

U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

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

For the quarterly period ended June 30, 2004

Commission file number 0-28191

eSpeed, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or Other Jurisdiction of
Incorporation or
Organization)

13-4063515

(I.R.S. Employer
Identification
No.)

135 East 57th Street

(Address of Principal Executive Offices)

New York, New York 10022

(City, State, Zip Code)

(212) 938-5000

(Registrant's Telephone Number, Including Area Code)

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 whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

Yes ☒ No ☐

As of July 29, 2004, the registrant had 30,688,085 shares of Class A common stock, \$0.01 par value, and 23,889,270 shares of Class B common stock, \$0.01 par value, outstanding.

eSpeed, Inc. and Subsidiaries
Quarterly Report on Form 10-Q

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PART I. - FINANCIAL INFORMATION

ITEM 1. Financial Statements

eSpeed, Inc. and Subsidiaries
CONDENSED CONSOLIDATED STATEMENTS OF FINANCIAL CONDITION
(In thousands, except share data)

	<u>June 30, 2004</u>	<u>December 31,</u>
	<u>(Unaudited)</u>	<u>2003</u>
Assets		
Cash & cash equivalents	\$ 34,115	\$ 55,318
Reverse repurchase agreements with related parties	205,483	173,182
Total cash and cash equivalents	<u>239,598</u>	<u>228,500</u>
Fixed assets, net	44,012	34,467
Investments	12,355	11,449
Intangible assets, net	18,821	18,927
Receivable from related parties	1,125	1,518
Other assets	2,687	2,707
Total assets	<u>\$ 318,598</u>	<u>\$ 297,568</u>
Liabilities and Stockholders' Equity		
Liabilities:		
Payable to related parties	\$ 3,557	\$ 6,323
Accounts payable and accrued liabilities	20,282	19,560
Total liabilities	<u>23,839</u>	<u>25,883</u>
Commitments and contingencies (Note 11)		
Stockholders' Equity:		
Preferred stock, par value \$0.01 per share; 50,000,000 shares authorized, 600 and 8,000,600 shares issued and outstanding at June 30, 2004 and December 31, 2003, respectively	—	80
Class A common stock, par value \$0.01 per share; 200,000,000 shares authorized; 32,471,603 and 30,953,867 shares issued at June 30, 2004 and December 31, 2003, respectively	324	310
Class B common stock, par value \$0.01 per share; 100,000,000 shares authorized; 23,889,270 and 25,139,270 shares issued and outstanding at June 30, 2004 and December 31, 2003, respectively	239	251
Additional paid-in capital	290,420	287,593
Unamortized expense of business partner and non-employee securities	(606)	(1,192)
Treasury stock, at cost: 186,399 shares of Class A common stock at June 30, 2004 and December 31, 2003, respectively	(2,094)	(2,094)
Retained earnings (accumulated deficit)	6,476	(13,263)
Total stockholders' equity	<u>294,759</u>	<u>271,685</u>
Total liabilities and stockholders' equity	<u>\$ 318,598</u>	<u>\$ 297,568</u>

See notes to the condensed consolidated financial statements.

eSpeed, Inc. and Subsidiaries
CONDENSED CONSOLIDATED STATEMENTS OF INCOME (Unaudited)
(In thousands, except per share data)

	<u>Three Months Ended June 30,</u>	
	<u>2004</u>	<u>2003</u>
Revenues:		
Transaction revenues with related parties		
Fully electronic transactions	\$ 29,154	\$ 27,538
Voice-assisted brokerage transactions	5,190	4,645
Screen-assisted open outcry transactions	158	243
Total transaction revenues with related parties	<u>34,502</u>	<u>32,426</u>
Software Solutions fees from related parties	4,475	3,881
Software Solutions and licensing fees from unrelated parties	3,107	2,209
Interest income	761	563
Total revenues	<u>42,845</u>	<u>39,079</u>
Expenses:		
Compensation and employee benefits	9,768	9,239
Occupancy and equipment		
Amortization of software development costs	2,396	1,832
Other occupancy and equipment costs	6,073	5,739
Professional and consulting fees	865	863
Communications and client networks	1,595	1,714

