

CODE KENNETH REAY
Form 4
October 02, 2018

FORM 4

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

OMB APPROVAL

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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
CODE KENNETH REAY

2. Issuer Name and Ticker or Trading Symbol
BIOLARGO, INC. [BLGO]

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

(Last) (First) (Middle)
14921 CHESTNUT ST.

(Street)

3. Date of Earliest Transaction
(Month/Day/Year)
09/30/2018

Director 10% Owner
 Officer (give title below) Other (specify below)
Chief Science Officer

WESTMINSTER, CA 92683

4. If Amendment, Date Original Filed(Month/Day/Year)

6. Individual or Joint/Group Filing(Check Applicable Line)
 Form filed by One Reporting Person
 Form filed by More than One Reporting Person

(City) (State) (Zip)

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)	5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price
Common Stock	09/30/2018		A		130,187	A	\$ 0.27 <u>(1)</u>
					22,603,858	D	<u>(2)</u>

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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SEC 1474
(9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

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1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)	6. Date Exercisable and Expiration Date (Month/Day/Year)	7. Title and Amount of Underlying Securities (Instr. 3 and 4)	8. Price of Derivative Security (Instr. 5)	9. Number of Derivative Securities Owned Following Transaction (Instr. 6)
				Code V (A) (D)		Date Exercisable	Expiration Date	Title	Amount or Number of Shares

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
CODE KENNETH REAY 14921 CHESTNUT ST. WESTMINSTER, CA 92683	X	X	Chief Science Officer	

Signatures

/s/ John R. Browning, Attorney
in Fact

10/02/2018

**Signature of Reporting Person Date

Explanation of Responses:

- * If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).
 - ** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- (1) Shares received in exchange for a reduction in \$35,151 owed by Registrant to Reporting Person for salary and unreimbursed business expenses.
- (2) Aggregate total shares includes 22,139,012 shares owned indirectly by Reporting Person through a wholly owned corporation.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure. Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. ot participate in any dividend declared by the board of directors.

Liquidation Rights

On our liquidation, dissolution or winding up, holders of Class B Common Stock will not be entitled to receive any distribution of our assets.

Transfers

Pursuant to our amended and restated certificate of incorporation and the SSE Holdings LLC Agreement, each holder of Class B Common Stock agrees that:

the holder will not transfer any shares of Class B Common Stock to any person unless the holder transfers an equal number of LLC Interests to the same person; and

in the event the holder transfers any LLC Interests to any person, the holder will transfer an equal number of shares of Class B Common Stock to the same person.

Other Matters

Shares of Class B Common Stock are not subject to redemption rights and do not have preemptive rights to purchase additional shares of Class B Common Stock. Holders of shares of our Class B Common Stock do not have subscription, redemption or conversion rights. There are no redemption or sinking fund provisions applicable to the Class B Common Stock. All outstanding shares of Class B Common Stock are validly issued, fully paid and non-assessable.

Preferred Stock

Our amended and restated certificate of incorporation provides that our board of directors has the authority, without action by the stockholders, to designate and issue up to 10,000,000 shares of preferred stock in one or more classes or series and to fix the powers, rights, preferences, and privileges of each class or series of preferred stock, including dividend rights, conversion rights, voting rights, terms of redemption, liquidation preferences and the number of shares constituting any class or series, which may be greater than the rights of the holders of the common stock. There are no shares of preferred stock outstanding.

The purpose of authorizing our board of directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of our outstanding voting stock. Additionally, the issuance of preferred stock may adversely affect the holders of our Class A Common Stock by restricting dividends on the Class A Common Stock, diluting the voting power of the Class A Common Stock or subordinating the liquidation rights of the Class A Common Stock. As a result of these or other factors, the issuance of preferred stock could have an adverse impact on the market price of our Class A Common Stock.

Exclusive Venue

Our amended and restated certificate of incorporation requires, to the fullest extent permitted by law, that (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or other employees to us or our stockholders, (iii) any action asserting a claim against us arising pursuant to any provision of the General Corporation Law of the State of Delaware ("DGCL") or our amended and restated certificate of incorporation or the bylaws or (iv) any action asserting a claim against us governed by the internal affairs doctrine will have to be brought only in the Court of Chancery in the State of Delaware. Although we believe this provision benefits us by providing increased consistency in the application of Delaware law in the types of lawsuits to which it applies, the provision may have the effect of discouraging lawsuits against our directors and officers.

Anti-takeover Effects of Provisions of our Amended and Restated Certificate of Incorporation, our Bylaws and Delaware Law

Our certificate of incorporation and bylaws also contain provisions that may delay, defer or discourage another party from acquiring control of us. We believe that these provisions, which are summarized below, discourage coercive takeover practices or inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors, which we believe may result in an improvement of the terms of any such acquisition in favor of our stockholders. However, they also give our board of directors the power to discourage acquisitions that some stockholders may favor.

Classified Board of Directors

Our amended and restated certificate of incorporation provides that our board of directors is divided into three classes, with the classes as nearly equal in number as possible and each class serving three-year staggered terms. Pursuant to the terms of the Stockholders Agreement, directors designated by the Meyer Group or LGP may only be removed with or without cause by the request of the party entitled to designate such director. In all other cases and at any other time, directors may only be removed from our board of directors for cause by the affirmative vote of at least a majority of the confirmed voting power of our Class A Common Stock and Class B Common Stock. These provisions may have the effect of deferring, delaying or discouraging hostile takeovers, or changes in control of us or our management.

Authorized but Unissued Shares

The authorized but unissued shares of common stock and preferred stock are available for future issuance without stockholder approval, subject to any limitations imposed by the listing standards of the NYSE. These additional shares may be used for a variety of corporate finance transactions, acquisitions and employee benefit plans. The existence of

authorized but unissued and unreserved common stock and preferred stock could make more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

Requirements for Advance Notification of Stockholder Meetings, Nominations and Proposals

Our amended and restated certificate of incorporation provides that stockholders at an annual meeting may only consider proposals or nominations specified in the notice of meeting or brought before the meeting by or at the direction of our board of directors or by a qualified stockholder of record on the record date for the meeting, who is entitled to vote at the meeting and who has delivered timely written notice in proper form to our secretary of the stockholder's intention to bring such business before the meeting. Our amended and restated certificate of incorporation provides that, subject to applicable law, special meetings of the stockholders may be called only by a resolution adopted by the affirmative vote of the majority of the directors then in office. Our bylaws prohibit the conduct of any business at a special meeting other than as specified in the notice for such meeting. In addition, any stockholder who wishes to bring business before an annual meeting or nominate directors must comply with the advance notice and duration of ownership requirements set forth in our bylaws and provide us with certain information. These provisions may have the effect of deferring, delaying or discouraging hostile takeovers or changes in control of us or our management.

Stockholder Action by Written Consent

Pursuant to Section 228 of the DGCL, any action required to be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares of our stock entitled to vote thereon were present and voted, unless our amended and restated certificate of incorporation provides otherwise. Our amended and restated certificate of incorporation provides that stockholder action by written consent is permitted only if the action to be effected by such written consent and the taking of such action by such written consent have been previously approved by the board of directors.

Amendment of Amended and Restated Certificate of Incorporation or Bylaws

The DGCL provides generally that the affirmative vote of a majority of the shares entitled to vote on any matter is required to amend a corporation's certificate of incorporation or bylaws, unless a corporation's certificate of incorporation or bylaws, as the case may be, requires a greater percentage. Our bylaws may be amended or repealed by a majority vote of our board of directors or by the affirmative vote of the holders of at least 66-2/3% of the votes which all our stockholders would be entitled to cast in any annual election of directors. In addition, the affirmative vote of the holders of at least 66-2/3% of the votes which all our stockholders would be entitled to cast in any election of directors is required to amend or repeal or to adopt any provisions inconsistent with any of the provisions of our certificate described above.

