Form 5500

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Annual Return/Report of Employee Benefit Plan

This form is required to be filed for employee benefit plans under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6047(e), and 6058(a) of the Internal Revenue Code (the Code).

▶ **Complete all entries in accordance with the instructions to the Form 5500.**

OMB Nos. 1210-0110
1210-0089

2009

This Form is Open to Public Inspection

Part I Annual Report Identification Information

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A This return/report is for:
- [ ] a multiemployer plan;
- [ ] a multiple-employer plan; or
- [X] a single-employer plan;
- [ ] a DFE (specify) ____

B This return/report is:
- [ ] the first return/report;
- [X] the final return/report;
- [ ] an amended return/report;
- [ ] a short plan year return/report (less than 12 months).

C If the plan is a collectively-bargained plan, check here. . . . . ▶ [ ]

D Check box if filing under:
- [X] Form 5558;
- [ ] automatic extension;
- [X] the DFVC program;
- [ ] special extension (enter description)

Part II Basic Plan Information—enter all requested information

1a Name of plan
BACK YARD BURGERS, INC. 401K PLAN

1b Three-digit plan number (PN) ▶ 001

1c Effective date of plan 04/01/2001

2a Plan sponsor's name and address (employer, if for a single-employer plan) (Address should include room or suite no.)
BACK YARD BURGERS, INC.

500 CHURCH STREET, SUITE 200
NASHVILLE, TN 37219

2b Employer Identification Number (EIN) 64-0737163

2c Sponsor's telephone number 615-620-2300

2d Business code (see instructions) 722210

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE	Filed with authorized/valid electronic signature.	07/26/2013	CRAIG CLARK
	Signature of plan administrator	Date	Enter name of individual signing as plan administrator
SIGN HERE			
	Signature of employer/plan sponsor	Date	Enter name of individual signing as employer or plan sponsor
SIGN HERE			
	Signature of DFE	Date	Enter name of individual signing as DFE

3a Plan administrator's name and address (if same as plan sponsor, enter "Same")
BACK YARD BURGERS, INC.

500 CHURCH STREET, SUITE 200
NASHVILLE, TN 37219

3b Administrator's EIN
64-0737163

3c Administrator's telephone number
615-620-2300

4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report:
a Sponsor's name

4b EIN

4c PN

5	Total number of participants at the beginning of the plan year	**5**	209
6	Number of participants as of the end of the plan year (welfare plans complete only lines **6a, 6b, 6c,** and **6d**).		
a	Active participants	**6a**	0
b	Retired or separated participants receiving benefits	**6b**	0
c	Other retired or separated participants entitled to future benefits	**6c**	0
d	Subtotal. Add lines **6a**, **6b**, and **6c**	**6d**	0
e	Deceased participants whose beneficiaries are receiving or are entitled to receive benefits	**6e**	0
f	Total. Add lines **6d** and **6e**	**6f**	0
g	Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item)	**6g**	0
h	Number of participants that terminated employment during the plan year with accrued benefits that were less than 100% vested	**6h**	4
7	Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)	**7**	

8a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristic Codes in the instructions:
2E 2G 2J 2K 2T 3D

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristic Codes in the instructions:

9a Plan funding arrangement (check all that apply)

(1)	X	Insurance
(2)		Code section 412(e)(3) insurance contracts
(3)	X	Trust
(4)		General assets of the sponsor

9b Plan benefit arrangement (check all that apply)

(1)	X	Insurance
(2)		Code section 412(e)(3) insurance contracts
(3)	X	Trust
(4)		General assets of the sponsor

10 Check all applicable boxes in 10a and 10b to indicate which schedules are attached, and, where indicated, enter the number attached. (See instructions)

a Pension Schedules

(1)	X	**R** (Retirement Plan Information)
(2)		**MB** (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) - signed by the plan actuary
(3)		**SB** (Single-Employer Defined Benefit Plan Actuarial Information) - signed by the plan actuary

b General Schedules

(1)	X		**H** (Financial Information)
(2)			**I** (Financial Information – Small Plan)
(3)	X	1	**A** (Insurance Information)
(4)	X		**C** (Service Provider Information)
(5)			**D** (DFE/Participating Plan Information)
(6)			**G** (Financial Transaction Schedules)

SCHEDULE A (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Insurance Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).

▶ **File as an attachment to Form 5500.**

▶ Insurance companies are required to provide the information pursuant to ERISA section 103(a)(2).

OMB No. 1210-0110

2009

This Form is Open to Public Inspection

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
BACK YARD BURGERS, INC. 401K PLAN

B Three-digit plan number (PN) ▶ 001

C Plan sponsor's name as shown on line 2a of Form 5500.
BACK YARD BURGERS, INC.

D Employer Identification Number (EIN)
64-0737163

Part I **Information Concerning Insurance Contract Coverage, Fees, and Commissions** Provide information for each contract on a separate Schedule A. Individual contracts grouped as a unit in Parts II and III can be reported on a single Schedule A.

1 Coverage Information:

(a) Name of insurance carrier
HARTFORD LIFE INSURANCE COMPANY

(b) EIN	(c) NAIC code	(d) Contract or identification number	(e) Approximate number of persons covered at end of policy or contract year	Policy or contract year	
				(f) From	(g) To
06-0974148	88072	GA-007797	0	01/01/2009	12/31/2009

2 Insurance fee and commission information. Enter the total fees and total commissions paid. List in item 3 the agents, brokers, and other persons in descending order of the amount paid.

(a) Total amount of commissions paid	(b) Total amount of fees paid
1519	0

3 Persons receiving commissions and fees. (Complete as many entries as needed to report all persons).

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

MORGAN KEEGAN & CO INC
ATTN-INS AND ANNUITIES DEPT 50
MEMPHIS, TN 38103

(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	
1519			3

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

Part II Investment and Annuity Contract Information

Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

4	Current value of plan's interest under this contract in the general account at year end	4	
5	Current value of plan's interest under this contract in separate accounts at year end	5	

6 Contracts With Allocated Funds:

a State the basis of premium rates ▶

b	Premiums paid to carrier	6b	
c	Premiums due but unpaid at the end of the year	6c	
d	If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, enter amount.	6d	

Specify nature of costs ▶

e Type of contract: (1) ☐ individual policies (2) ☐ group deferred annuity

(3) ☐ other (specify) ▶

f If contract purchased, in whole or in part, to distribute benefits from a terminating plan check here ▶ ☐