Marketing	379	408
Administrative fees to related parties	3,212	2,590
Amortization of business partner and non-employee securities	142	362
Other	<u>3,569</u>	<u>2,830</u>
Total expenses	<u>27,999</u>	<u>25,577</u>
Income before income tax provision	14,846	13,502
Income tax provision	<u>5,805</u>	<u>5,400</u>
Net income	<u>\$ 9,041</u>	<u>\$ 8,102</u>
Earnings per share:		
Per share data:		
Basic	<u>\$ 0.16</u>	<u>\$ 0.15</u>
Diluted	<u>\$ 0.16</u>	<u>\$ 0.14</u>
Basic weighted average shares of common stock outstanding	<u>56,153</u>	<u>55,056</u>
Diluted weighted average shares of common stock outstanding	<u>57,958</u>	<u>56,447</u>

See notes to condensed consolidated financial statements

eSpeed, Inc. and Subsidiaries
CONDENSED CONSOLIDATED STATEMENTS OF INCOME (Unaudited)
(In thousands, except per share data)

	<u>Six Months Ended June 30,</u>	
	<u>2004</u>	<u>2003</u>
Revenues:		
Transaction revenues with related parties		
Fully electronic transactions	\$ 59,681	\$ 50,048
Voice-assisted brokerage transactions	11,216	9,806
Screen-assisted open outcry transactions	<u>389</u>	<u>292</u>
Total transaction revenues with related parties	71,286	60,146
Software Solutions fees from related parties	8,587	7,530
Software Solutions and licensing fees from unrelated parties	6,105	4,341
Interest income	<u>1,505</u>	<u>1,105</u>
Total revenues	<u>87,483</u>	<u>73,122</u>
Expenses:		
Compensation and employee benefits	19,083	18,083
Occupancy and equipment		
Amortization of software development costs	4,651	3,510
Other occupancy and equipment costs	12,300	11,238
Professional and consulting fees	1,798	1,974
Communications and client networks	3,208	3,309
Marketing	765	742
Administrative fees to related parties	6,169	5,168
Amortization of business partner and non-employee securities	586	1,067
Other	<u>6,516</u>	<u>5,149</u>
Total expenses	<u>55,076</u>	<u>50,240</u>
Income before income tax provision	32,407	22,882
Income tax provision	<u>12,671</u>	<u>5,305</u>
Net income	<u>\$ 19,736</u>	<u>\$ 17,577</u>
Earnings per share:		
Per share data:		
Basic	<u>\$ 0.35</u>	<u>\$ 0.32</u>
Diluted	<u>\$ 0.34</u>	<u>\$ 0.31</u>
Basic weighted average shares of common stock outstanding	<u>56,114</u>	<u>55,076</u>
Diluted weighted average shares of common stock outstanding	<u>58,161</u>	<u>56,819</u>

See notes to condensed consolidated financial statements

eSpeed, Inc and Subsidiaries
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (Unaudited)
(In thousands)

	<u>Six months ended June 30,</u>	
	<u>2004</u>	<u>2003</u>
Cash flows from operating activities:		
Net income	\$ 19,736	\$ 17,577
Adjustments to reconcile net income to net cash provided by operating activities:		

Depreciation and amortization	11,131	8,440
Amortization of business partner and non-employee securities	586	1,067
Equity in net loss of unconsolidated investments	10	39
Deferred income tax expense	608	2,553
Tax benefit from stock option and warrant exercises	935	1,332
Issuance of securities under employee benefit plans	60	130
Changes in operating assets and liabilities:		
Receivable from related parties	393	4,450
Other assets	(1,479)	(1,721)
Payable to related parties	(2,766)	(15,704)
Accounts payable and accrued liabilities	118	1,595
Net cash provided by operating activities	<u>29,332</u>	<u>19,758</u>
Cash flows from investing activities:		
Purchase of fixed assets	(9,330)	(1,902)
Sale of fixed assets	—	2,752
Capitalization of software development costs	(8,447)	(6,413)
Capitalization of patent defense and registration costs	(2,800)	(2,653)
Purchase of additional investment in TradeSpark	(360)	—
Net cash used in investing activities	<u>(20,937)</u>	<u>(8,216)</u>
Cash flows from financing activities:		
Repurchase of Class A common stock	—	(1,872)
Proceeds from exercises of stock options and warrants	1,753	979
Receivable from broker on stock option exercises	950	—
Net cash provided by (used in) financing activities	<u>2,703</u>	<u>(893)</u>
Net increase in cash and cash equivalents	<u>11,098</u>	<u>10,649</u>
Cash and cash equivalents, beginning of year	228,500	187,999
Cash and cash equivalents, end of period	<u>\$ 239,598</u>	<u>\$ 198,648</u>
Supplemental cash information:		
Cash paid for income taxes	\$ 11,186	\$ 63
Cash paid for interest	—	—

