

KAPSTONE PAPER & PACKAGING CORP
Form 10-K/A
January 09, 2007

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

**FORM 10-K/A
AMENDMENT NO. 2
ANNUAL REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934**

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

For the fiscal year ended December 31, 2005

OR

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

For the transition period from _____ to _____

Commission File No.: 000-51444

KapStone Paper and Packaging Corporation

Name of issuer as specified in its charter

c/o Stone-Kaplan Investments, LLC
One Northfield Plaza, Suite 480
Northfield, Illinois 60093

(address of principal executive offices) (Zip Code)

Delaware
(State or other jurisdiction of
incorporation or organization)

20-2699372
(I.R.S. Employer
Identification No.)

Registrant's telephone number, including area code: (847) 441-0929

Securities registered pursuant to Section 12(b) of the Act: None

Securities registered pursuant to Section 12(g) of the Act:

Common Stock, \$.0001 par value
(Title of Class)

Common Stock Purchase Warrants

(Title of Class)

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

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

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Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark if the registrant is a large accelerated filer, an accelerated filer or a non-accelerated filer.

Large Accelerated Filer Accelerated Filer Non-Accelerated Filer

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes No

State the aggregate market value of the voting and non-voting stock held by non-affiliates of the Issuer: \$103,545,000 based upon the closing price of Issuer's Common Stock, \$.0001 par value, as of December 30, 2005. This date was used because the Issuer's common stock was not publicly traded at the end of its most recently completed second fiscal quarter.

Indicate the number of shares outstanding of each of the Registrant's classes of common stock, as of the latest practicable date; 25,000,000 at March 21, 2006.

DOCUMENTS INCORPORATED BY REFERENCE: NONE

EXPLANATORY NOTE

We are filing this second amendment to our annual report on Form 10-K for the year ended December 31, 2005 (the “10-K”) because we did not obtain approval for the reissuance of the report of the predecessor independent registered public accounting firm on their audit of our December 31, 2005 financial statements which was included in an amendment to the 10-K filed on December 12, 2006 (the “First Amendment”). The First Amendment was filed to include additional language in the financial statement footnotes regarding the exercise provision of the underwriter’s options and the warrants; in particular to describe the fact that the warrants cannot be exercised unless there is a current registration covering the underlying shares and because we are only obligated to use our best efforts to maintain an effective registration statement and may be unable to do so, the underwriter’s option and warrants may expire worthless. We did not seek the approval for the reissuance of the predecessor registered public accounting firm’s report in the mistaken belief that it was not required due to the nature of the additional disclosure. Included in this amendment to the Form 10-K is currently dated certifications from our Chief Executive Officer and Chief Financial Officer, as required by Sections 302 and 906 of the Sarbanes-Oxley Act (See Exhibits 31 and 32).

Except to the extent modified or updated, the foregoing items have not been amended to reflect other events occurring after the original filing or to modify or update those disclosures affected by subsequent events. Other events occurring after the filing of the original filing or other disclosures necessary to reflect subsequent events have been addressed in the Company’s reports filed with the Securities and Exchange Commission subsequent to the filing of the original filing.

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Item 15. Exhibits and Financial Statement Schedules

(a)(1) **Financial Statements.**

An index to Consolidated Financial Statements appears on page F-1.

(b) **Exhibits.**

The following Exhibits are filed as part of this report

<u>Exhibit No.</u>	<u>Description</u>
3.1	Amended and Restated Certificate of Incorporation, as amended. (1)
3.2	By-laws.(1)
4.1	Specimen Unit Certificate.(1)
4.2	Specimen Common Stock Certificate.(1)
4.3	Specimen Warrant Certificate.(1)
4.4	Form of Unit Purchase Option to be granted to Representative. (1)
4.5	Form of Warrant Agreement between Continental Stock Transfer & Trust Company and the Registrant. (1)
10.1	Form of Letter Agreement among the Registrant, Morgan Joseph & Co. Inc. and each of the Initial Stockholders. (1)
10.2	Form of Promissory Note issued to each of Roger Stone, Matthew Kaplan, John Chapman, Jonathan Furer and Muhit Rahman. (1)
10.3	Form of Investment Management Trust Agreement between Continental Stock Transfer & Trust Company and the Registrant. (1)
10.4	Form of Stock Escrow Agreement between the Registrant, Continental Stock Transfer & Trust Company and the Initial Stockholders. (1)

- 10.5 Form of Letter Agreement between Stone-Kaplan Investments LLC and Registrant regarding administrative support. (1)
- 10.6 Form of Registration Rights Agreement among the Registrant and the Initial Stockholders. (1)
- 10.7 Form of Warrant Purchase Agreement among each of the Initial Stockholders and Morgan Joseph & Co. Inc. (1)
- 31 Certification of the Chief Executive Officer and Principal Financial Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act, as amended
- 32 Certification of the Chief Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 .