7 Contracts With Unallocated Funds (Do not include portions of these contracts maintained in separate accounts)

a Type of contract: (1) ☐ deposit administration (2) ☐ immediate participation guarantee

(3) ☐ guaranteed investment (4) ☒ other ▶ GROUP ANNUITY CONTRACT

b	Balance at the end of the previous year			7b	
c	Additions: (1) Contributions deposited during the year	7c(1)			
	(2) Dividends and credits	7c(2)			
	(3) Interest credited during the year	7c(3)			
	(4) Transferred from separate account	7c(4)			
	(5) Other (specify below)	7c(5)			
	▶				
	(6) Total additions			7c(6)	0
d	Total of balance and additions (add **b** and **c(6)**)			7d	0
e	Deductions:				
	(1) Disbursed from fund to pay benefits or purchase annuities during year	7e(1)			
	(2) Administration charge made by carrier	7e(2)			
	(3) Transferred to separate account	7e(3)			
	(4) Other (specify below)	7e(4)			
	▶				
	(5) Total deductions			7e(5)	0
f	Balance at the end of the current year (subtract **e(5)** from **d**)			7f	0

Part III Welfare Benefit Contract Information

If more than one contract covers the same group of employees of the same employer(s) or members of the same employee organization(s), the information may be combined for reporting purposes if such contracts are experience-rated as a unit. Where contracts cover individual employees, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

8 Benefit and contract type (check all applicable boxes)

a ☐ Health (other than dental or vision) **b** ☐ Dental **c** ☐ Vision **d** ☐ Life insurance
e ☐ Temporary disability (accident and sickness) **f** ☐ Long-term disability **g** ☐ Supplemental unemployment **h** ☐ Prescription drug
i ☐ Stop loss (large deductible) **j** ☐ HMO contract **k** ☐ PPO contract **l** ☐ Indemnity contract
m ☐ Other (specify) ▶

9 Experience-rated contracts:				
a Premiums: (1) Amount received	**9a(1)**			
(2) Increase (decrease) in amount due but unpaid	**9a(2)**			
(3) Increase (decrease) in unearned premium reserve	**9a(3)**			
(4) Earned (**(1)** + **(2)** - **(3)**)			**9a(4)**	0
b Benefit charges (1) Claims paid	**9b(1)**			
(2) Increase (decrease) in claim reserves	**9b(2)**			
(3) Incurred claims (add **(1)** and **(2)**)			**9b(3)**	0
(4) Claims charged			**9b(4)**	
c Remainder of premium: (1) Retention charges (on an accrual basis) --				
(A) Commissions	**9c(1)(A)**			
(B) Administrative service or other fees	**9c(1)(B)**			
(C) Other specific acquisition costs	**9c(1)(C)**			
(D) Other expenses	**9c(1)(D)**			
(E) Taxes	**9c(1)(E)**			
(F) Charges for risks or other contingencies	**9c(1)(F)**			
(G) Other retention charges	**9c(1)(G)**			
(H) Total retention			**9c(1)(H)**	0
(2) Dividends or retroactive rate refunds. (These amounts were ☐ paid in cash, or ☐ credited.)			**9c(2)**	
d Status of policyholder reserves at end of year: (1) Amount held to provide benefits after retirement			**9d(1)**	
(2) Claim reserves			**9d(2)**	
(3) Other reserves			**9d(3)**	
e Dividends or retroactive rate refunds due. (Do not include amount entered in **c(2)**.)			**9e**	
10 Nonexperience-rated contracts:				
a Total premiums or subscription charges paid to carrier			**10a**	
b If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, other than reported in Part I, item 2 above, report amount.			**10b**	

Specify nature of costs ▶

Part IV Provision of Information

11 Did the insurance company fail to provide any information necessary to complete Schedule A? ☐ Yes ☒ No

12 If the answer to line 11 is "Yes," specify the information not provided. ▶

SCHEDULE C (Form 5500)	Service Provider Information	OMB No. 1210-0110
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA). ▶ **File as an attachment to Form 5500.**	**2009** **This Form is Open to Public Inspection.**

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
BACK YARD BURGERS, INC. 401K PLAN

B Three-digit plan number (PN) ▶ 001

C Plan sponsor's name as shown on line 2a of Form 5500
BACK YARD BURGERS, INC.

D Employer Identification Number (EIN)
64-0737163

Part I Service Provider Information (see instructions)

You must complete this Part, in accordance with the instructions, to report the information required for **each person** who received, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of monetary value) in connection with services rendered to the plan or the person's position with the plan during the plan year. If a person received **only** eligible indirect compensation for which the plan received the required disclosures, you are required to answer line 1 but are not required to include that person when completing the remainder of this Part.

1 Information on Persons Receiving Only Eligible Indirect Compensation

a Check "Yes" or "No" to indicate whether you are excluding a person from the remainder of this Part because they received only eligible indirect compensation for which the plan received the required disclosures (see instructions for definitions and conditions).. . . . . [X] Yes [ ] No

b If you answered line 1a "Yes," enter the name and EIN or address of each person providing the required disclosures for the service providers who received only eligible indirect compensation. Complete as many entries as needed (see instructions).

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

HARTFORD LIFE INSURANCE CO.

06-0974148

(b) Enter name and EIN or address of person who provided you disclosure on eligible indirect compensation

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2. Information on Other Service Providers Receiving Direct or Indirect Compensation. Except for those persons for whom you answered "yes" to line 1a above, complete as many entries as needed to list each person receiving, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. (See instructions).

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

Part I Service Provider Information (continued)

3 If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received $1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 2	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation
(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	

(a) Enter service provider name as it appears on line 2	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation
(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	

(a) Enter service provider name as it appears on line 2	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation
(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	

Part II Service Providers Who Fail or Refuse to Provide Information

4 Provide, to the extent possible, the following information for each service provider who failed or refused to provide the information necessary to complete this Schedule.

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

Part III **Termination Information on Accountants and Enrolled Actuaries (see instructions)**
(complete as many entries as needed)

a	Name: GRANT THORNTON	**b** EIN:	36-6055558
c	Position: EXTERNAL AUDITOR		
d	Address: 200 S 6TH ST SUITE 500 MINNEAPOLIS, MN 55412	**e** Telephone:	612-332-0001

Explanation: TERMINATED SERVICES

a	Name:	**b** EIN:	
c	Position:		
d	Address:	**e** Telephone:	

Explanation:

a	Name:	**b** EIN:	
c	Position:		
d	Address:	**e** Telephone:	

Explanation:

a	Name:	**b** EIN;	
c	Position:		
d	Address:	**e** Telephone:	

Explanation:

a	Name:	**b** EIN;	
c	Position:		
d	Address:	**e** Telephone:	

Explanation:

SCHEDULE H (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Financial Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2009

This Form is Open to Public Inspection

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
BACK YARD BURGERS, INC. 401K PLAN

B Three-digit plan number (PN) ▶ 001

C Plan sponsor's name as shown on line 2a of Form 5500
BACK YARD BURGERS, INC.

