

REEDS INC
Form S-3/A
March 21, 2011

As filed with the Securities and Exchange Commission on March 18, 2011
Registration No. 333- 172614

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

Pre-Effective Amendment No. 1
to FORM S-3

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Reed's, Inc.
(Exact name of registrant as specified in its charter)

Delaware	2086	35-2177773
(State or jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

13000 South Spring Street
Los Angeles, California 90061
(310) 217-9400

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Christopher J. Reed
Chief Executive Officer
13000 South Spring Street
Los Angeles, California 90061
(310) 217-9400

(Name, address including zip code, and telephone number, including area code, of agent for service)

With a copy to:

Ruba Qashu
Qashu & Schoenthaler LLP
4695 MacArthur Court, 11th Floor
Newport Beach, California 92660
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Facsimile: (866) 313-3040

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement, as determined by market conditions and other factors.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act. (Check one):

- Large accelerated filer
 Accelerated filer
 Non-accelerated filer
 Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price per Share (1)	Estimated Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, \$0.0001 par value per share	304,880	\$2.40 (2)	\$731,712	\$85
Common Stock, \$0.0001 par value, issuable upon exercise of warrants	121,952	\$2.77 (3)	\$337,808	\$39
Total	—	—	\$1,069,520	\$124

(1) This registration statement relates to shares of common stock of Reed’s Inc. and shares of common stock issuable upon the exercise of outstanding warrants issued in accordance with the terms of that certain Securities Purchase Agreement dated January 28, 2011 and related documents by and between Reed’s Inc., Cranshire

- Capital, L.P., Freestone Advantage Partners, LP and Hudson Bay Master Fund Ltd.
- (2) Estimated solely for the purpose of determining the registration fee pursuant to Rule 457(c) and (h) of the Securities Act of 1933, as amended, and based upon average of the high and low prices of common stock of Reed's Inc. on February 24, 2011 as reported on the Nasdaq Capital Market.
 - (3) Estimated solely for the purposes of calculating the registration fee pursuant to Rule 457(g) of the Securities Act of 1933, as amended, based on the higher of (a) the exercise price of the outstanding warrants held by Cranshire Capital, L.P., Freestone Advantage Partners, LP and Hudson Bay Master Fund Ltd. or (b) the offering price of securities of the same class. In accordance with Rule 416, the number of shares registered hereby shall also be deemed to include an indeterminate number of additional shares of common stock that may be issued upon exercise of the warrants as a result of anti-dilution provisions thereof.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

Preliminary Prospectus

Subject To Completion, Dated March 18 , 2011

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

REED'S, INC.

426,832 Shares of Common Stock

This prospectus relates to the resale by selling stockholders of up to 426,832 shares of our common stock, par value \$0.0001 per share (the "Shares"), including 121,952 shares issuable upon exercise of outstanding warrants (the "Warrant Shares"). Subject to certain beneficial ownership limitations, the warrants are exercisable at a price of \$2.77 per share of common stock for a period of five years from the date of issuance. Although we will receive proceeds from the exercise of the warrants if they are exercised, we will not receive any of the proceeds from the sale of shares of our common stock by the selling stockholders.

Our common stock is listed on the NASDAQ Capital Market under the symbol "REED". The last reported sale price of our common stock on March 16, 2011 was \$2.25 per share. We do not intend to apply to list the Warrants on any national securities exchange or automated quotation system.

Investing in our securities involves a high degree of risk. You should carefully review the risks and uncertainties described under the heading "Risk Factors" beginning on page 5 of this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

SUBJECT TO COMPLETION, DATED MARCH 18, 2011

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ABOUT THIS PROSPECTUS

Unless the context otherwise requires, all references to “Reed’s,” “we,” “us,” “our,” “our Company,” or similar language in prospectus refer to Reed’s, Inc., a Delaware corporation.

You should rely only on the information contained in this prospectus. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. For further information, please see the section of this prospectus entitled “Where You Can Find Additional Information”. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted.

You should not assume that the information appearing in this prospectus is accurate as of any date other than the date on the front cover of this prospectus, regardless of the time of delivery of this prospectus or any sale of a security. Our business, financial condition, results of operations and prospects may have changed since those dates.

