 with the Spanish Government, the Junta de Andalucia and the Government of the United Kingdom, we agreed to resubmit an archaeological project plan pursuant to specific requirements requested by Spanish authorities to move the project forward. This plan, which would include collaboration with Spanish archaeologists, is currently being prepared and we expect to deliver it to the appropriate authorities in March 2006.

We understand the geographic and political sensitivities surrounding this project and are willing to go to great efforts to show our willingness to work in a cooperative fashion with all governments involved. Both Odyssey and HMG have been assured by the Andalucian and Spanish central government authorities that they will expeditiously examine the archaeological project when it is re-submitted in order to allow Odyssey to proceed with the operation in a collaborative manner.

As a Sovereign warship, the HMS *Sussex* remains the property of the Government of the United Kingdom which has not been contested by the Spanish government or other entities to our knowledge. As part of the partnering agreement signed between Odyssey and HMG in 2002, the following sharing arrangements have been agreed upon with respect to the aggregate amount of the appraised values and/or selling prices of the artifacts, net of agreed selling expenses:

| Range | British Government | Odyssey |
|-------------------------------|--------------------|---------|
| \$0 - \$45 million | 20% | 80% |
| \$45 million to \$500 million | 50% | 50% |
| Above \$500 million | 60% | 40% |

In addition to the percentages specified above, we will also pay the British Government 10% of any net income we derive from intellectual property rights associated with the project.

Also, we received the exclusive worldwide right to use the name *HMS Sussex* in connection with sales and marketing of merchandise (exclusive of artifacts) related to the shipwreck, and the British Government will receive 3 percent of the gross sales of such merchandise.

Our agreement with the British Government is for a period of 20 years, and can only be terminated if:

the shipwreck is not HMS *Sussex*;

we are in serious breach of our obligations under our agreement with the British Government.

The shipwreck that we believe is the HMS *Sussex* is located in the search area for a project that we have previously referred to in the past as our Cambridge project. We sold through private placements of Revenue Participation Certificates, or RPCs, the right to share in our future revenues derived from the Cambridge Project. As of April 30, 1999, when the offering was closed, we had sold \$825,000 of the RPCs. As a group, the holders are entitled to 100 percent of the first \$825,000 of gross revenue, 24.75 percent of gross revenue from \$4 million

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to \$35 million, and 12.375 percent of gross revenue above \$35 million generated by the Cambridge Project. Additionally, on May 26, 1998, we signed an agreement with a subcontractor that entitled it to receive 5 percent of the post-finance cost proceeds from any shipwrecks in a certain search area of the Mediterranean Sea. The shipwreck we believe is the HMS *Sussex* is located within the specified search area, and we will be responsible to share future revenues, if any, from this shipwreck with the subcontractor. The subcontractor's rights were foreclosed upon during 2002 and the purchaser was a limited liability company which was partially owned by two of our officers and directors. In order to remove any potential conflicts of interest, these two persons sold their interests in the limited liability company during 2005.

Other Projects

While working towards a resolution of issues relating to the Sussex project, the Odyssey Explorer has been deployed to other shipwreck sites in the Mediterranean as part of our ongoing operational program to explore numerous other valuable shipwrecks throughout the world. Preliminary work has been conducted, including completion of photomosaics and surveys on two shipwreck sites. Our research indicates that one of the shipwrecks (code-named Bristol) contains a cargo of gold specie. We are currently analyzing the survey data from this preliminary work and preparing a recovery plan. It is anticipated that recovery on the Bristol project will be scheduled later in 2006 after the completion of other scheduled operations, including the *Sussex* and *Atlas* projects.

The Company's other research vessel, the US flagged RV *Odyssey*, remains in Gibraltar to continue support of operations in that area.

Sales and Marketing

The recovery of coins and artifacts from the SS Republic required us to create a marketing plan specifically to sell these coins and artifacts. Initially, silver coins were wholesaled to coin dealers who sold them through telemarketing and television outlets. During May 2004, we began to sell gold coins through the same dealer network. These dealers provided an immediate outlet for our coins and enabled us to generate revenue during 2004. While the coins sold well, it became apparent we were missing out on the opportunity to offer them additional products, such as books, replicas and artifacts, whether through Odyssey directly or through strategic partnerships.