The foregoing provisions of our amended and restated certificate of incorporation and bylaws could discourage potential acquisition proposals and could delay or prevent a change in control. These provisions are intended to enhance the likelihood of continuity and stability in the composition of our board of directors and in the policies formulated by our board of directors and to discourage certain types of transactions that may involve an actual or threatened change of control. These provisions are designed to reduce our vulnerability to an unsolicited acquisition proposal. The provisions also are intended to discourage certain tactics that may be used in proxy fights. However, such provisions could have the effect of discouraging others from making tender offers for our shares and, as a consequence, they also may inhibit fluctuations in the market price of our shares of Class A Common Stock that could result from actual or rumored takeover attempts. Such provisions also may have the effect of preventing changes in our management or delaying or preventing a transaction that might benefit you or other minority stockholders.

In addition, we are subject to Section 203 of the DGCL. Subject to certain exceptions, Section 203 prevents a publicly held Delaware corporation from engaging in a "business combination" with any "interested stockholder" for three years following the date that the person became an interested stockholder, unless the interested stockholder attained such status with the approval of our board of directors or unless the business combination is approved in a prescribed manner. A "business combination" includes, among other things, a merger or consolidation involving us and the "interested stockholder" and the sale of more than 10% of our assets. In general, an "interested stockholder" is any entity or person beneficially owning 15% or more of our outstanding voting stock and any entity or person affiliated with or controlling or controlled by such entity or person.

Limitations on Liability and Indemnification of Officers and Directors

Our amended and restated certificate of incorporation and bylaws provide indemnification for our directors and officers to the fullest extent permitted by the DGCL. We have entered into indemnification agreements with each of our directors that are, in some cases, broader than the specific indemnification provisions contained under Delaware law. In addition, as permitted by Delaware law, our amended and restated certificate of incorporation includes provisions that eliminate the personal liability of our directors for monetary damages resulting from breaches of certain fiduciary duties as a director. The effect of these provisions is to restrict our rights and the rights of our stockholders in derivative suits to recover monetary damages against a director for breach of fiduciary duties as a director, except that a director will be personally liable for:

any breach of his duty of loyalty to us or our stockholders;

acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;

any transaction from which the director derived an improper personal benefit; or

improper distributions to stockholders.

These indemnification provisions may be held not to be enforceable for violations of the federal securities laws of the United States.

Corporate Opportunities

In recognition that partners, principals, directors, officers, members, managers and/or employees of the Original SSE Equity Owners and their affiliates and investment funds, which we refer to as the Corporate Opportunity Entities, may serve as our directors and/or officers, and that the Corporate Opportunity Entities may engage in activities or lines of business similar to those in which we engage, our amended and restated certificate of incorporation provides for the allocation of certain corporate opportunities between us and the Corporate Opportunity Entities. Specifically, none of the Corporate Opportunity Entities has any duty to refrain from engaging, directly or indirectly, in the same or similar business activities or lines of business that we do. In the event that any Corporate Opportunity Entity acquires knowledge of a potential transaction or matter which may be a corporate opportunity for itself and us, we will not have any expectancy in such corporate opportunity, and the Corporate Opportunity Entity will not have any duty to communicate or offer such corporate opportunity to us and may pursue or acquire such corporate opportunity for itself or direct such opportunity to another person. In addition, if a director of our Company who is also a partner, principal, director, officer, member, manager or employee of any Corporate Opportunity Entity acquires knowledge of a potential transaction or matter which may be a corporate opportunity for us and a Corporate Opportunity Entity, we will not have any expectancy in such corporate opportunity. In the event that any other director of ours acquires knowledge of a potential transaction or matter which may be a corporate opportunity for us we will not have any expectancy in such corporate opportunity unless such potential transaction or matter was presented to such director expressly in his or her capacity as such.

By becoming a stockholder in our Company, you will be deemed to have notice of and consented to these provisions of our amended and restated certificate of incorporation. Any amendment to the foregoing provisions of our amended and restated certificate of incorporation requires the affirmative vote of at least 66-2/3% of the votes which all our stockholders would be entitled to cast in any annual election of directors.

Dissenters' Rights of Appraisal and Payment

Under the DGCL, with certain exceptions, our stockholders will have appraisal rights in connection with a merger or consolidation of Shake Shack. Pursuant to the DGCL, stockholders who properly request and perfect appraisal rights in connection with such merger or consolidation will have the right to receive payment of the fair value of their shares as determined by the Delaware Court of Chancery.

Stockholders' Derivative Actions

Under the DGCL, any of our stockholders may bring an action in our name to procure a judgment in our favor, also known as a derivative action, provided that the stockholder bringing the action is a holder of our shares at the time of the transaction to which the action relates or such stockholder's stock thereafter devolved by operation of law and such suit is brought in the Court of Chancery in the State of Delaware. See "—Exclusive Venue" above.

Stockholders Agreement

The Company has entered into the Stockholders Agreement with the Voting Group pursuant to which the Voting Group has specified board representation rights, governance rights and other rights. See “Certain Relationships and Related Party Transactions, and Director Independence—Stockholders Agreement” in our 2017 10-K.

Registration Rights Agreement

The Company has entered into the Registration Rights Agreement with the Original SSE Equity Owners pursuant to which the Original SSE Equity Owners have specified rights to require the Company to register all or any portion of their shares under the Securities Act. See “Certain Relationships and Related Party Transactions, and Director Independence—Registration Rights Agreement” in our 2017 10-K.

Transfer Agent and Registrar

The transfer agent and registrar for our Class A Common Stock is American Stock Transfer & Trust Company, LLC.

The New York Stock Exchange

Our Class A Common Stock is listed on the NYSE under the symbol "SHAK."

Description of Warrants

This section describes the general terms of the warrants that we may offer and sell by this prospectus. This prospectus and any accompanying prospectus supplement will contain the material terms and conditions for each warrant. The accompanying prospectus supplement may add, update or change the terms and conditions of the warrants as described in this prospectus.

General

We may issue warrants to purchase debt securities, preferred stock, common stock, depositary shares or units. Warrants may be issued independently or together with any securities and may be attached to or separate from those securities. The warrants will be issued under warrant agreements to be entered into between us and a bank or trust company, as warrant agent, all of which will be described in the prospectus supplement relating to the warrants we are offering. The warrant agent will act solely as our agent in connection with the warrants and will not have any obligation or relationship of agency or trust for or with any holders or beneficial owners of warrants.

Brief Description of the Debt Warrants

We may issue warrants for the purchase of our debt securities. As explained below, each debt warrant will entitle its holder to purchase debt securities at the exercise price set forth in, or to be determinable as set forth in, the related prospectus supplement. Debt warrants may be issued separately or together with debt securities.

The debt warrants are to be issued under debt warrant agreements to be entered into between us, and one or more banks or trust companies, as debt warrant agent, as will be set forth in the prospectus supplement relating to the debt warrants being offered by the prospectus supplement and this prospectus.