This prospectus contains trademarks, tradenames, service marks and service names of Reed’s, Inc.

We have not authorized any dealer, agent or other person to give any information or to make any representation other than those contained or incorporated by reference in this prospectus. You must not rely upon any information or representation not contained or incorporated by reference in this prospectus. This prospectus does not constitute an offer to sell or the solicitation of an offer to buy any securities other than the registered securities to which they relate, nor does this prospectus constitute an offer to sell or the solicitation of an offer to buy securities in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. You should not assume that the information contained in this prospectus, is accurate on any date subsequent to the date set forth on the front of the document or that any information we have incorporated by reference is correct on any date subsequent to the date of the document incorporated by reference, even though this prospectus is delivered or securities are sold on a later date.

SUMMARY

This summary highlights selected information about us and this offering and does not contain all of the information that you need to consider in making your investment decision. You should carefully read this entire prospectus, including the risks and uncertainties discussed under the heading “Risk Factors” beginning on page 5 of this prospectus, and the information incorporated by reference, including our financial statements, before making an investment decision. When used in this prospectus, the terms “Reed’s,” “we,” “us,” “our” and the “Company” refer to Reed’s Inc., a Delaware corporation, unless otherwise indicated or the context otherwise requires.

About Reed’s Inc.

We develop, manufacture, market and sell natural non-alcoholic and “New Age” beverages, candies and ice creams. “New Age Beverages” is a category that includes natural soda, fruit juices and fruit drinks, ready-to-drink teas, sports drinks and water. We currently offer 16 beverages, including diet beverages, three candies and three ice creams. We sell most of our products in specialty gourmet and natural food stores, supermarket chains, retail stores and restaurants in the United States and, to a lesser degree, in Canada.

We primarily sell our products through a network of natural, gourmet and independent distributors. We also maintain an organization of in-house sales managers who work mainly in the stores serviced by our natural, gourmet and mainstream distributors and with our distributors. We also work with regional, independent sales representatives who maintain store and distributor relationships in a specified territory. In Southern California, we have in the past maintained our own direct distribution in addition to other local distributors and are presently in the process of discontinuing our direct distribution and redirecting our customers to local distributors.

Our current business strategy is to maintain our marketing focus in the natural food marketplace while expanding sales of our products in mainstream markets and distribution channels.

We produce certain of our soda products for the western half of the United States at an 18,000 square foot warehouse facility leased by us in an unincorporated area of Los Angeles County near downtown Los Angeles, known as The Brewery.

We also contract with The Lion Brewery, Inc., a packing, or co-pack, facility in Pennsylvania, to supply us with soda products for the eastern half of the United States and nationally for soda products that we do not produce at The Brewery. Our ice creams are co-packed for us at Ronnybrooke Dairy in upstate New York on a purchase order basis. We pack our candy products at the Brewery.

We have not been profitable during our last two fiscal years and there is no assurance that we will develop profitable operations in the future. Our net loss for the years ended December 31, 2009 and 2008 was \$2,559,000 and \$3,814,000, respectively. We cannot assure you that we will have profitable operations in the future.

Our principal executive offices are at the Brewery, which is located at 13000 South Spring Street, Los Angeles, California 90061. Our telephone number is 310-217-9400. Our Internet address is www.reedsgingerbrew.com.

We have not incorporated by reference into this prospectus the information in, or that can be accessed through, our website, and you should not consider it to be part of this prospectus.