During the ten months ended December 31, 2004, our primary customers for the sale of gold and silver coins were 13 independent coin dealers. Of these customers, four were responsible for sales volumes constituting 64 percent of total sales. These four coin dealers were Spectrum Numismatic, Monaco Financial, Silver Towne LP, and Kevin Lipton Rare Coins. During the twelve months ended December 31, 2005, we continued to sell gold and silver coins through our independent coin dealers. However, the number of independent dealers dropped from thirteen in 2004 to six in 2005 of which two dealers represented 56 percent of total sales. These two dealers were Monaco Financial and Spectrum Numismatic. Our experience has shown that many of these independent dealers are primarily interested in the higher quality numismatic coin market. As our availability of these higher quality coins diminishes, we expect the number of independent dealers interested in our coins to be reduced.

There are no contractual arrangements with any of our customers for future sales and we cannot forecast the demand, if any, these customers will have for our coins, artifacts or merchandise. No commissions are paid to dealers; however, our marketing representative is paid a commission on sales to coin dealers.

In December 2004, we opened a direct sales department to test distribution of our products through retail sales channels where gross margins would typically be higher. Sales in 2005 were less than projected. However, we are continuing to build a database of customers which we anticipate will buy additional Odyssey products from various shipwrecks. We believe sales volumes will increase as we continue to build our client base for repeat sales, expand our book sales, access leads generated by our attraction and other activities and increase advertising expenditures in direct response print, television and radio. Based on 2005 results, we have also been investigating additional resources and strategic partnerships to service direct response inquiries and orders.

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We continue to develop additional indirect sales channels to supplement our coin dealer network for non-graded gold, shipwreck-effect silver coins and for other merchandise. While significant revenue has not yet been realized from these new indirect sales channels, we are building additional distribution channels for Odyssey shipwreck products, which should begin producing revenue in 2006.

The availability of raw materials is primarily dependent on the success of finding intrinsically valuable cargoes from shipwrecks (see Item 1A. Risk Factors). We recovered over 51,000 coins (approximately 4,000 \$10 and \$20 gold and 47,000 silver halves) and approximately 14,000 non-coin artifacts from the *SS Republic*. As of December 31, 2005, we have approximately 1,200 \$10 and \$20 gold coins and 39,000 silver halves remaining.

Archaeology and Science

Many of the shipwrecks we intend to pursue may have important historical and cultural characteristics. Every such project undertaken will be subject to stringent archaeological standards, thus adding to the body of knowledge of the people, the history and culture of the vessel's time. We believe adherence to these principles will increase the economic value of the artifacts and intellectual property rights of each project as well as enhance the level of cooperation we receive from governments, archaeological and other interests.

In addition, many deep-ocean recovery expeditions will lend themselves to interdisciplinary scientific studies including oceanography, marine biology, environmental research, bioengineering and other fields.

Legal and Political Issues

Odyssey works with a number of leading international maritime lawyers and policy experts to constantly monitor international legal initiatives that might affect our projects. As a matter of policy, we begin with the assumption that some entity, whether a government, private concern or insurance company, may have some rights to shipwrecks that are slated for search and recovery operations. Based on this assumption, rigorous legal tests are applied in order to ascertain which entities might be able to create roadblocks to a successful project. In some cases, such as that of HMS *Sussex*, it was determined that the most prudent mechanism for moving forward was to negotiate a contract with the owner of a vessel in order to manage litigation risk.

In other cases, such as the *SS Republic* project, we entered into an agreement whereby we purchased the insurance company's interest in the shipwreck and cargo, opening the way for an immediate grant of title to Odyssey by the federal court that had jurisdiction.

To the extent that we engage in shipwreck search and recovery activities in the territorial, contiguous or exclusive economic zones of countries, Odyssey intends to comply with verifiable applicable regulations and treaties. Prior to beginning operations for any project, the legal and political aspects are carefully researched to ascertain what effect these issues may have on the potential success of the operation.

These factors are taken into account in determining whether to proceed with a project as planned. Other factors, such as the UNESCO Convention for the Protection of Underwater Cultural Heritage are also taken into consideration. New political initiatives such as this Convention could restrict access to historical shipwrecks throughout the world to the extent they might require compliance with cultural resource management guidelines and regulations. Some of these will require adherence to strict archaeological practices and we intend to follow reasonable guidelines in all projects to which they are applicable. Greg Stemm, Odyssey's co-founder, was a member of the United States delegation that negotiated the UNESCO Convention, and as such provides us with a thorough understanding of the underlying principles and ramifications of the Convention, and advance notice of other cultural resource management issues that might affect our projects.