The particular terms of each issue of debt warrants, the debt warrant agreement relating to the debt warrants and the debt warrant certificates representing debt warrants will be described in the applicable prospectus supplement, including, as applicable:

the title of the debt warrants;

the initial offering price;

the title, aggregate principal amount and terms of the debt securities purchasable upon exercise of the debt warrants;

the currency or currency units in which the offering price, if any, and the exercise price are payable;

the title and terms of any related debt securities with which the debt warrants are issued and the number of the debt warrants issued with each debt security;

the date, if any, on and after which the debt warrants and the related debt securities will be separately transferable;

the principal amount of debt securities purchasable upon exercise of each debt warrant and the price at which that principal amount of debt securities may be purchased upon exercise of each debt warrant;

if applicable, the minimum or maximum number of debt warrants that may be exercised at any one time;

the date on which the right to exercise the debt warrants will commence and the date on which the right will expire;

if applicable, a discussion of United States federal income tax, accounting or other considerations applicable to the debt warrants;

whether the debt warrants represented by the debt warrant certificates will be issued in registered or bearer form, and, if registered, where they may be transferred and registered;

anti-dilution provisions of the debt warrants, if any;

redemption or call provisions, if any, applicable to the debt warrants;

any additional terms of the debt warrants, including terms, procedures and limitations relating to the exchange and exercise of the debt warrants; and

the exercise price.

Debt warrant certificates will be exchangeable for new debt warrant certificates of different denominations and, if in registered form, may be presented for registration of transfer, and debt warrants may be exercised at the corporate trust

office of the debt warrant agent or any other office indicated in the related prospectus supplement.

Before the exercise of debt warrants, holders of debt warrants will not be entitled to payments of principal of, premium, if any, or interest, if any, on the debt securities purchasable upon exercise of the debt warrants, or to enforce any of the covenants in the indenture.

Brief Description of the Equity Warrants

We may issue warrants for the purchase of our equity securities, such as our preferred stock, common stock, depositary shares or units. As explained below, each equity warrant will entitle its holder to purchase equity securities at an exercise price set forth in, or to be determinable as set forth in, the related prospectus supplement. Equity warrants may be issued separately or together with equity securities.

The equity warrants are to be issued under equity warrant agreements to be entered into between us and one or more banks or trust companies, as equity warrant agent, as will be set forth in the prospectus supplement relating to the equity warrants being offered by the prospectus supplement and this prospectus.

The particular terms of each issue of equity warrants, the equity warrant agreement relating to the equity warrants and the equity warrant certificates representing equity warrants will be described in the applicable prospectus supplement, including, as applicable:

· the title of the equity warrants;

· the initial offering price;

· the aggregate number of equity warrants and the aggregate number of shares of the equity security purchasable upon exercise of the equity warrants;

· the currency or currency units in which the offering price, if any, and the exercise price are payable;

· if applicable, the designation and terms of the equity securities with which the equity warrants are issued, and the number of equity warrants issued with each equity security;

· the date, if any, on and after which the equity warrants and the related equity security will be separately transferable;

Explanation of Responses:

- if applicable, the minimum or maximum number of the equity warrants that may be exercised at any one time;
- the date on which the right to exercise the equity warrants will commence and the date on which the right will expire;

if applicable, a discussion of United States federal income tax, accounting or other considerations applicable to the equity warrants;

· anti-dilution provisions of the equity warrants, if any;

· redemption or call provisions, if any, applicable to the equity warrants;

any additional terms of the equity warrants, including terms, procedures and limitations relating to the exchange and exercise of the equity warrants; and

· the exercise price.

Holders of equity warrants will not be entitled, solely by virtue of being holders, to vote, to consent, to receive dividends, to receive notice as shareholders with respect to any meeting of shareholders for the election of directors or any other matter, or to exercise any rights whatsoever as a holder of the equity securities purchasable upon exercise of the equity warrants.

Description of depositary shares

This section describes the general terms of the depositary shares we may offer and sell by this prospectus. This prospectus and any accompanying prospectus supplement will contain the material terms and conditions for the depositary shares. The accompanying prospectus supplement may add, update, or change the terms and conditions of the depositary shares as described in this prospectus.

General

We may, at our option, elect to offer fractional or multiple shares of preferred stock, rather than single shares of preferred stock (to be set forth in the prospectus supplement relating to a particular series of preferred stock). In the event we elect to do so, depositary receipts evidencing depositary shares will be issued.

The shares of any class or series of preferred stock represented by depositary shares will be deposited under a deposit agreement among us, a depositary selected by us, and the holders of the depositary receipts. The depositary will be a bank or trust company having its principal office in the United States and having a combined capital and surplus of at least \$50 million. Subject to the terms of the deposit agreement, each owner of a depositary share will be entitled, in proportion to the applicable fraction of a share of preferred stock represented by such depositary share, to all the rights and preferences of the shares of preferred stock represented by the depositary share, including dividend, voting, redemption and liquidation rights.

The depositary shares will be evidenced by depositary receipts issued pursuant to the deposit agreement. Depositary receipts will be distributed to those persons purchasing the fractional shares of the related class or series of preferred shares in accordance with the terms of the offering described in the related prospectus supplement.

Description of rights

This section describes the general terms of the rights that we may offer and sell by this prospectus. This prospectus and any accompanying prospectus supplement will contain the material terms and conditions for each right. The accompanying prospectus supplement may add, update or change the terms and conditions of the rights as described in this prospectus. While the features we have summarized below will generally apply to any applicable security we may offer under this prospectus, we will describe the particular terms of any applicable security that we may offer in more detail in the applicable prospectus supplement. The specific terms of any applicable securities may differ from the description provided below as a result of negotiations with third parties in connection with the issuance of those applicable securities as well as for other reasons. Therefore, you should rely solely on information in the applicable prospectus supplement if that summary is different from the summary in this prospectus.

The particular terms of each issue of rights, the rights agreement relating to the rights and the rights certificates representing rights will be described in the applicable prospectus supplement, including, as applicable:

- the title of the rights;

- the date of determining the stockholders entitled to the rights distribution;

- the aggregate number of shares of common stock or preferred stock or other debt securities purchasable upon exercise of the rights;

- the exercise price;

- the aggregate number of rights issued;

- the date, if any, on and after which the rights will be separately transferable;

- the date on which the right to exercise the rights will commence and the date on which the right will expire; and

- any other terms of the rights, including terms, procedures and limitations relating to the distribution, exchange and exercise of the rights.

Exercise of Rights

Each right will entitle the holder of rights to purchase for cash the number of shares of common stock or preferred stock or other debt securities at the exercise price provided in the applicable prospectus supplement. Rights may be exercised at any time up to the close of business on the expiration date for the rights provided in the applicable prospectus supplement. After the close of business on the expiration date, all unexercised rights will be void.

Holders may exercise rights as described in the applicable prospectus supplement. Upon receipt of payment and the rights certificate properly completed and duly executed at the corporate trust office of the rights agent or any other office indicated in the prospectus supplement, we will, as soon as practicable, forward the shares of common stock or preferred stock or other debt securities purchasable upon exercise of the rights. If less than all of the rights issued in any rights offering are exercised, we may offer any unsubscribed securities directly to persons other than stockholders, to or through agents, underwriters or dealers or through a combination of such methods, including pursuant to standby underwriting arrangements, as described in the applicable prospectus supplement.

Description of units

This section describes the general terms of the units we may offer and sell by this prospectus. This prospectus and any accompanying prospectus supplement will contain the material terms and conditions for the units. The accompanying prospectus supplement may add, update, or change the terms and conditions of the units as described in this prospectus.

General

We may issue units consisting of one or more other constituent securities. These units may be issuable as, and for a specified period of time may be transferable only as, a single security, rather than as the separate constituent securities comprising such units. While the features we have summarized below will generally apply to any units we may offer under this prospectus, we will describe the particular terms of any units that we may offer in more detail in the applicable prospectus supplement. The specific terms of any units may differ from the description provided below as a result of negotiations with third parties in connection with the issuance of those units, as well as for other reasons. Therefore, you should rely solely on information in the applicable prospectus supplement if that summary is different from the summary in this prospectus.