THE OFFERING

Securities offered:	426,832 shares of our common stock, par value \$0.0001 per share (the "Shares"), including 121,952 shares issuable upon exercise of outstanding warrants
Common stock outstanding before this offering:	10,795,801
Common stock to be outstanding after this offering: (assuming sale of all common stock registered hereunder, including Warrant Shares)	10,917,753
Warrants:	The warrants provide for an exercise price of \$2.77 per share and are exercisable at the option of the holder at any time through and including the date that is the 5 year anniversary of the initial issuance date. A warrant holder may not exercise the warrants to the extent (but only to the extent) such holder or any of its affiliates would beneficially own a number of shares of our common stock which would exceed 4.9%. The exercise price and the number of shares of common stock issuable upon exercise of the Warrants are subject to adjustment in the case of stock splits, stock dividends, combinations of shares and similar recapitalization transactions.
Use of proceeds:	We will not receive any proceeds from the sale of the common stock. We may receive up to \$337,808 from the exercise of warrants. We currently intend to use the net proceeds from this offering for general corporate purposes.
NASDAQ Capital Market Symbol:	REED

The number of shares of our common stock that will be outstanding immediately after the offering is based on 10,795,801 shares outstanding as of February 24, 2011, and excludes:

840,000 shares of common stock issuable upon exercise of outstanding stock options under our equity incentive plans, at a weighted average exercise price of \$1.74 per share;

1,443,333 shares of common stock reserved for future issuance under our equity incentive plans;

1,998,028 shares of common stock issuable upon exercise of outstanding warrants issued prior to this offering, at a weighted average exercise price of \$4.70 per share;

121,952 shares of common stock issuable upon exercise of the Warrants issued to the purchasers pursuant to the Securities Purchase Agreement, at an exercise price of \$2.77 per share;

186,484 shares of common stock issuable upon conversion of outstanding Series A Convertible Preferred Stock, at a conversion ratio of four shares of common stock for each share of Series A Convertible Preferred Stock surrendered; and

573,062 of common stock issuable upon conversion of outstanding Series B Convertible Preferred Stock, at a conversion ratio of seven shares of common stock for each share of Series B Convertible Preferred Stock surrendered.

PRIVATE PLACEMENT OF COMMON STOCK AND WARRANTS

We entered into a Securities Purchase Agreement (the "Securities Purchase Agreement") on January 28, 2011 with Cranshire Capital, L.P., Freestone Advantage Partners, LP and Hudson Bay Master Fund Ltd. for the sale of common stock and warrants for an aggregate purchase price of \$750,004.80. The terms of the Securities Purchase Agreement include the sale of 304,880 shares of common stock at \$2.46 per share. The warrants are exercisable for a period of 5 years into 121,952 shares of common stock at \$2.77 per share. All of such warrants contain customary adjustments for corporate events such as reorganizations, splits and dividends.

The completion of the offering was subject to the satisfaction of customary closing conditions. The net proceeds from the transaction will be used solely for working capital purposes. In the Securities Purchase Agreement, the Company agreed not to use the proceeds to satisfy any debt, to redeem any of the Company's outstanding securities or with respect to any litigation involving the Company.

At the closing of the transaction on February 3, 2011, the Company entered into a Registration Rights Agreement (the "Registration Rights Agreement") with the institutional investors. Pursuant to the Registration Rights Agreement, the Company is required to file a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), with the Securities and Exchange Commission (the "SEC") covering the resale of the common stock to be sold and the common stock underlying the warrants to be sold (the "Registration Statement").

The Company is required to pay all expenses incurred in connection with the filing of the Registration Statement. The Company is also obligated to use its best efforts to file the Registration Statement within 30 days of the closing date of the transaction. In addition, the Company is obligated to use its best efforts to cause the SEC to declare the Registration Statement effective within 90 days of the closing date of the transaction (or 120 days in the event that the Registration Statement is subject to review by the SEC), and the Company will be required to pay certain negotiated cash payments to the institutional investors in the event that the Registration Statement is not filed within 30 days of such closing date or is not declared effective within 90 days of such closing date (or 120 days in the event that the Registration Statement is subject to review by the SEC).

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus, including the documents that we incorporate herein and therein by reference, include forward-looking statements. All statements, other than statements of historical fact, are statements that could be deemed forward-looking statements, including, but not limited to, statements regarding business strategy, expectations and plans, our objectives for future operations, including product development, and our future financial position. When used in this report, the words "believe," "may," "could," "will," "estimate," "continue," "anticipate," "intend," "expect," "similar expressions are intended to identify forward-looking statements.