(1) Incorporated by reference to the Registrant's Registration Statement on Form S-1 (File No. 333-124601).

SIGNATURES

Pursuant to the requirements of Section 13 or 15 (d) of the Securities Exchange Act of 1934, the Registrant had duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**KAPSTONE PAPER AND PACKAGING
CORPORATION**

January 5, 2007

By: /s/ Roger Stone
Roger Stone, Chairman of the Board and Chief Executive
Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

January 5, 2007

By: /s/ Roger Stone
Roger Stone, Chairman of the Board and Chief Executive
Officer

January 5, 2007

By: /s/ Matthew Kaplan
Matthew Kaplan, President, Secretary and Director

January 5, 2007

By: /s/ John M. Chapman
John M. Chapman, Director

January 5, 2007

By: /s/ Jonathan R. Furer
Jonathan R. Furer, Director

January 5, 2007

By: /s/ Muhit U. Rahman
Muhit U. Rahman, Director

STONE ARCADE ACQUISITION CORP.

(a development state company)

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Statement of cash flows for the period from April 15, 2005 (date of inception) through December 31, 2005	F-6
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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Stockholders
Stone Arcade Acquisition Corporation

We have audited the accompanying balance sheet of Stone Arcade Acquisition Corporation (a development stage company) (the "Company") as of December 31, 2005 and the related statements of operations, changes in stockholders' equity and cash flows for the period from April 15, 2005 (date of inception) through December 31, 2005. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Stone Arcade Acquisition Corporation as of December 31, 2005 and the results of its operations and its cash flows for the period from April 15, 2005 (date of inception) through December 31, 2005 in conformity with U.S. generally accepted accounting principles.

/s/ Eisner LLP
Eisner LLP

New York, New York
March 9, 2006
With respect to the third paragraph of Note C, January 4, 2007

STONE ARCADE ACQUISITION CORPORATION

(a development stage company)

Balance Sheet**December 31, 2005****ASSETS**

Current assets:

Cash	\$ 2,157,611
Short-term investments held in trust fund (including interest receivable of \$266,239) (fair value \$112,001,836)	111,965,034
Prepaid insurance	122,500
Other prepaid expenses	6,375
Total current assets	114,251,520

Deferred income tax benefits	54,094
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Total assets	\$ 114,305,614
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LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities:

Accrued expenses	\$ 76,486
Income tax payable - current	59,852
Deferred income tax	90,521
Total current liabilities	226,859

Common stock, subject to possible redemption - 3,998,000 shares	22,159,715
Interest income attributable to common stock subject to possible redemption (net of taxes of \$97,601)	189,462

Total common stock, subject to possible redemption	22,349,177
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Commitments and contingencies (Note G)

Stockholders' equity:

Preferred stock - \$.0001 par value; 1,000,000 shares authorized; 0 shares issued and outstanding	
Common stock - \$.0001 par value; 175,000,000 shares authorized; 25,000,000 shares issued and outstanding (including 3,998,000 shares subject to possible redemption)	2,500
Additional paid-in capital	91,098,761
Income accumulated during the development stage	628,317

Total stockholders' equity	91,729,578
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\$ 114,305,614

See notes to financial statements

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STONE ARCADE ACQUISITION CORPORATION

(a development stage company)

Statement of Operations**For the Period From April 15, 2005 (Date of Inception) Through December 31, 2005**

Expenses:

Operating costs	\$ 221,100
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Other income:

Bank interest	24,124
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Interest on cash and short term investments held in trust	1,436,034
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Total other income	1,460,158
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Income before provision for income taxes	1,239,058
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Provision for income taxes:

Current	(384,852)
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Deferred	(36,427)
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Net income for the period	817,779
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Interest income attributable to common stock subject to possible redemption (net of taxes of \$97,601)	(189,462)
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Net income allocable to common stockholders not subject to possible redemption	\$ 628,317
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Weighted average number of shares outstanding:

Basic	15,307,692
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Diluted	16,547,715
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Net income per share:

Basic	\$.05
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Diluted	\$.05
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Weighted average number of shares outstanding exclusive of shares subject to possible redemption:

Basic	13,247,185
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Diluted	14,487,208
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Net income per share subject to possible redemption:

Basic	\$.05
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Diluted	\$.04
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See notes to financial statements

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STONE ARCADE ACQUISITION CORPORATION

(a development stage company)

Statement of Changes in Stockholders' Equity**For the Period From April 15, 2005 (Date of Inception) Through December 31, 2005**

	Common Stock		Additional	Income	
	Shares	Amount	Paid-In	Accumulated	Total
			Capital	During the	
				Development	
				Stage	
Balance - April 15, 2005 (date of inception)	0	\$ 0	\$ 0	\$ 0	0
Initial capital from founding stockholders	5,000,000	500	24,500		25,000
Sale of 20,000,000 units and underwriter's option (including 3,998,000 shares of common stock subject to possible redemption), net of underwriter's discount and offering expenses	20,000,000	2,000	113,233,976		113,235,976
Reclassification as a result of 3,998,000 shares of common stock being subject to possible redemption			(22,159,715)		(22,159,715)
Accretion of trust fund relating to common stock subject to possible redemption				\$ (189,462)	(189,462)
Net income for the period				817,779	817,779
Balance - December 31, 2005	25,000,000	\$ 2,500	\$ 91,098,761	\$ 628,317	\$ 91,729,578

See notes to financial statements

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STONE ARCADE ACQUISITION CORPORATION

(a development stage company)

Statement of Cash Flows**For the Period From April 15, 2005 (Date of Inception) Through December 31, 2005****Cash flows used in operating activities:**

Net income	\$ 817,779
Changes in:	
Prepaid insurance	(122,500)
Interest receivable on short-term investments	(266,239)
Other prepaid expenses	(6,375)
Accrued expenses	76,486
Income taxes payable - current	59,852
Income taxes payable - deferred	36,427
Net cash provided by operating activities	595,430

Cash flows used in investing activities:

Purchase of U.S. Government Securities held in Trust Fund	(556,765,009)
Maturities of U.S. Government Securities held in Trust Fund	445,066,214
Net cash used in investing activities	(111,698,795)

Cash flows provided by financing activities:

Proceeds from public offering, net of expenses	113,235,876
Proceeds from sale of common stock to founding stockholders	25,000
Proceeds from notes payable to stockholders	200,000
Repayment of notes to stockholders	(200,000)
Proceeds from issuance of underwriter's option	100
Net cash provided by financing activities	113,260,976

Net increase in cash **2,157,611**Cash - beginning of period **0****Cash - end of period** **\$ 2,157,611****Supplemental disclosure of noncash activities:**

Reclassification of common stock subject to possible redemption	\$ 22,159,715
Accretion of trust fund relating to common stock subject to possible redemption	189,462

Cash paid during the period:

Federal income taxes	\$ 325,000
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See notes to financial statements

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STONE ARCADE ACQUISITION CORPORATION

(a development stage company)

Notes to Financial Statements

December 31, 2005

Note A - Organization, Business Operations and Subsequent Events

Stone Arcade Acquisition Corporation (the "Company") was incorporated in Delaware on April 15, 2005. The Company was formed to serve as a vehicle for the acquisition through a merger, capital stock exchange, asset acquisition, or other similar business combination ("Business Combination") of an operating business in the paper, packaging, forest products and related industries. The Company has neither engaged in any operations nor generated operating revenue. The Company is considered to be in the development stage and is subject to the risks associated with activities of development stage companies. The Company has selected December 31 as its fiscal year end.

The registration statement for the Company's initial public offering (the "Offering") was declared effective on August 15, 2005. The Company consummated the Offering on August 19, 2005 and received net proceeds of approximately \$113,236,000. The Company's management has broad discretion with respect to the specific application of the net proceeds of the Offering (as described in Note C), although substantially all of the net proceeds of the Offering are intended to be generally applied toward a Business Combination. Furthermore, there is no assurance that the Company will be able to successfully effect a Business Combination. Of the net proceeds, \$111,965,034 including interest received and accrued less estimated tax payments of \$325,000 is being held in a trust account ("Trust Fund") and invested in government securities until the earlier of (i) the consummation of the first Business Combination or (ii) the distribution of the Trust Fund as described below. The interest income is subject to additional taxes incurred, but not yet paid, as of December 31, 2005. The remaining proceeds may be used to pay for business, legal and accounting due diligence on prospective business combinations and continuing general and administrative expenses. The Company, after signing a definitive agreement for the acquisition of a target business, will submit such transaction for stockholder approval. In the event that holders of 20 percent or more of the shares issued in the Offering vote against the Business Combination and elect to redeem their shares, the Business Combination will not be consummated. If holders of less than 20 percent of the shares issued in the Offering vote against the Business Combination and elect to have their shares redeemed, the Business Combination will be consummated and the shares of such holders will be redeemed at the net offering price, \$5.54, plus interest income allocable to such shares, net of income taxes. The number of shares subject to possible redemption is 3,998,000. At December 31, 2005, the Company has classified \$22,349,177 of the net proceeds from the Offering plus interest, but net of taxes, as common stock subject to possible redemption in the accompanying balance sheet.