The particular terms of each issue of units, the unit agreement relating to the units and the unit certificates representing units will be described in the applicable prospectus supplement, including, as applicable:

- the title of the series of units;
- identification and description of the separate constituent securities comprising the units;
- the price or prices at which the units will be issued;
- the date, if any, on and after which the constituent securities comprising the units will be separately transferable;
- a discussion of certain United States federal income tax considerations applicable to the units; and
- any other terms of the units and their constituent securities.

SELLING STOCKHOLDERS

The selling stockholders named below may, from time to time, offer or sell pursuant to this prospectus up to an aggregate of 12,318,993 shares of Class A Common Stock. The table below describes, as of May 24, 2018, each selling stockholder's beneficial ownership of shares of our Class A Common Stock (a) according to the information available to us as of such date and (b) assuming each selling stockholder (i) has redeemed all LLC Interests held by such selling stockholder (and surrendered and cancelled an equivalent number of shares of Class B Common Stock) and (ii) has sold all of its shares of Class A Common Stock pursuant to this prospectus.

Information in the table below with respect to beneficial ownership has been furnished by each of the selling stockholders. The selling stockholders listed in the table below may have sold, transferred, otherwise disposed of or purchased, or may sell, transfer, otherwise dispose of or purchase, at any time and from time to time, shares of our Class A Common Stock in transactions exempt from the registration requirements of the Securities Act or in the open market after the date on which they provided the information set forth in the table below. We do not know which (if any) of the selling stockholders named below actually will offer to sell shares pursuant to this prospectus, or the number of shares that each of them will offer.

Because the selling stockholders may sell, transfer or otherwise dispose of all, some or none of the shares of our Class A Common Stock covered by this prospectus, we cannot determine the number of such shares that will be sold, transferred or otherwise disposed of by the selling stockholders, or the amount or percentage of shares of our Class A Common Stock that will be held by the selling stockholders upon termination of any particular offering or sale. See "Plan of Distribution." When we refer to the selling stockholders in this prospectus, we mean the individual and entities listed in the table below, as well as their pledgees, donees, assignees, transferees and successors in interest.

All Continuing SSE Equity Owners are entitled to have their LLC Interests redeemed for Class A Common Stock on a one-for-one basis, or, at the option of Shake Shack, cash equal to the market value of the applicable number of shares of our Class A Common Stock. At Shake Shack's election, Shake Shack may effect a direct exchange, rather than a redemption, of such shares of Class A Common Stock or such cash for such LLC Interests. In connection with our IPO, we issued to each Continuing SSE Equity Owner for nominal consideration one share of Class B Common Stock for each LLC Interest it owned. As a result, the number of shares of Class B Common Stock listed in the table below equals the number of LLC Interests each such Continuing SSE Equity Owner owns.

The number of shares beneficially owned by each stockholder is determined under rules issued by the SEC and includes voting or investment power with respect to securities. Under these rules, beneficial ownership includes any shares as to which the individual or entity has sole or shared voting power or investment power. In computing the number of shares beneficially owned by an individual or entity and the percentage ownership of that person, shares of common stock subject to options, or other rights, including the redemption right described above, held by such person

that are currently exercisable or will become exercisable within 60 days, are considered outstanding, although these shares are not considered outstanding for purposes of computing the percentage ownership of any other person. Each of the stockholders listed has sole voting and investment power with respect to the shares beneficially owned by the stockholder unless noted otherwise, subject to community property laws where applicable.

Any selling stockholder may be deemed to be an “underwriter” within the meaning of the Securities Act of 1933, as amended (the “Securities Act”). Based upon the applicable facts and circumstances, including when and how each selling stockholder's respective shares of Class A Common Stock were acquired, none of the selling stockholders believes that it should be considered an “underwriter” within the meaning of such term under the Securities Act.

For information regarding material relationships and transactions between us and the selling stockholders, see the “Certain Relationships and Related Transactions, and Director Independence” section of our 2017 10-K and any disclosure under a similar heading in the documents incorporated by reference in this prospectus.

Information concerning the selling stockholders may change from time to time. Any changes to the information provided below will be set forth in a prospectus supplement if and when necessary.

Name and address of beneficial owner ⁽²⁾	LLC Interests (and an equivalent amount of shares of Class B Common Stock) held prior to the offering	LLC Interests to be exchanged (and an equivalent amount of shares of Class B Common Stock to be surrendered and cancelled) in the offering(+) ⁽¹⁾	LLC Interests (and an equivalent amount of shares of Class B Common Stock) held after the offering(+)		Shares of Class A Common Stock held prior to the offering(^)		Shares of Class A Common Stock held after the offering(+)	
			(#)	(% of LLC Interests outstanding)	(#)	(% of Class A Common Stock outstanding) ⁽³⁾		(#)
ALWM Qualified Minor's Trust Dated 12/22/05	6,638	*	6,638	*	—	—	—	6,638
Ashley Campbell	15,235	*	15,235	*	—	—	—	15,235
Beth Stephens	3,344	*	3,344	*	—	—	—	3,344
CBM Qualified Minor's Trust Dated 11/23/05	21,876	*	21,876	*	—	300	(5)	21,876
Daniel Meyer and Affiliates: ⁽⁶⁾								
Daniel Meyer	1,270,136	3.4%	1,270,136	3.4%	—	10,896	(7)	1,270,136
Daniel H. Meyer Gift Trust U/A/D 10/31/12 ⁽⁸⁾	590,921	1.6%	590,921	1.6%	—	—	—	590,921
Gramercy Tavern Corp.	2,690,263	7.3%	2,690,263	7.3%	—	—	—	2,690,263
Daniel H. Meyer Investment Trust Dated 5/15/92 ⁽⁹⁾	—	—	—	—	—	660,318	(10)	660,318
David A. Swinghamer and Affiliate:								
David A. Swinghamer	267,167	*	267,167	*	—	—	—	267,167
David A. Swinghamer Grat	20,000	*	20,000	*	—	—	—	20,000
Erin Moran	38,343	*	38,343	*	—	—	—	38,343
Granite Point Capital Master Fund, L.P.	—	—	—	—	—	5,000	*	5,000
GVM Qualified Minor's Trust Dated 11/23/05	21,876	*	21,876	*	—	300	(5)	21,876
HLM Qualified Minor's Trust Dated 11/23/05	21,876	*	21,876	*	—	300	(5)	21,876
ILWM Qualified Minor's Trust Dated 12/22/05	5,438	*	5,438	*	—	300	(5)	5,438
Jamie Welch & Fiona Angelini	—	—	—	—	—	78,092	(11)	78,092
Jean Polsky Investment Trust Dated 3/21/97	4,844	*	4,844	*	—	300	(5)	4,844
Jeff Flug and Affiliate:								
Jeff Flug	—	—	—	—	—	1,091	(7)	1,091
Flug 2015 GS Trust U/A/D 12/29/15 ⁽¹²⁾	372,574	1.0%	372,574	1.0%	—	—	—	372,574

Explanation of Responses:

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Jeff Uttz	—	—	—	—	—	—	183,079	(13)	*	17
Joan W. Harris Revocable Trust Dated 4/1/93	34,651	*	34,651	*	—	—	—	—	—	34
Jonathan Sokoloff	—	—	—	—	—	—	10,896	(7)	*	—
Karen Kochevar	35,000	*	35,000	*	—	—	—	—	—	35
Leonard Green Partners: ⁽¹⁴⁾⁽¹⁵⁾										
Green Equity Investors VI, L.P.	2,183,698	5.9%	2,183,698	5.9%	—	—	—	—	—	2,183,698
Green Equity Investors Side VI, L.P.	—	—	—	—	—	—	1,301,490	4.7%	1,301,490	1,301,490
LGP Malted Coinvest LLC	159,389	*	159,389	*	—	—	—	—	—	159,389
Laura Sloate	200,074	*	200,074	*	—	—	—	—	—	200,074
Marc Weiss Revocable Trust U/A/D 8/11/2003	6,354	*	6,354	*	—	—	500	(5)	*	6,354
Michael Romano	—	—	—	—	—	—	33,941	(16)	*	33,941
Orrin Devinsky	22,744	*	22,744	*	—	—	—	—	—	22,744
Paul Bolles-Beaven	—	—	—	—	—	—	72,328	—	*	72,328
PEM Qualified Minor's Trust Dated 11/23/05	21,876	*	21,876	*	—	—	300	(5)	*	21,876
Randy Garutti and Affiliate:										
Randy Garutti	514,051	1.4%	514,051	1.4%	—	—	421,282	(17)	1.5%	514,051
The Randall J. Garutti 2014 GST Trust ⁽¹⁸⁾	55,972	*	55,972	*	—	—	—	—	—	55,972
Nancy Meyer and Affiliate:										
Nancy Meyer	30,589	*	30,589	*	—	—	—	—	—	30,589
Nancy Meyer Revocable Trust ⁽¹⁹⁾	—	—	—	—	—	—	1,900	—	*	1,900
Thomas Meyer	17,176	*	17,176	*	—	—	—	—	—	17,176
Richard Coraine and Affiliate:										
Richard Coraine	127,924	*	127,924	*	—	—	—	—	—	127,924
Richard D. Coraine 2012 Family Trust ⁽²⁰⁾	244,401	*	244,401	*	—	—	—	—	—	244,401
Robert Vivian	50,851	*	50,851	*	—	—	46,151	(21)	*	50,851
Roxanne H. Frank Revocable Trust Dated 9/30/75	53,778	*	53,778	*	—	—	—	—	—	53,778
SEG Partners: ⁽²²⁾										
SEG Partners, L.P.	—	—	—	—	—	—	88,081	—	*	88,081
SEG Partners II, L.P.	—	—	—	—	—	—	301,859	—	1.1%	301,859
SEG Partners Offshore Master Fund Ltd.	—	—	—	—	—	—	430,269	—	1.5%	430,269
Thomas O'Neal Ryder Family Trust	45,814	*	45,814	*	—	—	32,050	—	*	45,814
VHP Special Trust For Jack Dated 12/31/12	7,332	*	7,332	*	—	—	—	—	—	7,332
Walter Robb	8,031	*	8,031	*	—	—	—	—	—	8,031

*Represents beneficial ownership of less than 1%

(+) Continuing SSE Equity Owners will redeem (or exchange), on a one-for-one basis, their LLC Interests for newly-issued shares of Class A Common Stock, to the extent they offer or sell shares of Class A Common Stock pursuant to this prospectus (and an equivalent number of shares of Class B Common Stock held by such selling stockholders will be surrendered and cancelled in connection with each such LLC Interest exchange). See “Certain Relationships and Related Transactions, and Director Independence—SSE Holdings LLC Agreement—LLC Interest Redemption Right” in our 2017 10-K.

(^) Comprises (i) shares of Class A Common Stock acquired under the Company's Directed Share Program, (ii) shares of Class A Common Stock previously issued to the Former SSE Equity Owners, (iii) shares of Class A Common Stock acquired as a result of the Reorganization of USC, and (iv) shares of Class A Common Stock that the selling stockholder currently has the right to acquire or will have the right to acquire within 60 days.

(±) Comprises (i) shares of Class A Common Stock to be offered or sold by the Continuing SSE Equity Owners after giving effect to the redemption (or exchange) of their respective LLC Interests, (ii) shares of Class A Common Stock previously issued to the Former SSE Equity Owners, and (iii) shares of Class A Common Stock acquired as a result of the Reorganization of USC. None of the (x) shares of Class A Common Stock acquired under the Company's Directed Share Program or (y) shares of Class A Common Stock that the selling stockholder currently has the right to acquire or will have the right to acquire within 60 days will be sold in the offering.

(!) Assumes the sale by the selling stockholders of all shares of Class A Common Stock registered pursuant to this prospectus.

(1) Assumes all LLC Interests are redeemed (or exchanged) (and all shares of Class B Common Stock are surrendered and cancelled) for shares of Class A Common Stock.

(2) Unless otherwise noted, the address for each beneficial owner listed on the table is c/o Shake Shack Inc., 225 Varick Street, Suite 301, New York, New York 10014.

(3) Percentage of ownership calculated after adding the total number of shares of Class A Common Stock issued upon exchange of all outstanding LLC Interests held by the Continuing SSE Equity Owners to the existing number of shares of Class A Common Stock outstanding as of May 24, 2018.

(4) Percentage of ownership calculated against the total number of shares of Class A Common Stock outstanding as of May 24, 2018.

(5) Represents shares of Class A Common Stock acquired under the Company's Directed Share Program.

Pursuant to the Stockholders Agreement, the Meyer Group has the right to cause all of the stock of GT and Union Square Cafe Corp. ("USC") to be converted into and exchanged for shares of Class A Common Stock pursuant to a reorganization under Section 368(a) of the Internal Revenue Code (a "Reorganization"). The Meyer Group made such an election with respect to USC. To effect the Reorganization, a subsidiary of the Company merged with and into USC, resulting in (i) conversion and exchange of shares of USC for Class A Common Stock, (ii) cancellation (6) of Class B Common Stock of the Company held by USC, and (iii) transfer of LLC Interests held by USC to the Company. The Investment Trust received 1,390,218 shares of Class A Common Stock in exchange for shares of USC, representing 80.462% interest in USC. The other shareholders received an aggregate of 337,586 shares of Class A Common Stock in exchange for shares of USC, representing 19.538% interest in USC, all of whom are included in the table as selling stockholders. The Meyer Group retain the ability to cause all of the stock of GT to be converted into and exchanged for shares of Class A Common Stock pursuant to a Reorganization.

(7) Represents shares of Class A Common Stock that the selling stockholder currently has the right to acquire or will have the right to acquire within 60 days.

(8) Mr. Meyer's spouse is a trustee and beneficiary of the Daniel H. Meyer 2012 Gift Trust U/A/D 10/31/12.

(9) Mr. Meyer is the grantor, trustee and beneficiary of the Daniel H. Meyer Investment Trust dated 5/15/92.

(10) Represents (i) 30,100 shares of Class A Common Stock acquired under the Company's Directed Share Program and (ii) 630,218 shares of Class A Common Stock resulting from the Reorganization.

(11) Includes 5,000 shares of Class A Common Stock acquired under the Company's Directed Share Program.

(12) Mr. Flug's spouse is the trustee and beneficiary of the Flug 2015 GS Trust U/A/D 12/29/15.

Reflects the latest publicly available information regarding Mr. Uttz's holdings. As of Mr. Uttz's resignation from (13) the Company effective March 13, 2017, Mr. Uttz ceased to publicly report his beneficial ownership of our securities.

Green Equity Investors VI, L.P., a Delaware limited partnership ("GEI VI") is the direct owner of 0 shares of Class A Common Stock of Shake Shack Inc. and 2,183,698 shares of Class B Common Stock of Shake Shack Inc. (the "GEI VI Shares"). Green Equity Investors Side VI, L.P., a Delaware limited partnership ("GEI Side VI"), is the direct (14) owner of 1,301,490 shares of Class A Common Stock and 0 shares of Class B Common Stock of Shake Shack Inc. (the "GEI Side VI Shares"). LGP Malted Coinvest LLC, a Delaware limited liability company ("Malted" and, collectively with GEI VI and GEI Side VI the "Green Funds"), is the direct owner of 0 shares of Class A Common Stock and 159,389 shares of Class B Common Stock of Shake Shack Inc. (the "Malted Shares" and, collectively with the GEI VI Shares and the GEI Side VI Shares, the "Green Shares").