We base these forward-looking statements on our current expectations and projections about future events and trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives, and financial needs, including our ability to consummate a strategic transaction or otherwise satisfy our immediate need for additional capital. These forward-looking statements are subject to risks and uncertainties that could cause our actual results to differ materially from those reflected in the forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to:

- our ability to generate sufficient cash flow to support capital expansion plans and general operating activities;

decreased demand for our products resulting from changes in consumer preferences;

competitive products and pricing pressures and our ability to gain or maintain our share of sales in the marketplace;

the introduction of new products;

our being subject to a broad range of evolving federal, state and local laws and regulations including those regarding the labeling and safety of food products, establishing ingredient designations and standards of identity for certain foods, environmental protections, as well as worker health and safety. Changes in these laws and regulations could have a material effect on the way in which we produce and market our products and could result in increased costs;

changes in the cost and availability of raw materials and the ability to maintain our supply arrangements and relationships and procure timely and/or adequate production of all or any of our products;

our ability to penetrate new markets and maintain or expand existing markets;

maintaining existing relationships and expanding the distributor network of our products;

the marketing efforts of distributors of our products, most of whom also distribute products that are competitive with our products;

decisions by distributors, grocery chains, specialty chain stores, club stores and other customers to discontinue carrying all or any of our products that they are carrying at any time;

the availability and cost of capital to finance our working capital needs and growth plans;

the effectiveness of our advertising, marketing and promotional programs;

changes in product category consumption;

economic and political changes;

consumer acceptance of new products, including taste test comparisons;

possible recalls of our products; and

our ability to make suitable arrangements for the co-packing of any of our products.

Any forward-looking statement speaks only as of the date on which it is made and, except as required by law, we do not intend to update any forward-looking statements publicly to reflect events or circumstances after the date on which such statement is made or to update the reasons actual results could differ materially from those anticipated in the forward-looking statements, even if new information becomes available in the future. You should not place undue reliance on any forward-looking statement.

RISK FACTORS

Investing in our securities involves a high degree of risk. You should carefully consider the risk factors discussed below, together with all the other information contained or incorporated by reference in this prospectus, and in our

filings under the Securities Exchange Act of 1934, as amended, or the “Exchange Act”, before deciding whether to purchase any of the securities being offered by this prospectus. Each of the risk factors could adversely affect our business, operating results and financial condition, as well as adversely affect the value of an investment in our securities, and the occurrence of any of these risks might cause you to lose all or part of your investment.

Risks Relating to Our Business

We have a history of operating losses. If we continue to incur operating losses, we eventually may have insufficient working capital to maintain or expand operations according to our business plan.

As of September 30, 2010, we had stockholders equity of \$4,475,000 and we had working capital of \$2,142,000, compared to stockholders equity of \$4,377,000 and working capital of \$2,037,000 at December 31, 2009. Cash and cash equivalents were \$958,000 as of September 30, 2010, as compared to \$1,306,000 at December 31, 2009. This increase in our working capital of \$105,000 was primarily a result of sales of our equity securities. In addition to our cash position on September 30, 2010, we had availability under our line of credit of approximately \$187,000.

Our decrease in cash and cash equivalents to \$958,000 at September 30, 2010 compared to \$1,306,000 at December 31, 2009 was primarily a result of cash used in operating activities, primarily for increases in accounts receivable and inventory that are related to our overall increases in ongoing revenues. Such cash used in operations was offset by net draw-downs on our line of credit and sales of equity securities. Our primary capital source in 2011 will be cash flow from operations.

We may not generate sufficient revenues from product sales in the future to achieve profitable operations. If we are not able to achieve profitable operations at some point in the future, we eventually may have insufficient working capital to maintain our operations as we presently intend to conduct them or to fund our expansion and marketing and product development plans. In addition, our losses may increase in the future as we expand our manufacturing capabilities and fund our marketing plans and product development. These losses, among other things, have had and may continue to have an adverse effect on our working capital, total assets and stockholders' equity. If we are unable to achieve profitability, the market value of our common stock would decline and there would be a material adverse effect on our financial condition.