D Employer Identification Number (EIN)
64-0737163

Part I Asset and Liability Statement

1 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on lines 1c(9) through 1c(14). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. **Round off amounts to the nearest dollar.** MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 1b(1), 1b(2), 1c(8), 1g, 1h, and 1i. CCTs, PSAs, and 103-12 IEs also do not complete lines 1d and 1e. See instructions.

Assets		(a) Beginning of Year	(b) End of Year
a Total noninterest-bearing cash	1a		
b Receivables (less allowance for doubtful accounts):			
(1) Employer contributions	1b(1)		
(2) Participant contributions	1b(2)		
(3) Other	1b(3)		
c General investments:			
(1) Interest-bearing cash (include money market accounts & certificates of deposit)	1c(1)		
(2) U.S. Government securities	1c(2)		
(3) Corporate debt instruments (other than employer securities):			
(A) Preferred	1c(3)(A)		
(B) All other	1c(3)(B)		
(4) Corporate stocks (other than employer securities):			
(A) Preferred	1c(4)(A)		
(B) Common	1c(4)(B)		
(5) Partnership/joint venture interests	1c(5)		
(6) Real estate (other than employer real property)	1c(6)		
(7) Loans (other than to participants)	1c(7)		
(8) Participant loans	1c(8)	15406	0
(9) Value of interest in common/collective trusts	1c(9)		
(10) Value of interest in pooled separate accounts	1c(10)		
(11) Value of interest in master trust investment accounts	1c(11)		
(12) Value of interest in 103-12 investment entities	1c(12)		
(13) Value of interest in registered investment companies (e.g., mutual funds)	1c(13)	454865	0
(14) Value of funds held in insurance company general account (unallocated contracts)	1c(14)		
(15) Other	1c(15)		

		(a) Beginning of Year	(b) End of Year
1d Employer-related investments:			
(1) Employer securities	1d(1)		
(2) Employer real property	1d(2)		
e Buildings and other property used in plan operation	1e		
f Total assets (add all amounts in lines 1a through 1e)	1f	470271	0
Liabilities			
g Benefit claims payable	1g		
h Operating payables	1h		
i Acquisition indebtedness	1i		
j Other liabilities	1j		
k Total liabilities (add all amounts in lines 1g through1j)	1k	0	0
Net Assets			
l Net assets (subtract line 1k from line 1f)	1l	470271	0

Part II Income and Expense Statement

2 Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 2a, 2b(1)(E), 2e, 2f, and 2g.

Income		(a) Amount	(b) Total
a Contributions:			
(1) Received or receivable in cash from: **(A)** Employers	2a(1)(A)	31777	
(B) Participants	2a(1)(B)	56054	
(C) Others (including rollovers)	2a(1)(C)		
(2) Noncash contributions	2a(2)		
(3) Total contributions. Add lines **2a(1)(A), (B), (C),** and line **2a(2)**	2a(3)		87831
b Earnings on investments:			
(1) Interest:			
(A) Interest-bearing cash (including money market accounts and certificates of deposit)	2b(1)(A)		
(B) U.S. Government securities	2b(1)(B)		
(C) Corporate debt instruments	2b(1)(C)		
(D) Loans (other than to participants)	2b(1)(D)		
(E) Participant loans	2b(1)(E)	334	
(F) Other	2b(1)(F)		
(G) Total interest. Add lines **2b(1)(A)** through **(F)**	2b(1)(G)		334
(2) Dividends: **(A)** Preferred stock	2b(2)(A)		
(B) Common stock	2b(2)(B)		
(C) Registered investment company shares (e.g. mutual funds)	2b(2)(C)		
(D) Total dividends. Add lines **2b(2)(A)**, **(B)**, and **(C)**	2b(2)(D)		0
(3) Rents	2b(3)		
(4) Net gain (loss) on sale of assets: **(A)** Aggregate proceeds	2b(4)(A)		
(B) Aggregate carrying amount (see instructions)	2b(4)(B)		
(C) Subtract line **2b(4)(B)** from line **2b(4)(A)** and enter result	2b(4)(C)		0

			(a) Amount	(b) Total
2b	(5) Unrealized appreciation (depreciation) of assets: (A) Real estate	2b(5)(A)		
	(B) Other	2b(5)(B)		
	(C) Total unrealized appreciation of assets. Add lines 2b(5)(A) and (B)	2b(5)(C)		0
	(6) Net investment gain (loss) from common/collective trusts	2b(6)		
	(7) Net investment gain (loss) from pooled separate accounts	2b(7)		
	(8) Net investment gain (loss) from master trust investment accounts	2b(8)		
	(9) Net investment gain (loss) from 103-12 investment entities	2b(9)		
	(10) Net investment gain (loss) from registered investment companies (e.g., mutual funds)	2b(10)		93999
c	Other income	2c		
d	Total income. Add all **income** amounts in column (b) and enter total	2d		182164
	Expenses			
e	Benefit payment and payments to provide benefits:			
	(1) Directly to participants or beneficiaries, including direct rollovers	2e(1)	235793	
	(2) To insurance carriers for the provision of benefits	2e(2)		
	(3) Other	2e(3)		
	(4) Total benefit payments. Add lines 2e(1) through (3)	2e(4)		235793
f	Corrective distributions (see instructions)	2f		1624
g	Certain deemed distributions of participant loans (see instructions)	2g		
h	Interest expense	2h		
i	Administrative expenses: (1) Professional fees	2i(1)		
	(2) Contract administrator fees	2i(2)		
	(3) Investment advisory and management fees	2i(3)		
	(4) Other	2i(4)	828	
	(5) Total administrative expenses. Add lines 2i(1) through (4)	2i(5)		828
j	Total expenses. Add all **expense** amounts in column (b) and enter total	2j		238245
	Net Income and Reconciliation			
k	Net income (loss). Subtract line 2j from line 2d	2k		-56081
l	Transfers of assets:			
	(1) To this plan	2l(1)		
	(2) From this plan	2l(2)		414190

Part III Accountant's Opinion

3 Complete lines 3a through 3c if the opinion of an independent qualified public accountant is attached to this Form 5500. Complete line 3d if an opinion is not attached.

a The attached opinion of an independent qualified public accountant for this plan is (see instructions):

(1) [ ] Unqualified (2) [ ] Qualified (3) [X] Disclaimer (4) [ ] Adverse

b Did the accountant perform a limited scope audit pursuant to 29 CFR 2520.103-8 and/or 103-12(d)? [X] Yes [ ] No

c Enter the name and EIN of the accountant (or accounting firm) below:

(1) Name: BDO USA, LLP (2) EIN: 13-5381590

d The opinion of an independent qualified public accountant is **not attached** because:

(1) [ ] This form is filed for a CCT, PSA, or MTIA. (2) [ ] It will be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50.