The UNESCO Convention is not expected to impact operations in international waters, and the United States, the United Kingdom and other major maritime governments have already stated explicitly that they do not

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intend to sign the Convention. Nevertheless, some countries in whose waters we may work may sign the Convention. While the UNESCO Convention states that artifacts may not be sold, it also states that this prohibition may not prevent the provision of archaeological services, and we intend to provide such services in contracts with governments. We believe the primary value of the cargoes we seek are trade goods (such as coins, bullion and gems), which are not artifacts of historical, archaeological or cultural significance and such should not be subject to the rule prohibiting sale.

We believe there will be increased interest in the protection of underwater cultural heritage throughout the oceans of the world. We are uniquely qualified to provide governments and international agencies with resources to help manage these resources while providing the public with educational, scientific, historical and entertainment initiatives that originate from our shipwreck exploration activities.

Competition

There are a number of companies who publicly identify themselves as engaged in aspects of the shipwreck business, but they do not compete directly with us as an established deep-ocean archeological shipwreck exploration company. These entities include, but are not limited to, Subsea Resources Ltd. (a UK Company), Sovereign Exploration Associates International Inc. and Admiralty Holding Company. Management currently believes only Subsea has the capital and managerial resources to compete directly with Odyssey in deep-ocean projects. It is possible that some currently unknown group may locate and recover a shipwreck on our project roster; however, due to the breadth of our historical and archival research, the already completed sonar and deep-water ROV inspection efforts, and the number of shipwreck projects in various stages of development, we do not believe that competition from one or more of these entities, known or unknown, would materially impact our operating plan or alter our current business strategy.

Cost of Environmental Compliance

With the exception of vessel operations and conservation activities, our general business operations do not expose us to environmental risks or hazards. We carry insurance that provides a layer of protection in the event of an environmental exposure resulting from the operation of our vessels. The cost of such coverage is minimal on an annual basis. We believe the risk associated with our conservation activities is minimal.

Employees

As of December 31, 2005, we have 74 full-time employees working from our corporate offices in Tampa, Florida and *Odyssey's Shipwreck & Treasure Adventure* in New Orleans, Louisiana. Additionally, we employ approximately 20 crewmen who operate the vessels RV *Odyssey* and *Odyssey Explorer*. We also hire technical personnel as needed for marine survey and recovery on the RV *Odyssey*, the *Odyssey Explorer* and our chartered search vessel. Depending upon the particular operations they are conducting, the RV *Odyssey* and our chartered search vessel will utilize two to four technicians, and the *Odyssey Explorer* will use from 14 to 20. In addition, we hire subcontractors and consultants from time to time to perform specific services.

Internet Access

Odyssey's Forms 10-K, 10-Q, 8-K and all amendments to those reports are available without charge through Odyssey's web site on the Internet as soon as reasonably practicable after they are electronically filed with, or furnished to, the Securities and Exchange Commission. They may be accessed as follows: www.shipwreck.net (SEC Filings Link).

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ITEM 1A. RISK FACTORS

One should carefully consider the following factors, in addition to the other information in this Annual Report on Form 10-K, in evaluating our company and our business. Our business, operations and financial condition are subject to various risks. Some of these risks are described below, and should be carefully considered in evaluating Odyssey or any investment decision relating to our securities. This section does not describe all risks applicable to Odyssey, its industry or its business. It is intended only as a summary of the principal risks.

Our business involves a high degree of risk.

An investment in Odyssey is extremely speculative and of exceptionally high risk. Although we have access to a substantial amount of research and data which has been compiled regarding various projects, the quality and reliability of such research and data is uncertain. Even if we are able to plan and obtain permits for our various projects, there is a possibility that the shipwrecks may have already been salvaged or may not be found, or may not have had anything valuable on board at the time of the sinking. Even if objects of value are located and recovered, there is the possibility that the cost of recovery exceeds the value of the objects recovered or that others, including both private parties and governmental entities, will assert conflicting claims and challenge our rights to the recovered objects. Finally, even if we are successful in locating and retrieving objects from a shipwreck and establishing good title to them, there are no assurances as to the value that such objects will bring at their sale, as the market for such objects is uncertain.