In the event that the Company does not consummate a Business Combination within 18 months from the date of the consummation of the Offering, or 24 months from the consummation of the Offering if certain extension criteria have been satisfied (the "Acquisition period"), the proceeds held in the Trust Fund will be distributed to the Company's public stockholders, excluding the persons who were stockholders prior to the Offering (the "Founding Stockholders") to the extent of their initial stock holdings. However, the Founding Stockholders will participate in any liquidation distribution with respect to any shares of common stock they acquired in connection with or following the Offering. In the event of such distribution, it is likely that the per share value of the residual assets remaining available for distribution (including Trust Fund assets) will be less than the initial public offering price per share in the Offering (assuming no value is attributed to the Warrants contained in the Units in the Offering discussed in Note C).

Note B - Summary of Significant Accounting Policies

[1] Cash and cash equivalents:

All highly liquid investments with original maturities of three months or less are considered to be cash equivalents.

[2] Earnings per common share:

Basic income per share is based on the weighted average number of common shares outstanding during the period. Diluted income per share reflects the potential dilution assuming common shares were issued upon the exercise of outstanding in-the-money warrants and the proceeds thereof were used to purchase common shares at the average market price during the period.

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STONE ARCADE ACQUISITION CORPORATION

(a development stage company)

Notes to Financial Statements

December 31, 2005

Note B - Summary of Significant Accounting Policies (continued)

[3] Use of estimates:

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts in the financial statements and accompanying notes. Actual results could differ from those estimates.

[4] Income taxes:

Deferred income taxes are provided for the differences between the bases of assets and liabilities for financial reporting and income tax purposes. Deferred tax assets and liabilities are measured using tax rates in effect for the year in which those temporary differences are expected to be recovered or settled. A valuation allowance is established when necessary to reduce deferred tax assets to the amount expected to be realized.

Note C - Initial Public Offering

On August 19, 2005, the Company sold 20,000,000 units ("Units"). Each Unit consisted of one share of the Company's common stock, \$.0001 par value, and two warrants ("Warrants"). Each Warrant entitles the holder to purchase from the Company one share of common stock at an exercise price of \$5.00. Each warrant is exercisable on the later of (a) the completion of a Business Combination or (b) August 15, 2006, and expires on August 15, 2009. The Warrants are redeemable at a price of \$.01 per Warrant upon 30 days notice after the Warrants become exercisable, only in the event that the last sale price of the common stock is at least \$8.50 per share for any 20 trading days within a 30 trading day period ending on the third day prior to the date on which notice of redemption is given.

In connection with the Offering, the Company paid the underwriters an underwriting discount of 5 percent of the gross proceeds of the Offering. The Company also issued for \$100 an option to the representative of the underwriters to purchase up to a total of 1,000,000 units at a price of \$7.50 per unit. The units issuable upon the exercise of this option are identical to those offered in the prospectus, except that the exercise price of the warrants included in the underwriters' purchase option is \$6.25. This option is exercisable commencing on the later of the consummation of a business combination or one year from the date of the Offering, expires five years from the date of the Offering, and may be exercised on a cashless basis. The option may not be sold, transferred, assigned, pledged or hypothecated until August 16, 2006. However, the option may be transferred to any underwriter and selected dealer participating in the Offering and their bona fide officers or partners.

The underwriters' purchase option and the Warrants (including the warrants underlying the underwriters' option) will be exercisable only if at the time of exercise a current registration statement covering the underlying securities is effective or, in the opinion of counsel, not required, and if the securities are qualified for sale or exempt from qualification under the applicable state securities laws of the exercising holder. The Company is obligated to use its best efforts to maintain an effective registration statement during the term of the option and the Warrants; however, it may be unable to do so. Holders of the option and the Warrants are not entitled to receive a net cash settlement or other settlement in lieu of physical settlement if the common stock underlying the Warrants, or securities underlying the option, as applicable, are not covered by an effective registration statement. Accordingly, the Warrants, which do not have a cashless exercise provision, may expire unexercised and worthless if a current registration statement

covering the common stock is not effective.