Part IV Compliance Questions

4 CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete 4j and 4l. MTIAs also do not complete 4l.

During the plan year:		Yes	No	Amount
a Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.)	4a	X		7485
b Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible? Disregard participant loans secured by participant's account balance. (Attach Schedule G (Form 5500) Part I if "Yes" is checked.)	4b		X	
c Were any leases to which the plan was a party in default or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part II if "Yes" is checked.)	4c		X	
d Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 4a. Attach Schedule G (Form 5500) Part III if "Yes" is checked.)	4d		X	
e Was this plan covered by a fidelity bond?	4e		X	
f Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?	4f		X	
g Did the plan hold any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser?	4g		X	
h Did the plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser?	4h		X	
i Did the plan have assets held for investment? (Attach schedule(s) of assets if "Yes" is checked, and see instructions for format requirements.)	4i		X	
j Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets? (Attach schedule of transactions if "Yes" is checked, and see instructions for format requirements.)	4j		X	
k Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?	4k	X		
l Has the plan failed to provide any benefit when due under the plan?	4l		X	
m If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.)	4m		X	
n If 4m was answered "Yes," check the "Yes" box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3.	4n			

5a Has a resolution to terminate the plan been adopted during the plan year or any prior plan year? If yes, enter the amount of any plan assets that reverted to the employer this year ... [X] **Yes** [ ] **No** **Amount:** 0

5b If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

5b(1) Name of plan(s)	**5b(2)** EIN(s)	**5b(3)** PN(s)
401(K) ADVANTAGE MEWA	20-1826891	002

SCHEDULE R (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Retirement Plan Information

This schedule is required to be filed under section 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2009

This Form is Open to Public Inspection.

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
BACK YARD BURGERS, INC. 401K PLAN

B Three-digit plan number (PN) ▶ 001

C Plan sponsor's name as shown on line 2a of Form 5500
BACK YARD BURGERS, INC.

D Employer Identification Number (EIN)
64-0737163

Part I Distributions

All references to distributions relate only to payments of benefits during the plan year.

1 Total value of distributions paid in property other than in cash or the forms of property specified in the instructions **1** 0

2 Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits):

EIN(s): 06-0974148

Profit-sharing plans, ESOPs, and stock bonus plans, skip line 3.

3 Number of participants (living or deceased) whose benefits were distributed in a single sum, during the plan year. **3**

Part II Funding Information (If the plan is not subject to the minimum funding requirements of section of 412 of the Internal Revenue Code or ERISA section 302, skip this Part)

4 Is the plan administrator making an election under Code section 412(d)(2) or ERISA section 302(d)(2)? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

If the plan is a defined benefit plan, go to line 8.

5 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions and enter the date of the ruling letter granting the waiver. **Date:** Month _____ Day _____ Year _____

If you completed line 5, complete lines 3, 9, and 10 of Schedule MB and do not complete the remainder of this schedule.

6 **a** Enter the minimum required contribution for this plan year **6a**

b Enter the amount contributed by the employer to the plan for this plan year **6b**

c Subtract the amount in line 6b from the amount in line 6a. Enter the result (enter a minus sign to the left of a negative amount) **6c**

If you completed line 6c, skip lines 8 and 9.

7 Will the minimum funding amount reported on line 6c be met by the funding deadline? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

8 If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure providing automatic approval for the change or a class ruling letter, does the plan sponsor or plan administrator agree with the change? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

Part III Amendments

9 If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased or decreased the value of benefits? If yes, check the appropriate box(es). If no, check the "No" box. ..... ☐ **Increase** ☐ **Decrease** ☐ **Both** ☐ **No**

Part IV ESOPs (see instructions). If this is not a plan described under Section 409(a) or 4975(e)(7) of the Internal Revenue Code, skip this Part.

10 Were unallocated employer securities or proceeds from the sale of unallocated securities used to repay any exempt loan? ..... ☐ **Yes** ☐ **No**

11 **a** Does the ESOP hold any preferred stock? ..... ☐ **Yes** ☐ **No**

b If the ESOP has an outstanding exempt loan with the employer as lender, is such loan part of a "back-to-back" loan? (See instructions for definition of "back-to-back" loan.) ..... ☐ **Yes** ☐ **No**

12 Does the ESOP hold any stock that is not readily tradable on an established securities market? ..... ☐ **Yes** ☐ **No**

Part V Additional Information for Multiemployer Defined Benefit Pension Plans

13 Enter the following information for each employer that contributed more than 5% of total contributions to the plan during the plan year (measured in dollars). See instructions. *Complete as many entries as needed to report all applicable employers.*

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

14 Enter the number of participants on whose behalf no contributions were made by an employer as an employer of the participant for:

a The current year	**14a**	
b The plan year immediately preceding the current plan year	**14b**	
c The second preceding plan year	**14c**	

15 Enter the ratio of the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the current plan year to:

a The corresponding number for the plan year immediately preceding the current plan year	**15a**	
b The corresponding number for the second preceding plan year	**15b**	

16 Information with respect to any employers who withdrew from the plan during the preceding plan year:

a Enter the number of employers who withdrew during the preceding plan year	**16a**	
b If item 16a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers	**16b**	

17 If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

Part VI Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

18 If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment ☐

19 If the total number of participants is 1,000 or more, complete items (a) through (c)

a Enter the percentage of plan assets held as:
Stock: _____% Investment-Grade Debt: _____% High-Yield Debt: _____% Real Estate: _____% Other: _____%

b Provide the average duration of the combined investment-grade and high-yield debt:
☐ 0-3 years ☐ 3-6 years ☐ 6-9 years ☐ 9-12 years ☐ 12-15 years ☐ 15-18 years ☐ 18-21 years ☐ 21 years or more

c What duration measure was used to calculate item 19(b)?
☐ Effective duration ☐ Macaulay duration ☐ Modified duration ☐ Other (specify):