The research and data we use may not be reliable.

The success of a shipwreck project is dependent to a substantial degree upon the research and data we have obtained. By its very nature, research and data regarding shipwrecks is imprecise, incomplete and unreliable. It is often composed of or affected by numerous assumptions, rumors, legends, historical and scientific inaccuracies and inaccurate interpretations which have become a part of such research and data over time.

Availability of raw materials may be limited.

The availability of raw materials is primarily dependent on the success of finding intrinsically valuable cargoes from shipwrecks. If we are not successful in the exploration and recovery of shipwrecks, we would not have sufficient raw materials to sell.

Operations may be affected by natural hazards.

Underwater recovery operations are inherently difficult and dangerous and may be delayed or suspended by weather, sea conditions or other natural hazards. Further, such operations may be undertaken more safely during certain months of the year than others. We cannot guarantee that we, or the entities we are affiliated with, will be able to conduct search and recovery operations only during favorable periods. In addition, even though sea conditions in a particular search location may be somewhat predictable, the possibility exists that unexpected conditions may occur and adversely affect our operations. It is also possible that natural hazards may prevent or significantly delay search and recovery operations or the ability to operate our themed attractions.

We may be unable to establish our rights to any objects we recover.

Persons and entities other than Odyssey and entities we are affiliated with (both private and governmental) may claim title to the shipwrecks. Even if we are successful in locating and recovering shipwrecks, we cannot assure we will be able to establish our right to property recovered against governmental entities, prior owners, or other attempted salvors claiming an interest therein. In such an event, we could spend a great deal of money and receive no revenue for our work.

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The market for any objects we recover is uncertain.

Even if valuable items can be located and recovered, it is difficult to predict the price that might be realized for such items. The value of recovered items will fluctuate with the precious metals market, which has been highly volatile in past years. In addition, the entrance on the market of a large supply of similar items from shipwrecks located and recovered by others could depress the market.

We could experience delays in the disposition or sale of recovered objects.

The methods and channels that may be used in the disposition or sale of recovered items are uncertain at present and may include several alternatives. Ready access to buyers for any artifacts or other valuable items recovered cannot be assured. Delays in the disposition of such items could adversely affect our cash flow.

Legal, political or civil issues could interfere with our recovery operations.

Legal, political or civil initiatives of countries and/or major maritime governments could restrict access to shipwrecks or interfere with our search and recovery operations.

Objects we recover could be stolen from us.

If we locate a shipwreck and assert a valid claim to items of value, there is a risk of theft of such items at sea, both before and after their recovery, by pirates or poachers and while in transit to a safe destination. Such thefts may not be adequately covered by insurance.

We face competition from others.

There are a number of competing entities engaged in various aspects of the shipwreck business, and in the future other competitors may emerge. One or more of these competing entities may locate and recover a shipwreck that we intend to locate and recover. In addition, these competing entities may be better capitalized and may have greater resources to devote to their pursuit of the shipwreck.

We may be unable to get permission to conduct salvage operations.

It is possible we will not be successful in obtaining title, or permission to excavate certain wrecks. In addition, permits that are sought for the projects may never be issued, and if issued, may not be legal or honored by the entities that issued them.

Profitability of our themed attractions segment may be adversely affected by a number of factors.

As we continue to develop and open themed attractions, there are several factors which could negatively affect our profitability including site selection, attendance projections, and economic activity. While we perform extensive market research on potential site locations, our attendance projections for those locations may not materialize in sufficient numbers to assure profitability. Also, a decline in national and/or regional economic conditions could reduce attendance and spending at our themed attractions. In addition, our themed attractions will compete against other forms of entertainment available in the area, and attendance may be subject to seasonal variations.

Changes in our business strategy or restructuring of our businesses may increase our costs or otherwise affect the profitability of our businesses.

As changes in our business environment occur we may need to adjust our business strategies to meet these changes or we may otherwise find it necessary to restructure our operations or particular businesses or assets.

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When these changes or events occur, we may incur costs to change our business strategy and may need to write down the value of assets. In any of these events, our costs may increase, and we may have significant charges associated with the write-down of assets.

We depend on key employees and face competition in hiring and retaining qualified employees.

Our employees are vital to our success, and our key management and other employees are difficult to replace. We currently do not have employment contracts with our key employees. Further, we do not maintain key person life insurance on any of our employees. We may not be able to retain highly qualified employees in the future which could adversely affect our business.