The holders of the option have demand and piggy-back registration rights under the Securities Act for periods of five and seven years, respectively, from the date of the Offering with respect to registration of the securities directly and indirectly issuable upon exercise of the option. The exercise price and number of units issuable upon exercise of the option may be adjusted in certain circumstances, including issuances of a stock dividend, recapitalization, reorganization, merger or consolidation. However, the option will not be adjusted for issuances at a price below its exercise price.

STONE ARCADE ACQUISITION CORPORATION

(a development stage company)

Notes to Financial Statements**December 31, 2005****Note C - Initial Public Offering (continued)**

The Company has estimated, based upon a Black Scholes model, that the fair value of the purchase option on the date of sale was approximately \$980,000, using an expected life of four years, volatility of 23.9 percent, and a risk-free rate of 3.93 percent. However, because the Units did not have a trading history, the volatility assumption was based on information available to management. The volatility estimate was derived using five-year historical stock prices for the nine companies in the Standard and Poor's Supercomposite Paper Packaging Index. The Company believes the volatility estimate calculated from this index is a reasonable benchmark to use in estimating the expected volatility of the units; however, the use of an index to estimate volatility may not necessarily be representative of the volatility of the underlying securities. Although an expected life of four years was used in this calculation, if the Company does not consummate a Business Combination within the prescribed time period and liquidates, the option will become worthless.

The Company accounted for this purchase option, inclusive of the receipt of the \$100 cash payment, as an expense of the Offering resulting in a charge directly to stockholders' equity. Accordingly there was no impact in the Company's financial position or results of operations except for the recording of the \$100 proceeds from the sale.

In accordance with a commitment entered into in connection with the Offering, the Founding Stockholders have purchased 3,500,000 warrants in the public marketplace. They have further agreed that warrants purchased by them or their affiliates will not be sold or transferred until the completion of a Business Combination.

Note D - Income Taxes

The provision for income taxes for the period ended December 31, 2005 consists of the following:

Current	\$ 384,852
Deferred	36,427
Total	\$ 421,279

Deferred tax assets and liabilities at December 31, 2005 consist of the following:

Deferred tax assets - start up costs	\$ 54,094
Deferred tax liability - accrued interest receivable	(90,521)
Net deferred tax liability	\$ (36,427)

Note E - Notes Payable to Stockholders

The Company issued non-interest bearing unsecured promissory notes to the Founding Stockholders of the Company totaling \$200,000 on April 16 and April 25, 2005. The Notes were repaid in accordance with their terms on August 19, 2005 from the proceeds of the Offering.

STONE ARCADE ACQUISITION CORPORATION

(a development stage company)

Notes to Financial Statements

December 31, 2005

Note F - Related-Party Transactions

The Company has agreed to pay Stone-Kaplan Investments, LLC, an entity where certain of the Founding Stockholders serve in executive capacities, an administrative fee of \$7,500 per month for office space and general and administrative services from August 15, 2005 through the acquisition date of a target business. Stone-Kaplan Investments LLC has agreed to pay a portion of the aforementioned administration fee to Arcade Partners LLC, a company where certain of the Founding Stockholders serve in executive capacities. From time to time the Company retains the services of White Oak Aviation, a company solely owned by certain Founding Stockholders. For the period from inception to December 31, 2005, the amount paid to this entity was \$11,829.

The Founding Stockholders have agreed with the Company and the underwriters that if the Company liquidates prior to the consummation of a Business Combination, they will be personally liable to pay debts and obligations to vendors that are owed money by the Company for services rendered or products sold to us in excess of the net proceeds not held in the trust account at that time.

Note G - Commitments

The Company has engaged the representative of the underwriters to act as its investment banker in connection with a Business Combination. The Company has agreed to pay the representative a cash fee of \$1,200,000 at the closing of the Business Combination for assisting the Company in structuring and negotiating the terms of the transaction.

Note H - Common Stock Reserved for Issuance

At December 31, 2005, 43,000,000 shares of common stock were reserved for issuance upon exercise of warrants and the underwriter's option.

EXHIBIT INDEX

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- 10.3 Form of Investment Management Trust Agreement between Continental Stock Transfer & Trust Company and the Registrant. (1)

STONE ARCADE ACQUISITION CORPORATION

(a development stage company)

Notes to Financial Statements

December 31, 2005

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