Voting and investment power with respect to the Green Shares may be deemed to be shared by certain affiliated entities. GEI Capital VI, LLC ("GEIC"), is the general partner of GEI VI and GEI Side VI. Green VI Holdings, LLC ("Holdings") is a limited partner of GEI VI and GEI Side VI. Leonard Green & Partners, L.P. ("LGP") is the management company of GEI VI, GEI Side VI, and Holdings. Peridot Coinvest Manager LLC ("Peridot"), an affiliate of LGP, is the manager of Malted. Each of GEI VI, GEI Side VI, Holdings, Malted, LGP, and Peridot disclaims such shared beneficial ownership of Shake Shack Inc.'s Class A Common Stock and Class B Common Stock. Jonathan D. Sokoloff may also be deemed to share voting and investment power with respect to such (15) shares due to his positions with LGP and Peridot, and he disclaims beneficial ownership of such shares. Each of Messrs. John G. Danhaki, Jonathan D. Sokoloff and the other partners of LGP either directly (whether through ownership interest or position) or indirectly, through one or more intermediaries, may be deemed to control GEIC, LGP, and Peridot. As such, these individuals may be deemed to have shared voting and investment power with respect to all shares beneficially owned by GEI VI, GEI Side VI, Holdings, Malted, LGP, and Peridot. These individuals each disclaim beneficial ownership of the securities held by GEI VI, GEI Side VI, Holdings, Malted, LGP, and Peridot, except to the extent of their respective pecuniary interest therein. Each of the foregoing entity's and individual's address (other than the Company) is c/o Leonard Green & Partners, L.P., 11111 Santa Monica Boulevard, Suite 2000, Los Angeles, California 90025.

(16) Represents (i) 1,000 shares of Class A Common Stock acquired under the Company's Directed Share Program and (ii) 32,941 shares of Class A Common Stock resulting from the Reorganization.

Includes (i) 3,100 shares of Class A Common Stock acquired under the Company's Directed Share Program and (17) (ii) 418,182 shares of Class A Common Stock that the selling stockholder currently has the right to acquire or will have the right to acquire within 60 days.

(18) Mr. Garutti's spouse is a trustee and beneficiary of the Randall J. Garutti 2014 GST Trust.

(19) Ms. Meyer is the beneficiary of the Nancy Meyer Revocable Trust.

(20) Mr. Coraine's spouse is a trustee and beneficiary of the Richard D. Coraine 2012 Family Trust.

Includes (i) 20,000 shares of Class A Common Stock acquired under the Company's Directed Share Program and (21)(ii) 18,651 shares of Class A Common Stock that the selling stockholder currently has the right to acquire or will have the right to acquire within 60 days.

Select Equity Group, L.P. ("Select Equity"), a limited partnership controlled by George S. Loening, has the power to vote or direct the vote of, and dispose or direct the disposition of, the shares beneficially owned by SEG Partners L.P., SEG Partners II, L.P. and SEG Partners Offshore Master Fund, Ltd. Select Equity is an investment (22) adviser and possesses sole power to vote or direct the vote of, and dispose or direct the disposition of, 820,209 shares. George S. Loening is a control person and possesses sole power to vote or direct the vote of, and dispose or direct the disposition of, 820,209 shares. The address for Select Equity is Select Equity Group, L.P., 380 Lafayette Street New York, New York 10003.

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PLAN OF DISTRIBUTION

We may sell the securities, and the selling stockholders may sell all or a portion of the shares of Class A Common Stock described in this prospectus from time to time, by a variety of methods, including the following:

any national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale;

- the over-the-counter market;
- transactions otherwise than on these exchanges or systems or in the over-the-counter market;
- the writing of options, whether such options are listed on an options exchange or otherwise;
- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;

block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;

- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- short sales;

transactions in which broker-dealers may agree with the selling stockholders to sell a specified number of such shares at a stipulated price per share;

- a combination of any such methods of sale; and

- any other method permitted pursuant to applicable law.

We will identify the specific plan of distribution for any sales by us of the securities, including any underwriters, dealers, agents, or other purchasers, persons, or entities and any applicable compensation, in a prospectus supplement, in an amendment to the registration statement of which this prospectus is a part, or in other filings we make with the Securities and Exchange Commission under the Exchange Act, which are incorporated by reference.

Some of the shares of Class A Common Stock covered by this prospectus may be sold by selling stockholders in private transactions or under Rule 144 under the Securities Act rather than pursuant to this prospectus.

If the selling stockholders use an underwriter or underwriters for any offering, we will name them, and set forth the terms of the offering, in a prospectus supplement pertaining to such offering and, except to the extent otherwise set forth in such prospectus supplement, the selling stockholders will agree in an underwriting agreement to sell to the underwriter(s), and the underwriter(s) will agree to purchase from the selling stockholder, the number of shares of Class A Common Stock set forth in such prospectus supplement. Any such underwriter(s) may offer the shares of Class A Common Stock from time to time for sale in one or more transactions on the New York Stock Exchange, in the over-the-counter market, through negotiated transactions or otherwise at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices. The underwriter(s) may also propose initially to offer the shares of Class A Common Stock to the public at a fixed public offering price set forth on the cover page of the applicable prospectus supplement. We will file a post-effective amendment to the registration statement of which this prospectus is a part to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

If the selling stockholders effect such transactions by selling shares to or through underwriters, broker-dealers or agents, such underwriters, broker-dealers or agents may receive commissions in the form of discounts, concessions or commissions from the selling stockholders or commissions from purchasers of the shares for whom they may act as agent or to whom they may sell as principal (which discounts, concessions or commissions as to particular underwriters, broker-dealers or agents may be in excess of those customary in the types of transactions involved). In connection with sales of shares or otherwise, the selling stockholders may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the shares in the course of hedging in positions they assume. The selling stockholders may also sell shares short and deliver shares covered by this prospectus to close out short positions and to return borrowed shares in connection with such short sales. The selling stockholders may also loan or pledge shares to broker-dealers that in turn may sell such shares.

The selling stockholders may pledge or grant a security interest in some or all of the shares of Class A Common Stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of Class A Common Stock from time to time pursuant to this prospectus or any prospectus supplement under Rule 424(b)(3) or other applicable provision under the Securities Act, amending, if necessary, the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus. The selling stockholders also may transfer and donate the shares of Class A Common Stock in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

The selling stockholders and any broker-dealer participating in the distribution of the shares of Class A Common Stock may be deemed to be “underwriters” within the meaning of the Securities Act, and any commission paid, or any discounts or concessions allowed to, any such broker-dealer may be deemed to be underwriting commissions or discounts under the Securities Act. Any such broker-dealer will be named as an underwriter in a prospectus supplement or post-effective amendment to the registration statement, of which this prospectus is a part, and any discounts and commissions to be paid to any such broker-dealer will be disclosed therein. At the time a particular offering of the shares of Class A Common Stock is made, a prospectus supplement, if required, will be distributed which will set forth the aggregate amount of shares of Class A Common Stock being offered and the terms of the offering, including the name or names of any broker-dealers or agents, any discounts, commissions and other terms constituting compensation from the selling stockholders and any discounts, commissions or concessions allowed or reallocated or paid to broker-dealers.

Under the securities laws of some states, the shares of Class A Common Stock may be sold in such states only through registered or licensed brokers or dealers.

There can be no assurance that any selling stockholders will sell any or all of the shares of Class A Common Stock covered by this prospectus.