Our articles of incorporation authorize generic preferred stock.

Our articles of incorporation authorize the issuance of up to 10,000,000 shares of preferred stock. Our board of directors has the right to establish the terms, preference, rights and restrictions of the preferred stock. Such preferred stock could be issued with terms, rights, preferences and restrictions that could discourage other persons from attempting to acquire control and thereby insulate incumbent management. In certain circumstances, the existence of corporate devices that would inhibit or discourage takeover attempts could have a negative effect on the market value of our common stock.

ITEM 1B. UNRESOLVED STAFF COMMENTS

The Company has received no written comments regarding its periodic or current reports from the staff of the Securities and Exchange Commission that were issued 180 days or more preceding the end of its 2005 fiscal year that remain unresolved.

ITEM 2. PROPERTIES

We maintain our offices at 5215 W. Laurel Street, Tampa, Florida 33607. We purchased the 23,500 square foot two story office building in 2004 for \$3,058,770 to serve as our corporate and operations headquarters. We currently lease approximately 25 percent of the space to a tenant. In April 2005, we entered into a three-year lease for a one story 8,100 square foot commercial building in proximity to our corporate headquarters which is utilized by our conservation department. In June 2005, we entered into a Lease Agreement with Jackson Brewery Millhouse, LLC, New Orleans, Louisiana, for the space where the Company opened its first interactive shipwreck and treasure attraction. The space is located in the Jax Brewery in the French Quarter of New Orleans. The lease covers approximately 8,651 square feet, has a five year term and a monthly rent of \$17,571. Among other provisions the lease grants Odyssey the right to terminate the lease after 18 months for any reason without penalty.

ITEM 3. LEGAL PROCEEDINGS

On or about December 14, 2004 a complaint was filed against seven defendants including the Company in the Court of Common Pleas in the Ninth Judicial Circuit, County of Charleston, in the State of South Carolina. The complaint was filed by Republic & Eagle Associates, Inc. and Sea Miners, Inc. against John Morris, Greg Stemm, John Lawrence, John Balch, Daniel Bagley, Seahawk Deep Sea Technologies, Inc. (Seahawk) and the Company. The plaintiff s allegations include breach of fiduciary duty, civil conspiracy and breach of contract based primarily upon an alleged contract(s) between the plaintiffs and Seahawk dated May 16, 1995 dealing with the search for the S.S. Republic. The plaintiffs allege that their research which was provided to Seahawk led to the discovery of the S.S. Republic and they seek an unspecified amount of damages and public recognition of their contribution. On February 18, 2005, John Morris, Greg Stemm, Daniel Bagley, and the Company filed their Notice of Motion and Motion to Dismiss Defendants John Morris, Greg Stemm, Daniel Bagley and Odyssey Marine Exploration, Inc. (the Motion). In the Motion, the defendants allege that the complaint should be

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dismissed because, among other things, the South Carolina court does not have jurisdiction over them, the action was filed in an improper venue, plaintiffs lack the capacity to maintain the action, and the action should be barred based on the Doctrine of Forum Non Conveniens. The parties continue to engage in discovery. While the South Carolina court has not yet heard nor ruled on the Motion, we expect that a hearing will be held in April 2006 concerning our motion to dismiss the case based on a lack of jurisdiction.

Management believes the lawsuit is without merit and intends to vigorously defend the action.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITIES HOLDERS

None.

EXECUTIVE OFFICERS OF THE REGISTRANT

The following sets forth biographical information as to the business experience of each Officer of the Company for at least the last five years.

John C. Morris (age 56) served as President and CEO of the Company from May 1994 until November 2005 when he resigned as President and CEO due to the effects of cancer treatment. He has served as Chairman of the Board of Directors of the Company since May 1994, and as Co-Chairman since February 24, 2006. Mr. Morris' medical condition continues to improve and he maintains his position as Co-Chairman. In these capacities, Mr. Morris has been responsible for strategic planning, financing, and general execution of our business plan. He has overseen the first deep water archaeological recovery of a Spanish shipwreck from the 1622 fleet using a remotely operated vehicle and has been instrumental in the planning and execution of the company's current search and recovery operations. Mr. Morris continues to work with the investment community and to provide oversight to the Company.