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Fax: 404-688-1075
www.bdo.com

1100 Peachtree Street, Suite 700
Atlanta, GA 30309

Independent Auditor's Report

To the Plan Administrator
Back Yard Burgers, Inc. 401(k) Plan
Nashville, Tennessee

Report on the Financial Statements

We were engaged to audit the accompanying financial statements of Back Yard Burgers, Inc. 401(k) Plan (the "Plan"), which comprise the statement of net assets available for benefits - liquidation basis as of December 28, 2009, and the related statement of changes in net assets available for benefits - liquidation basis for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with auditing standards generally accepted in the United States of America. Because of the matter described in the *Basis for Disclaimer of Opinion* paragraph, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinion

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the information summarized in Note 5, which was certified by Hartford Life Insurance Company, except for comparing such information with the related information included in the financial statements. We have been informed by the plan administrator that Hartford Life Insurance Company holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained a certification from Hartford Life Insurance Company as of and for the year ended December 28, 2009, that the information provided to the plan administrator by Hartford Life Insurance Company is complete and accurate.

Disclaimer of Opinion

Because of the significance of the matter described in the *Basis for Disclaimer of Opinion* paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a

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basis for an audit opinion on the 2009 financial statements. Accordingly, we do not express an opinion on these 2009 financial statements.

Other Matter – Supplemental Schedule

The supplemental schedule H, line 4a-Schedule of Delinquent Participant Contributions for the year ended December 28, 2009 is required by the Department of Labor's (DOL) Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974 and is presented for the purpose of additional analysis and is not a required part of the financial statements. Because of the significance of the matter described in the *Basis for Disclaimer of Opinion* paragraph, we do not express an opinion on supplemental schedule.

Other Matter – 2008 Financial Statements

The financial statements of the Plan as of December 31, 2008, were audited by predecessor auditors. As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974 (ERISA), the plan administrator instructed the predecessor auditors not to perform and they did not perform, any auditing procedures with respect to the information certified by the trustee. Their report, dated October 12, 2009 indicated that (a) because of the significance of the information that they did not audit, they were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion and accordingly, they did not express an opinion on the financial statements (b) the form and content of the information included in the financial statements other than that derived from the information certified by the trustee, were presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA.

Emphasis of Matter

As discussed in Note 1 to the financial statements, the Company decided to terminate the Plan effective July 24, 2009. In accordance with accounting principles generally accepted in the United States of America, the Plan has changed its basis of accounting from the ongoing plan basis used in presenting the 2008 financial statements to the liquidation basis used in presenting the 2009 financial statements.

Report on Form and Content in Compliance With DOL Rules and Regulations

The form and content of the information included in the 2009 financial statements and supplemental schedule, other than that derived from the information certified by Hartford Life Insurance Company, have been audited by us in accordance with auditing standards generally accepted in the United States of America and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.

BDO USA, LLP

Atlanta, Georgia
July 19, 2013

Back Yard Burgers, Inc. 401(k) Plan
EIN: 64-0737163
Plan Number: 001

Schedule H, line 4a–Schedule of Delinquent Participant Contributions
December 28, 2009

Check here if late participant loan repayments are included	Year	Participant contributions and loan repayments transferred late to Plan	Total that constitute Nonexempt Prohibited Transactions			Total fully corrected under VFCP and PTE 2002-51
			Contributions not corrected	Contributions corrected outside VFCP	Contributions pending correction in VFCP	
☑	2009	7,485	7,485	-	-	-

Back Yard Burgers, Inc. 401(k) Plan

Financial Statements and Supplemental Schedule

As of December 28, 2009 and December 31, 2008
and for the Year Ended December 28, 2009

The report accompanying these financial statements was issued by BDO USA, LLP, a Delaware limited liability partnership and the U.S. member of BDO International Limited, a UK company limited by guarantee.

Back Yard Burgers, Inc. 401(k) Plan

Financial Statements and Supplemental Schedule
As of December 28, 2009 and December 31, 2008
and for the Year Ended December 28, 2009

Back Yard Burgers, Inc. 401(k) Plan

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Note A – Other schedules required by Section 2520.103-10 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA not included herein have been omitted as there were no transactions of the type required to be disclosed in such schedules.

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www.bdo.com

1100 Peachtree Street, Suite 700
Atlanta, GA 30309

Independent Auditor's Report

To the Plan Administrator
Back Yard Burgers, Inc. 401(k) Plan
Nashville, Tennessee

Report on the Financial Statements

We were engaged to audit the accompanying financial statements of Back Yard Burgers, Inc. 401(k) Plan (the "Plan"), which comprise the statement of net assets available for benefits - liquidation basis as of December 28, 2009, and the related statement of changes in net assets available for benefits - liquidation basis for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with auditing standards generally accepted in the United States of America. Because of the matter described in the *Basis for Disclaimer of Opinion* paragraph, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinion

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the information summarized in Note 5, which was certified by Hartford Life Insurance Company, except for comparing such information with the related information included in the financial statements. We have been informed by the plan administrator that Hartford Life Insurance Company holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained a certification from Hartford Life Insurance Company as of and for the year ended December 28, 2009, that the information provided to the plan administrator by Hartford Life Insurance Company is complete and accurate.

Disclaimer of Opinion

Because of the significance of the matter described in the *Basis for Disclaimer of Opinion* paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a

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BDO is the brand name for the BDO network and for each of the BDO Member Firms.

basis for an audit opinion on the 2009 financial statements. Accordingly, we do not express an opinion on these 2009 financial statements.

Other Matter – Supplemental Schedule

The supplemental schedule H, line 4a-Schedule of Delinquent Participant Contributions for the year ended December 28, 2009 is required by the Department of Labor's (DOL) Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974 and is presented for the purpose of additional analysis and is not a required part of the financial statements. Because of the significance of the matter described in the *Basis for Disclaimer of Opinion* paragraph, we do not express an opinion on supplemental schedule.

Other Matter – 2008 Financial Statements

The financial statements of the Plan as of December 31, 2008, were audited by predecessor auditors. As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974 (ERISA), the plan administrator instructed the predecessor auditors not to perform and they did not perform, any auditing procedures with respect to the information certified by the trustee. Their report, dated October 12, 2009 indicated that (a) because of the significance of the information that they did not audit, they were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion and accordingly, they did not express an opinion on the financial statements (b) the form and content of the information included in the financial statements other than that derived from the information certified by the trustee, were presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA.