The selling stockholders and any other person participating in such distribution will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including, without limitation, Regulation M of the Exchange Act, which may limit the timing of purchases and sales of any of the shares of Class A Common Stock by the selling stockholders and any other participating person. Regulation M may also restrict the ability of any person engaged in the distribution of the shares of Class A Common Stock to engage in market-making activities with respect to the shares of Class A Common Stock. All of the foregoing may affect the marketability of the shares of Class A Common Stock and the ability of any person or entity to engage in market-making activities with respect to the shares of Class A Common Stock.

We will not receive any cash proceeds from our issuance of shares of Class A Common Stock to the selling stockholders or the sale by the selling stockholders of our shares of Class A Common Stock pursuant to this prospectus. Each selling stockholder will bear the cost of any underwriting discounts and selling commissions related to their respective offering and sale of shares of Class A Common Stock pursuant to this prospectus. We may be required to indemnify the selling stockholders against liabilities, including some liabilities under the Securities Act, in accordance with the Registration Rights Agreement, or the selling stockholders will be entitled to contribution. We, our affiliates and our respective directors, officers, employees, agents and control persons may be indemnified by the selling stockholders against liabilities that may arise from any written information furnished to us by the selling stockholder specifically for use in this prospectus, in accordance with the Registration Rights Agreement, or we or they may be entitled to contribution.

LEGAL MATTERS

Unless otherwise indicated in the applicable prospectus supplement, certain legal matters in connection with the offering and the validity of the securities offered by this prospectus, and any supplement thereto, will be passed upon for us by Proskauer Rose LLP, New York, New York.

EXPERTS

The consolidated financial statements of Shake Shack Inc. incorporated by reference in Shake Shack Inc.'s Annual Report (Form 10-K) for the year ended December 27, 2017 (including schedules appearing therein), and the effectiveness of Shake Shack Inc.'s internal control over financial reporting as of December 27, 2017 have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their reports thereon, incorporated by reference therein, and incorporated herein by reference. Such consolidated financial statements are incorporated herein by reference in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

INFORMATION INCORPORATED BY REFERENCE

The SEC allows us to “incorporate by reference” the information we file with it, which means that we can disclose important information to you by referring to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the following documents and all documents we file with the SEC pursuant to Section 13(a), 13(c), 14 or 15(d) pursuant to the Exchange Act on or after the date of this prospectus and prior to the termination of the offering under this prospectus any prospectus supplement (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules):

our Annual Report on Form 10-K for the fiscal year ended December 27, 2017, filed with the SEC on February 26, 2018;

our Quarterly Report on Form 10-Q for the quarterly period ended March 28, 2018, filed with the SEC on May 7, 2018;

our Current Report on Form 8-K, filed with the SEC on May 3, 2018; and

the description of our Class A Common Stock as set forth in our registration statement on Form 8-A (File No. 001-36749), filed with the SEC on January 28, 2015, pursuant to Section 12(b) of the Exchange Act, including any subsequent amendments or reports filed for the purpose of updating such description.

Any statement contained herein or in any document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purposes of this prospectus to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or replaces such statement. Any such statement so modified or superseded shall not be deemed to constitute a part of this prospectus, except as so modified or superseded.

We hereby undertake to provide without charge to each person, including any beneficial owner, to whom a copy of this prospectus is delivered, upon written or oral request of any such person, a copy of any and all of the information that has been incorporated by reference in this prospectus, other than exhibits to such documents, unless such exhibits have been specifically incorporated by reference thereto. Requests for such copies should be directed to our Investor Relations department, at the following address:

Shake Shack Inc.

225 Varick Street, Suite 301

New York, NY 10014

WHERE YOU CAN FIND MORE INFORMATION

This prospectus is part of a registration statement filed with the SEC under the Securities Act. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits and schedules filed therewith. For further information about us and the securities offered hereby, we refer you to the registration statement and the exhibits and schedules filed thereto. Statements contained or incorporated in this prospectus regarding the contents of any contract or any other document that is filed as an exhibit to the registration statement are not necessarily complete, and each such statement is qualified in all respects by reference to the full text of such contract or other document filed as an exhibit to the registration statement. We are required to file periodic reports, proxy statements, and other information with the SEC pursuant to the Exchange Act. Such reports and other information filed by us with the SEC are available free of charge on our website at investor.shakeshack.com when such reports are made available on the SEC's website. The public may read and copy any materials filed by us with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. You may obtain information on the operation of the public reference rooms by calling the SEC at 1-800-SEC-0330. The SEC also maintains an Internet website that contains reports, proxy statements and other information about registrants, like us, that file electronically with the SEC. The address of that site is www.sec.gov.

Debt Securities

Preferred Stock

Class A Common Stock

Warrants

Depository Shares

Rights

Units

Offered, from time to time, by Shake Shack Inc.

and

12,318,993 Shares

of Class A Common Stock

Offered, from time to time, by the Selling Stockholders

Prospectus

June 8, 2018

PART II**INFORMATION NOT REQUIRED IN PROSPECTUS****Item 13. Other Expenses of Issuance and Distribution.**

The following table indicates the expenses to be incurred in connection with the offer and sale of the securities described in this registration statement, other than any underwriting discounts and commissions, all of which will be paid by us. All amounts are estimated except the SEC registration fee.

	Amount
SEC registration fee	(1)
Legal fees and expenses	(2)
Accountants' fees and expenses	(2)
Trustees' fees and expenses	(2)
Printing and engraving expenses	(2)
Blue sky fees and expenses	(2)
Miscellaneous	(2)
Total expenses (3)	\$ (2)

(1) With respect to the primary offering, we are registering an indeterminate amount of securities under this registration statement and in accordance with Rules 456(b) and 457(r), we are deferring payment of the registration fee. With respect to the secondary offering, \$124,553.58 in registration fees was previously paid in connection with Registration Statement No. 333-207336 filed by us that remain unused. Unutilized filing fees may be applied to the filing fee payable pursuant to this registration statement in accordance with Rule 415(a)(6).

(2) These fees are calculated based on the securities offered and the number of issuances and accordingly cannot be estimated at this time. An estimate of the aggregate amount of these expenses will be reflected in the applicable prospectus supplement.

(3) Does not include any fees or expenses in connection with any subsequent underwritten offering and any supplements prepared in connection therewith.

Item 14. Indemnification of Directors and Officers.

Section 102 of the General Corporation Law of the State of Delaware ("DGCL") permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit. Our amended and restated certificate of incorporation provides that no director of the Registrant shall be personally liable to it or its stockholders for monetary damages for any breach of fiduciary duty as a director, notwithstanding any provision of law imposing such liability, except to the extent that the DGCL prohibits the elimination or limitation of liability of directors for breaches of fiduciary duty.

Section 145 of the DGCL provides that a corporation has the power to indemnify a director, officer, employee, or agent of the corporation, or a person serving at the request of the corporation for another corporation, partnership, joint venture, trust or other enterprise in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he was or is a party or is threatened to be made a party to any threatened, ending or completed action, suit or proceeding by reason of such position, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

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Our amended and restated certificate of incorporation and bylaws provide indemnification for our directors and officers to the fullest extent permitted by the DGCL. We will indemnify each person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding (other than an action by or in the right of us) by reason of the fact that he or she is or was, or has agreed to become, a director or officer, or is or was serving, or has agreed to serve, at our request as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (all such persons being referred to as an “Indemnitee”), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding and any appeal therefrom, if such Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, our best interests, and, with respect to any criminal action or proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful. Our amended and restated certificate of incorporation and bylaws provide that we will indemnify any Indemnitee who was or is a party to an action or suit by or in the right of us to procure a judgment in our favor by reason of the fact that the Indemnitee is or was, or has agreed to become, a director or officer, or is or was serving, or has agreed to serve, at our request as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys’ fees) and, to the extent permitted by law, amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, and any appeal therefrom, if the Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, our best interests, except that no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to us, unless a court determines that, despite such adjudication but in view of all of the circumstances, he or she is entitled to indemnification of such expenses. Notwithstanding the foregoing, to the extent that any Indemnitee has been successful, on the merits or otherwise, he or she will be indemnified by us against all expenses (including attorneys’ fees) actually and reasonably incurred in connection therewith. Expenses must be advanced to an Indemnitee under certain circumstances.