Gregory P. Stemm (age 48) has served as Vice President, Research and Operations and as a member of the Board of Directors since May 1994. He has served as Co-Chairman since February 24, 2006. He is responsible for research and operations on all shipwreck projects. Greg has extensive experience in managing shipwreck exploration operations since entering the field in 1986, including deep ocean search and robotic archaeological excavation on a number of projects. A panelist at the 1998 Law of the Sea Institute, Stemm was appointed for four consecutive terms to the United States delegation to the United Nations Educational, Scientific and Cultural Organization (UNESCO) expert meeting to negotiate the Draft Convention for the Protection of Underwater Cultural Heritage. He was selected as a Fellow of the Explorers Club, and was the founder and past-president of the Professional Shipwreck Explorers Association (ProSEA). Stemm served as a founding director (1986-93) and international president (1992-93) of YEO (Young Entrepreneurs Organization) and was also a founding member of the World Entrepreneurs Organization, where he served on the International Board of Directors (1997-98).

Michael V. Barton (age 46) was appointed as CEO and President on November 9, 2005. He previously served as Odyssey's Chief Financial Officer from May 2002 until May 2004. Since that time, he served as Managing Director of Intrust Advisors, LLC, and President of the Tampa Bay Estate Planning Council. From 1995 to May 2002 he was Vice President of the Wealth Management Group for First Union National Bank where he assisted high net worth clients with estate and business succession planning, investment strategies, and tax planning. Prior to that, Mr. Barton worked in the mutual fund industry as a Senior Compliance Officer and in public accounting. Mr. Barton received a B.S. in Business Administration and Master of Accountancy degrees from the University of South Florida.

George Becker Jr. (age 71), joined Odyssey as Chief Operating Officer during April 2002, and became Executive-V.P. in June 2004. He also serves as President of Odyssey Marine Entertainment, Inc. a wholly owned subsidiary which was founded in February 2005. From 1992 until April 2002, Mr. Becker was the President of George J. Becker Jr. & Associates, consultants to companies in the leisure, themed attraction and hospitality

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industries. Mr. Becker is a senior executive with thirty years experience in major leisure industry profit center development, management, marketing, staffing and operations. For twenty-two years, Mr. Becker was involved in the development and management of the Sea World marine life parks in the United States and served at various times in several positions including as the former Executive Vice President of Sea World Inc., Chairman and Chief Executive Officer, Sea World of Texas, President and Chief Executive Officer of Sea World of California and President and Chief Executive Officer of Sea World of Florida. In 1997 Mr. Becker became President of Entercitement LLC. He led the creative concept and design of a proposed theme park in Indianapolis, Indiana. Park development was stopped in 1998 due to a lack of financing and Mr. Becker resigned in 1999 from Entercitement. Mr. Becker has been recognized as a tourism leader for his work in several regions of the country. A skilled new business developer and team builder, Mr. Becker is known for creating viable management teams, achieving excellent productivity and harmony between employees of widely divergent skills and personalities. Becker has been active in a number of national, regional and state visitor organizations. He served as Executive Director of the Florida Tourism Commission. In 1983, he was President of the Florida Chamber of Commerce and in 1984 he chaired Governor Bob Graham's Commission on Public Facility Financing.

Michael J. Holmes (age 56), joined Odyssey as Controller in March 2004, and became Chief Financial Officer in May 2004. Mr. Holmes has served in a variety of subsidiary financial management positions with Anheuser-Busch Companies, Inc. to include Vice President Finance, Sea World Orlando; Vice President Finance, Busch Gardens Tampa Bay; Corporate Controller, Metal Container Corp in St Louis; VP Finance & CFO Exploration Cruise Lines in Seattle, Washington; and Director Internal Audit Services for Anheuser-Busch in St Louis. Mike received his undergraduate degree from the University of Missouri and his MBA from Crummer Graduate School of Business at Rollins College in Orlando. Mike has also served as an adjunct professor of Accounting at the Rosen School of Hospitality Management, University of Central Florida in Orlando. Mike is very active in community leadership positions to include past board membership on the Orlando Regional Chamber of Commerce, Crummer Graduate School of Business Alumni Board, the ETC of Central Florida (International Drive Transportation Group) and Junior Achievement of Tampa Bay. He is a graduate of Leadership Tampa.