Emphasis of Matter

As discussed in Note 1 to the financial statements, the Company decided to terminate the Plan effective July 24, 2009. In accordance with accounting principles generally accepted in the United States of America, the Plan has changed its basis of accounting from the ongoing plan basis used in presenting the 2008 financial statements to the liquidation basis used in presenting the 2009 financial statements.

Report on Form and Content in Compliance With DOL Rules and Regulations

The form and content of the information included in the 2009 financial statements and supplemental schedule, other than that derived from the information certified by Hartford Life Insurance Company, have been audited by us in accordance with auditing standards generally accepted in the United States of America and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.

BDO USA, LLP

Atlanta, Georgia
July 19, 2013

Financial Statements

Back Yard Burgers, Inc. 401(k) Plan

Statements of Net Assets Available for Benefits—Liquidation Basis

	December 28, 2009	December 31, 2008
Assets		
Investments, at fair value:		
Mutual funds	$ -	$ 400,990
Money market	-	53,875
Participant loans	-	15,406
Total investments	-	470,271
Receivables:		
Participant contributions	-	3,514
Employer contributions	-	30,713
Total receivables	-	34,227
Total assets	-	504,498
Liabilities:		
Excess contribution payable	-	1,672
Other payable	-	455
Total liabilities	-	2,127
Net assets available for benefits	$ -	$ 502,371

See accompanying notes to financial statements.

Back Yard Burgers, Inc. 401(k) Plan

Statement of Changes in Net Assets Available for Benefits—Liquidation Basis

Year Ended December 28,	2009
Changes to net assets attributed to:	
Net investment income:	
Net appreciation in fair value of investments	$ 93,999
Interest and dividends	334
Total net investment income	94,333
Contributions:	
Participant	52,540
Employer	1,064
Total contributions	53,604
Total additions	147,937
Distributions:	
Benefits paid to participants	(235,745)
Administrative expenses	(373)
Total distributions	(236,118)
Net decrease before transfer	(88,181)
Transfers out to other plan	(414,190)
Net assets available for benefits, beginning of year	502,371
Neta ssets available for benefits, end of year	$ -

See accompanying notes to financial statements.

1. Description of the Plan

The following description of the Back Yard Burgers, Inc. (the "Company") 401(k) Plan (the "Plan") provides only general information. Participants should refer to the Plan agreement for a more complete description of the Plan's provisions.

General

The Plan was a defined contribution 401(k) plan subject to the provisions of the Employees Retirement Income Security Act of 1974 ("ERISA"), as amended. The Plan was established on April 1, 2001 and had been amended on June 12, 2008.

The Company decided to terminate the Plan effective July 24, 2009. The Plan sponsor instructed Hartford to liquidate the assets as of December 28, 2009, and transfer all existing assets to the 401(k) Advantage, LLC—MEWA Plan ("New Plan"). As of December 28, 2009, the Plan's assets had been transferred to the New Plan, and the Plan was terminated.

Eligibility

All employees who were not covered by a collective bargaining unit, not a non-resident alien, and not a leased employee as defined by the Plan, upon attaining age 18 were eligible to participate in the Plan after completing one year of service as defined by the Plan. Participants were eligible for the discretionary matching employer contributions if they had made participant elective deferral contributions during the Plan year, met the services requirements, and were employed on the last day of the Plan year. Participants could join the Plan on January 1st and July 1st of the Plan year after eligibility requirements were met.

Contributions

Each year, participants could contribute up to 15 percent of their eligible compensation as defined in the Plan subject to limits specified in the Internal Revenue Code ("IRC"). Participants who had attained age 50 before the end of the plan year were eligible to make catch-up contributions. Participants could also contribute amounts representing distributions from other qualified defined benefit or defined contribution plans. Participants directed the investment of their contributions into various investment options offered by the Plan.

The Company could make discretionary matching contributions on behalf of each participant in an amount equal to a percentage determined by the Board of Directors each Plan year. For 2009, the Board of Directors did not approve a discretionary employer matching contribution.

The Company could also make qualified nonelective employer contributions for each contributing participant who was a non-highly compensated employee. No qualified nonelective employer contributions were made in 2009.

Participant Accounts

Each participant's account was credited with participant's contributions, discretionary employer matching and nonelective contributions, and allocations of Plan earnings or losses, net of administrative expenses. Allocations were based on participant's account balance, as defined.

The benefit to which a participant is entitled was the benefit that can be provided from the participant's vested account.

Vesting

Participants were immediately vested in their contributions. Vesting in the discretionary matching and nonelective employer contributions vested on a graduated scale to 100% after four years of service, with a provision for 100% vesting at the normal retirement date, as defined in the Plan.

Participant Loans

Participants could borrow from their accounts a minimum of $1,000 up to a maximum equal to the lesser of $50,000 or 50% of their vested account balance. The loans were secured by the balance in the participant's account and bared interest at the rate equal to the prime rate. Participants could have only one loan outstanding at a given time. Principal and interest were paid ratably through payroll deductions for active participants. Loan terms did not exceed five years unless the loan was for the purchase of a home in which case the loan term could not exceed ten years.

Payment of Benefits

On termination of service due to termination of employment, retirement, or disability, a participant could receive the vested portion of the account balance or could elect to have a direct rollover to an IRA or other eligible plan. Withdrawals of pre-tax 401(k) contributions could be made at age 59½, and withdrawals upon circumstances of financial hardship could be made in accordance with the provisions specified in the Plan.

If a participant terminated employment and the vested individual account was eligible to be rolled over, was no more than $1,000, and the participant elected not to receive the distribution from the plan in either a lump sum or direct rollover, benefits were paid directly to the participant in a single lump sum.

If the participant's individual account was more than $1,000 and a distribution was requested, all or a portion of the benefits under the plan were made through either a lump sum distribution or installments.

Forfeitures

Forfeited non-vested accounts totaled $2,544 at December 31, 2008. Amounts forfeited by participants who terminate from the Plan prior to being 100 percent vested could be applied to reduce subsequent Company contributions to the Plan. No amounts were used to offset Company matching discretionary contributions during 2009.

Administrative Expenses

Certain administrative expenses of the plan were paid by the Company. Administrative expenses recorded in the Plan pertained primarily to loan origination fees which were charged directly to those participants who took a loan in the Plan year. All investment fees incurred with regard to

the purchase and sale of certain investments are paid by the Plan which are netted in investment income.