If we continue to suffer losses from operations, our working capital may be insufficient to support our ability to expand our business operations as rapidly as we would deem necessary at any time, unless we are able to obtain additional financing. There can be no assurance that we will be able to obtain such financing on acceptable terms, or at all. If adequate funds are not available or are not available on acceptable terms, we may not be able to pursue our business objectives and would be required to reduce our level of operations, including reducing infrastructure, promotions, personnel and other operating expenses. These events could adversely affect our business, results of operations and financial condition. If adequate funds are not available or if they are not available on acceptable terms, our ability to fund the growth of our operations, take advantage of opportunities, develop products or services or otherwise respond to competitive pressures, could be significantly limited.

We may not be able to develop successful new beverage products which are important to our growth.

An important part of our strategy is to increase our sales through the development of new beverage products. We cannot assure you that we will be able to continue to develop, market and distribute future beverage products that will enjoy market acceptance. The failure to continue to develop new beverage products that gain market acceptance could have an adverse impact on our growth and materially adversely affect our financial condition. We may have higher obsolescent product expense if new products fail to perform as expected due to the need to write off excess inventory of the new products.

Our results of operations may be impacted in various ways by the introduction of new products, even if they are successful, including the following:

- sales of new products could adversely impact sales of existing products;

- we may incur higher cost of goods sold and selling, general and administrative expenses in the periods when we introduce new products due to increased costs associated with the introduction and marketing of new products, most of which are expensed as incurred; and

- when we introduce new platforms and bottle sizes, we may experience increased freight and logistics costs as our co-packers adjust their facilities for the new products.

The beverage business is highly competitive.

The premium beverage and carbonated soft drink industries are highly competitive. Many of our competitors have substantially greater financial, marketing, personnel and other resources than we do. Competitors in the soft drink industry include bottlers and distributors of nationally advertised and marketed products, as well as chain store and private label soft drinks. The principal methods of competition include brand recognition, price and price promotion, retail space management, service to the retail trade, new product introductions, packaging changes, distribution methods, and advertising. We also compete for distributors, shelf space and customers primarily with other premium beverage companies. As additional competitors enter the field, our market share may fail to increase or may decrease.

The growth of our revenues is dependent on acceptance of our products by mainstream consumers.

We have dedicated significant resources to introduce our products to the mainstream consumer. As such, we have increased our sales force and executed agreements with distributors who, in turn, distribute to mainstream consumers at grocery stores, club stores and other retailers. If our products are not accepted by the mainstream consumer, our business could suffer.

Our failure to accurately estimate demand for our products could adversely affect our business and financial results.

We may not correctly estimate demand for our products. Our ability to estimate demand for our products is imprecise, particularly with new products, and may be less precise during periods of rapid growth, particularly in new markets. If we materially underestimate demand for our products or are unable to secure sufficient ingredients or raw materials including, but not limited to, glass, labels, flavors or packing arrangements, we might not be able to satisfy demand on a short-term basis. Moreover, industry-wide shortages of certain juice concentrates and sweeteners have been and could, from time to time in the future, be experienced, which could interfere with and/or delay production of certain of our products and could have a material adverse effect on our business and financial results. We do not use hedging agreements or alternative instruments to manage this risk.

The loss of our largest customers would substantially reduce revenues.

Our customers are material to our success. If we are unable to maintain good relationships with our existing customers, our business could suffer. Unilateral decisions could be taken by our distributors, and/or convenience chains, grocery chains, specialty chain stores, club stores and other customers to discontinue carrying all or any of our products that they are carrying at any time, which could cause our business to suffer.

During the three months ended September 30, 2010 and 2009, the Company had two customers, which accounted for approximately 13% and 30% of sales in 2010, and 14% and 34% of sales in 2009, respectively. During the nine months ended September 30, 2010 and 2009, the Company had two customers, which accounted for approximately 12% and 32% of sales in 2010, and 17% and 32% of sales in 2009, respectively. No other customers accounted for more than 10% of sales in either year. As of September 30, 2010 and December 31, 2009, the Company had approximately \$113,000 (7%) and \$369,000 (23%); and \$134,000 (14%) and \$147,000 (15%), respectively, of accounts receivable from these customers. As a result of this customer concentration, the loss of these major customer as a retail