David A. Morris (age 55) has served as Secretary and Treasurer of the Company since August 1997. Mr. Morris graduated with a Bachelor of Science degree in Mechanical Engineering from Michigan State University in 1974. In his capacity with the Company Mr. Morris coordinates administrative business activities and participates in overall corporate planning.

Davis D. Howe (age 47) joined Odyssey Marine Exploration as Chief Operating Officer in July 2004. Mr. Howe has assisted several public companies transition from the developmental and early revenue generating stages to successful operational companies maximizing revenues and earnings. He has held senior management positions at several major public companies including Nextel Communications, Aerial Communications (merged with VoiceStream and Omnipoint) and Intermedia. Mr. Howe has been instrumental in developing strong organizational structure for companies requiring cross-departmental improvement.

Jay A. Nudi (age 42), has served as Principal Accounting Officer of the Company since January 3, 2006. Mr. Nudi has been with the Company since May 2005 as Corporate Controller and has over 15 years of accounting and management experience. Mr. Nudi is a certified public accountant. Prior to joining the Company, Mr. Nudi served as Controller for The Axis Group in Atlanta where he began in 2003. The Axis Group provides logistic solutions and services to the automotive industry. From 2001 to 2003, he served as a consultant to various companies on specific value added tasks. From 2000 to 2001, Mr. Nudi was Director of Financial Reporting for OneSource, Inc., a leading provider of facilities management. From 1997 to 2000, he served as Corporate Controller for Acsys, Inc., a national recruiting firm that was publicly-held until it was acquired in 2000. Mr. Nudi received a BS Degree in Accounting from Penn State University in 1985.

Table of Contents**PART II****ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

On November 19, 2003, our stock was listed on the American Stock Exchange and is traded under the symbol OMR. The following table sets forth the high and low sale prices for our securities during each quarter or interim reporting period for the periods set forth in the following schedule.

| Quarter Ended | Price | |
|----------------------|--------------|------------|
| | High | Low |
| March 31, 2004 | \$ 5.20 | \$ 4.20 |
| June 30, 2004 | \$ 6.80 | \$ 2.60 |
| September 30, 2004 | \$ 3.21 | \$ 1.76 |
| December 31, 2004 | \$ 3.10 | \$ 2.02 |
| Quarter Ended | | |
| March 31, 2005 | \$ 3.96 | \$ 2.00 |
| June 30, 2005 | \$ 5.38 | \$ 3.20 |
| September 30, 2005 | \$ 5.64 | \$ 3.47 |
| December 31, 2005 | \$ 4.32 | \$ 2.49 |

Approximate Number of Holder of Common Stock

The number of record holders of our \$.0001 par value Common Stock at February 28, 2006 was 302. This does not include shareholders that hold their stock in accounts in street name with broker/dealers.

Dividends

Holders of the Common Stock are entitled to receive such dividends as may be declared by our Board of Directors. No dividends have been declared with respect to our Common or Preferred Stock and none are anticipated in the foreseeable future.

Recent Sales of Unregistered Securities

During the three months ended December 31, 2005, we issued 1,458,700 shares of our common stock to 33 investors who exercised warrants. The Company received a total of \$3,646,750 in cash from these investors. The securities were issued pursuant to the exemption provided by Section 4(2) of the Securities Act of 1933. The purchasers of these securities are accredited investors who made an informed investment decision and had access to material information regarding the Company. The certificates representing the common shares bear an appropriate legend restricting the transfer of such securities, and stop transfer instructions have been provided to our transfer agent in accordance therewith. The shares of common stock issued in the warrant exercises have been registered in a Form S-3 registration statement under the Securities Act of 1933 for resale by the holders of the shares.

ITEM 6. SELECTED FINANCIAL DATA

The following table sets forth selected financial data, which should be read in conjunction with the Company's financial statements and the related notes to those statements included in Item 8. Financial Statements and Supplementary Data and with Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations appearing elsewhere in this Form 10-K. The selected financial data has been derived from the Company's audited financial statements.

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The following table includes fiscal years 2001, 2002 and 2003, which represent twelve-month periods ended February, 2002, 2003 and 2004, respectively. The fiscal year ended 2004 was a ten month transition period which ended December 31, 2004. For 2005, the fiscal year was a twelve month period which ended December 31, 2005.

| \$ in thousands except per share amounts | 2005 | 2004 | 2003 |
|---|-------------|-------------|-------------|
|---|-------------|-------------|-------------|