2. Summary of Accounting Policies

Basis of Accounting

The financial statements of the Plan have been prepared on the liquidation basis of accounting in conformity with accounting principles generally accepted in the United States of America. As a result of the plan's termination as described in Note 1, the Plan changed its basis of accounting from the ongoing plan basis to the liquidation basis for periods after July 24, 2009. The liquidation basis of accounting presents assets at amounts expected to be realized in liquidation and liabilities at amounts expected to be paid.

Investment Valuation and Income Recognition

Investments are reported at fair value. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. See Note 4 for discussions of fair value measurements.

Purchases and sales are recorded on a trade-date basis. Interest income is recorded on the accrual basis. Dividends are recorded on the ex-dividend date. Net appreciation (depreciation) includes the Plan's gains and losses on investments bought and sold as well as held during the year.

Accounting Standard Codification

In June 2009, the Financial Accounting Standards Board ("FASB") issued Statements of Financial Accounting Standards ("SFAS") No. 168, *The FASB Accounting Standard Codification*™ *("Codification") and the Hierarchy of Generally Accepted Accounting Principles,* effective for interim and annual reporting periods ending after September 15, 2009. This statement replaces SFAS No. 162, *The Hierarchy of Generally Accepted Accounting Principles* and establishes the Codification ("ASC") as the source of authoritative U.S. accounting principles used in the preparation of financial statements in conformity with GAAP. All guidance contained in the Codification carries an equal level of authority. The Codification does not replace or affect guidance issues by the SEC or its staff. The FASB will not issue new standards in the form of Statements, FASB Staff Positions or Emerging Issues Task Force Abstracts. Instead, it will issue Accounting Standards Updates ("ASUs"). The FASB will not consider ASUs as authoritative in their own right; rather, ASUs will serve only to update the Codification, provide background information about the guidance and provide the basis for conclusions on the change(s) in the Codification. This statement became effective for the year ended December 31, 2009, and references made to FASB guidance throughout this document have been updated for the Codification.

ASC 820

In September 2006, the FASB issued ASC 820 (formerly SFAS No. 157, *Fair Value Measurement*). ASC 820 introduces a framework for measuring fair value and expands required disclosure about fair value measurements of assets and liabilities. ASC 820 for financial assets and liabilities is

effective for fiscal years beginning after November 15, 2007. The Plan adopted ASC 820 as of January 1, 2008. There was no material impact to the Plan financial statements upon adoption.

Updates to Fair Value Measurements and Disclosures

In 2009, FASB Staff Position 157-4, Disclosure Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions that Are Not Orderly (FSP), was issued and later codified into ASC 820, which expanded disclosures and required that major category for debt and equity securities in the fair value hierarchy table be determine don the basis of the nature and risks of the investments. This guidance was adopted by the Plan for the years ended December 31, 2009 and 2008.

In September 2009, the FASB issued ASU 2009-12, Fair Value Measurements and Disclosures (Topic 820)—Investment in Certain Entities that Calculate Net Asset value per Share (or Its Equivalent). The ASU 2009-12 permits the use of net asset value per share, without further adjustment, to estimate the fair value of investments in investment companies that do not have readily determinable fair values. This guidance also required additional disclosure of the investments within the scope of the ASU. This guidance is effective for periods ended after December 15, 2009. The adoption will only affect disclosures and, therefore, will not impact the Plan's financial statements.

ASC 855

In May 2009, the FASB issued ASC 855 (formerly SFAS 165, *Subsequent Events*), which establishes general standards of accounting for and disclosure of events that occur after the statement of net assets available for benefits date but before the financial statements are issued or are available to be issues. It requires the disclosure of the date through which an entity has evaluated subsequent events and the basis for that date. The Statement sets forth the period after the statement of net assets available for benefits date during which management of a reporting entity should evaluate events or transactions that may occur for potential recognition or disclosure in the financial statements, the circumstances under which an entity should recognize events or transactions occurring after the statement of net assets available for benefits date in its financial statement and the disclosures that an entity should make about events or transactions that occurred after the statement of net assets available for benefits date. ASC 855 became effective for the Plan for the year ended December 31, 2009 and is to be applied prospectively. The impact of adoption was not significant.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires Plan management to make estimates and assumptions that affect the reported amounts of asset, liabilities, and changes therein, and disclosure of contingent assets and liabilities. Actual results could differ from those estimates.

Excess Contributions Payable

Excess contributions are recorded for refunds payable to participants, due to contributions in excess of Plan guidelines and Internal Revenue Service limitations.

3. Investments

The fair value of individual investments that represent five percent or more of the Plan's net assets are as follows:

	December 28, 2009	December 31, 2008
Mutal funds		
T.Rowe Price Personal Strategy Balanced Fund	**$ - ***	$ 136,849
Hartford Total Return Bond HLS Fund	**$ - ***	$ 111,538
T.Rowe Price Personal Strategy Income Fund	**$ - ***	$ 41,575
T.Rowe Price Personal Strategy Growth Fund	**$ - ***	$ 63,938
Money market		
Hartford Money Market HLS	**$ - ***	$ 53,875

**Does not represent 5% or more of the Plan's net assets in the respective year.*

4. Fair Value Measurements

As of the beginning of fiscal year ended December 31, 2008, the Plan adopted ASC 820, *Fair Value Measurements and Disclosures*. ASC 820 provides a framework for measuring fair value. That framework provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy under ASC 820 are described as follows:

Level 1: Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Plan has the ability to access.

Level 2: Inputs to the valuation methodology include:

- quoted prices for similar assets or liabilities in active markets;
- quoted prices for identical or similar assets or liabilities in inactive markets;
- inputs other than quoted prices that are observable for the asset or liability;
- inputs that are derived principally from or corroborated by observable market data by correlation or other means.

If the asset or liability has a specified (contractual) term, the Level 2 input must be observable for substantially the full term of the asset or liability.

Level 3: Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

Following is a description of the valuation methodologies used for assets measured at fair value.

> *Mutual Funds and Money Market Fund:* Mutual funds represent investments with various investment managers. The fair value of these investments are determined by reference to the fund's underlying assets, which are principally marketable equities and fixed income securities. Shares held in mutual funds on national securities exchanges are valued at the net asset value as of December 31, 2008.
>
> *Participant Loans:* Participant loans are valued at the outstanding balance, which approximates fair value.