We have entered into separate indemnification agreements with each of our directors and certain officers. Each indemnification agreement provides, among other things, for indemnification to the fullest extent permitted by law and our amended and restated certificate of incorporation and bylaws against any and all expenses, judgments, fines, penalties and amounts paid in settlement of any claim. The indemnification agreements provide for the advancement or payment of all expenses to the Indemnitee and for the reimbursement to us if it is found that such Indemnitee is not entitled to such indemnification under applicable law and our amended and restated certificate of incorporation and bylaws.

We maintain a general liability insurance policy that covers certain liabilities of directors and officers of our corporation arising out of claims based on acts or omissions in their capacities as directors or officers.

The Registration Rights Agreement between us and the selling stockholders provides for cross-indemnification in connection with registration of our Class A Common Stock on behalf of such selling stockholders.

Any underwriting agreements that we may enter into may provide that the underwriters are obligated, under certain circumstances, to indemnify our directors, officers and controlling persons against certain liabilities, including liabilities under the Securities Act of 1933, as amended.

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Item 16. Exhibits and Financial Statement Schedules.

Exhibits Index

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	Exhibit	Filing Date	
1.1	* Form of Underwriting Agreement.				
<u>4.1</u>	<u>Amended and Restated Certificate of Incorporation of Shake Shack Inc., effective February 4, 2015.</u>	<u>8-K</u>	<u>3.1</u>	<u>2/10/2015</u>	
<u>4.2</u>	<u>Amended and Restated Bylaws of Shake Shack Inc., dated February 4, 2015.</u>	<u>8-K</u>	<u>3.2</u>	<u>2/10/2015</u>	
<u>4.3</u>	<u>Form of Class A Common Stock Certificate.</u>	<u>S-1/A</u>	<u>4.1</u>	<u>1/28/2015</u>	
<u>4.4</u>	<u>Form of Indenture</u>				#
4.5	* Form of Note				
4.6	* Specimen of certificate representing preferred stock, par value \$.001 per share				
4.7	* Form of Warrant Agreement				
4.8	* Form of Warrant Certificate (to be included in Exhibit 4.7)				
4.9	* Form of Deposit Agreement				
4.10	* Form of Depositary Receipt (to be included in Exhibit 4.9)				
4.11	* Form of Rights Agreement				
4.12	* Form of Rights Certificate (to be included in Exhibit 4.11)				
4.13	* Form of Unit Agreement				
4.14	* Form of Unit Certificate (to be included in Exhibit 4.13)				
<u>4.15</u>	<u>Third Amended and Restated Limited Liability Company Agreement of SSE Holdings, LLC, dated February 4, 2015 by and among SSE Holdings, LLC and its Members.</u>	<u>8-K</u>	<u>10.3</u>	<u>2/10/2015</u>	
<u>4.16</u>	<u>Amendment No. 1 to Third Amended and Restated Limited Liability Company Agreement of SSE Holdings, LLC, dated March 7, 2016, but effective as of February 5, 2015.</u>	<u>POS AM</u>	<u>10.1.1</u>	<u>3/10/2016</u>	
<u>4.17</u>	<u>Amendment No. 2 to Third Amended and Restated Limited Liability Company Agreement of SSE Holding, LLC, dated February 6, 2017</u>	<u>10-K</u>	<u>10.1.2</u>	<u>3/13/2017</u>	
<u>4.18</u>	<u>Registration Rights Agreement, dated February 4, 2015, by and among Shake Shack Inc. and each other person identified on the schedule of investors attached thereto.</u>	<u>8-K</u>	<u>10.2</u>	<u>2/10/2015</u>	
<u>4.19</u>	<u>Amendment No. 1 to Registration Rights Agreement, dated and effective as of October 8, 2015, by and among Shake Shack Inc., the Continuing SSE Equity Owners and affiliates of the Former SSE Equity Owners.</u>	<u>10-Q</u>	<u>10.2</u>	<u>11/6/2015</u>	
<u>5.1</u>	<u>Opinion of Proskauer Rose LLP.</u>				#

Explanation of Responses:

<u>12.1</u>	<u>Computation of Ratio of Earnings to Fixed Charges.</u>	#
<u>23.1</u>	<u>Consent of Independent Registered Public Accounting Firm</u>	#
<u>23.3</u>	<u>Consent of Proskauer Rose LLP (included in Exhibit 5.1).</u>	#
<u>24.1</u>	<u>Power of Attorney (incorporated by reference to the signature page)</u>	#
25.1	** Form T-1 Statement of Eligibility of Trustee under Debt Indenture.	

#Filed herewith.

* To be filed by amendment or as an exhibit to a current report on Form 8-K and incorporated herein by reference, if applicable.

** To be filed in accordance with the requirements of Section 305(b)(2) of the Trust Indenture Act of 1939, as amended, and the applicable rules thereunder.

Item 17. Undertakings.

The undersigned hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(A) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

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- To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and
- (B)
- (C) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

Provided, however, that the undertakings set forth in paragraphs (A), (B) and (C) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the SEC by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective (2) amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

- i) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and
- ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration

statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining the liability of the registrant under the Act to any purchaser in the initial distribution of the securities: The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser

i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

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- ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant
- iii) The portion of any other free writing prospectus relating to the offering contained material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
- iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(6) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by (7) a director, officer, or controlling person of the Registrant in the successful defense of any action, suit, or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

To file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of (8) Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Securities and Exchange Commission under Section 305(b)(2) of the Trust Indenture Act.

To supplement the prospectus, after the expiration of the subscription period, to set forth the results of the subscription offer, the transactions by the underwriters during the subscription period, the amount of unsubscribed (9) securities to be purchased by the underwriters, and the terms of any subsequent reoffering thereof. If any public offering by the underwriters is to be made on terms differing from those set forth on the cover page of the prospectus, a post-effective amendment will be filed to set forth the terms of such offering.

SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, on this 8th day of June, 2018.

Shake Shack Inc.

By: /s/ Randy Garutti
Randy Garutti
Chief Executive Officer and Director

POWER OF ATTORNEY

We, the undersigned officers and directors of Shake Shack Inc. hereby severally constitute and appoint Randy Garutti, our true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution for him and in his name, place and stead, and in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement (or any other registration statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent, full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as full to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities held on the dates indicated.

Signature	Title	Date
/s/ Randy Garutti Randy Garutti	Chief Executive Officer and Director (<i>Principal Executive Officer</i>)	June 8, 2018
/s/ Tara Comonte	Chief Financial Officer	June 8, 2018

Explanation of Responses:

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Tara Comonte	<i>(Principal Financial and Accounting Officer)</i>	
/s/ Daniel Meyer Daniel Meyer	Chairman of the Board of Directors	June 8, 2018
/s/ Anna Fieler Anna Fieler	Director	June 8, 2018
/s/ Jeff Flug Jeff Flug	Director	June 8, 2018
/s/ Jenna Lyons Jenna Lyons	Director	June 8, 2018
/s/ Joshua Silverman Joshua Silverman	Director	June 8, 2018
/s/ Jonathan D. Sokoloff Jonathan D. Sokoloff	Director	June 8, 2018
/s/ Bert Vivian Bert Vivian	Director	June 8, 2018

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