The preceding methods described may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, while the Plan believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

The following table sets forth by level, within the fair value hierarchy, the Plan's assets at fair value as of December 31, 2008:

	Level 1	Level 2	Level 3	Total
Mutual funds	$ 400,990	$ -	$ -	$ 400,990
Money market fund	53,875	-	-	53,875
Participant loans*	-	-	15,406	15,406
Total investments at fair value	$ 454,865	$ -	$ 15,406	$ 470,271

**Level 3 assets represent 3.7% of total investements at fair value*

5. Information Certified by the Plan's Trustee

The Plan administrator has elected the method of annual reporting compliance permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA. Accordingly, the Trustee has certified that the following data included in the accompanying financial statements and supplemental schedule is complete and accurate.

	December 28, 2009	December 31, 2008
Mutual funds	$ -	$ 400,990
Money market funds	$ -	$ 53,875
Participant loans	$ -	$ 15,406

Year ended December 28,	2009
Net appreciation in fair value of mutual funds	$ 94,350
Net depreciation in fair value of money market funds	$ (531)
Interest income from participant loans	$ 224

The Plan's independent accountants did not perform auditing procedures with respect to this information, except for comparing such information with the related information included in the financial statements.

6. Related Party Transactions

Certain plan investments are shares of mutual funds and a money market fund which were managed by Hartford Life Insurance Company ("Hartford"). Hartford was the record keeper as defined by the Plan and therefore, the transactions qualified as party-in-interest transactions. In 2009, the Plan paid $373 to Hartford which was reported as administrative expenses in the Statement of Changes in Net Assets Available for Benefits.

7. Income Tax Status

The Internal Revenue Service ruled on January 31, 2006 that the Volume Submitter Profit Sharing Plan with CODA (the prototype plan of Hartford Life Insurance Company upon which the Plan is based) qualifies under Section 401(a) of the Internal Revenue Code ("IRC") and the related trust is, therefore, not subject to tax under present income tax law.

The Plan has since been amended; however, the plan administrator believes that the Plan is designed and is currently being operated in compliance with the applicable requirements of the IRC. Therefore, no provision for income taxes has been included in the Plan's financial statements.

8. Risks and Uncertainties

The Plan had invested in various investment securities. Investment securities are exposed to various risks such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the statement of net assets available for benefits.

9. Reconciliation of the Financial Statements to the Form 5500

The following is a reconciliation of net assets available for benefits per the financial statements to the Form 5500:

	December 28, 2009	December 31, 2008
Net assets available for benefits per the financial statements	**$ -**	$ 502,371
Less: Participant elective deferral contribution receivable	-	(3,514)
Less: Employer discretionary match contribution receivable	-	(30,713)
Add: Excess contribution payable	-	1,672
Add: Other payable	-	455
Net assets available for benefits per the Form 5500	**$ -**	$ 470,271

The following is a reconciliation of contributions per the financial statements to the Form 5500 for the year ended December 28:

		2009
Contributions per the financial statements	**$**	**53,604**
Add: Contributions receivable at prior year-end		**34,227**
Contributions per the Form 5500	**$**	**87,831**

The following is a reconciliation of distributions per the financial statements to the Form 5500 for the year ended December 28:

		2009
Distributions to participants per financial statements	**$**	**(236,118)**
Less: other payable at prior year end		**(455)**
Less: excess contribution payable at prior year end		**(1,672)**
Distributions per the Form 5500	**$**	**(238,245)**

10. Non-Exempt Transactions

During the plan year ended December 31, 2009, employee withholdings and loan repayments in the amount of $6,776 and $709, respectively, were not remitted to the Plan within the appropriate time period by the Employer. These transactions constitute prohibited transactions as defined by ERISA. The Employer remitted the withholdings in 2009.

Supplemental Schedule

Back Yard Burgers, Inc. 401(k) Plan
EIN: 64-0737163
Plan Number: 001

Schedule H, line 4a–Schedule of Delinquent Participant Contributions
December 28, 2009

Check here if late participant loan repayments are included	Year	Participant contributions and loan repayments transferred late to Plan	Total that constitute Nonexempt Prohibited Transactions			Total fully corrected under VFCP and PTE 2002-51
			Contributions not corrected	Contributions corrected outside VFCP	Contributions pending correction in VFCP	
☑	2009	7,485	7,485	-	-	-

Form **5558**
(Rev. January 2008)
Department of the Treasury
Internal Revenue Service

Application for Extension of Time To File Certain Employee Plan Returns

► **For Privacy Act and Paperwork Reduction Act Notice, see instructions on page 3.**

OMB No. 1545-0212

File With IRS Only

Part I Identification

A Name of filer, plan administrator, or plan sponsor (see instructions)
Back Yard Burgers, Inc.
Number, street, and room or suite no. (If a P.O. box, see instructions)
500 Church Street
City or town, state, and ZIP code
Nashville TN 37219

B **Filer's identifying number (see instructions).**
☒ Employer identification number (EIN).
64-0737163
☐ Social security number (SSN)

C Plan name	Plan number	Plan year ending— MM	DD	YYYY
1 Back Yard Burgers, Inc. 401k Plan	001	12	31	2009
2				
3				

Part II Extension of Time to File Form 5500 or Form 5500-EZ *(see instructions)*

1 I request an extension of time until 10 / 15 / 2010 to file Form 5500 or Form 5500-EZ.

The application **is automatically approved** to the date shown on line 1 (above) if: **(a)** the Form 5558 is filed on or before the normal due date of Form 5500 or 5500-EZ for which this extension is requested, and **(b)** the date on line 1 is no more than 2½ months after the normal due date.

You must attach a copy of this Form 5558 to each Form 5500 and 5500-EZ filed after the due date for the plans listed in C above.

Note. A signature is not required if you are requesting an extension to file Form 5500 or Form 5500-EZ.

Part III Extension of Time to File Form 5330 *(see instructions)*

2 I request an extension of time until / / to file Form 5330.
You may be approved for up to a six (6) month extension to file Form 5330, after the normal due date of Form 5330.

a Enter the Code section(s) imposing the tax . . . . . ► **a** ?????A?? ?????A

b Enter the payment amount attached . . . . . ► **b** ?A

c For excise taxes under section 4980 or 4980F of the Code, enter the reversion/amendment date . . . ► **c** ?

3 **State in detail why you need the extension**
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Under penalties of perjury, I declare that to the best of my knowledge and belief, the statements made on this form are true, correct, and complete, and that I am authorized to prepare this application. ?????A

Signature ► **Date** ►

?????A?? ?????A?? ?????A