See notes to condensed consolidated financial statements.

eSpeed, Inc. and Subsidiaries

Notes to Condensed Consolidated Financial Statements (unaudited)

1. Organization and Basis of Presentation

eSpeed, Inc. ("eSpeed" or, together with its wholly owned subsidiaries, the "Company") primarily engages in the business of operating interactive electronic marketplaces designed to enable market participants to trade financial and non-financial products more efficiently and at a lower cost than traditional trading environments permit.

The Company is a subsidiary of Cantor Fitzgerald Securities ("CFS"), which in turn is a 99.75% owned subsidiary of Cantor Fitzgerald, L.P. ("CFLP" or, together with its subsidiaries, "Cantor"). eSpeed commenced operations on March 10, 1999 as a division of CFS. eSpeed is a Delaware corporation that was incorporated on June 3, 1999. In December 1999, the Company completed its initial public offering.

The Company's financial statements and accompanying notes have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). All significant intercompany balances and transactions have been eliminated in consolidation. The financial statements reflect all normal recurring adjustments, which are, in the opinion of management, necessary for a fair presentation of the results. Certain reclassifications and format changes have been made to prior year information to conform to the current year presentation.

Pursuant to the rules and regulations of the Securities and Exchange Commission, certain information and footnote disclosures, which are normally required under U.S. GAAP, have been condensed or omitted. It is recommended that these condensed consolidated financial statements be read in conjunction with the audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2003. The condensed consolidated statement of financial condition at December 31, 2003 was derived from the audited financial statements. The results of operations for any interim period are not necessarily indicative of results for the full year.

2. Stock Based Compensation

Pursuant to guidelines contained in APB Opinion No. 25, "Accounting for Stock Issued to Employees" ("APB 25"), and as permitted by Statement of Financial Accounting Standards ("SFAS") No. 123, "Accounting for Stock Based Compensation" ("SFAS 123"), the Company records no expense for stock options issued to employees as all options granted had an exercise price equal to the market value of the underlying common stock on the date of grant. The following table represents the effect had the Company accounted for the options in its stock-based compensation plan based on the fair value of awards at grant date in a manner consistent with the methodology of SFAS 123:

	<u>Three Months Ended June 30,</u>	
	<u>2004</u>	<u>2003</u>
	<u>(In thousands, except per share amounts)</u>	
Net income, as reported	\$ 9,041	\$ 8,102

Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards granted, net of \$1,595 and \$1,554 of taxes for the three months ended June 30, 2004 and 2003, respectively.

	(2,484)	(2,331)
Net income, pro-forma	<u>\$ 6,557</u>	<u>\$ 5,771</u>
Basic weighted average shares of common stock outstanding	56,153	55,056
Diluted weighted average shares of common stock outstanding	57,958	56,447

Earnings per share:

Basic - as reported	\$ 0.16	\$ 0.15
Basic - pro forma	\$ 0.12	\$ 0.10

Diluted - as reported	\$ 0.16	\$ 0.14
Diluted - pro forma	\$ 0.11	\$ 0.10

Six Months Ended June 30,	
2004	2003
(In thousands, except per share amounts)	

Net income, as reported	\$ 19,736	\$ 17,577
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Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards granted, net of \$2,784 and \$1,848 of taxes for the six months ended June 30, 2004 and 2003, respectively.

	(4,336)	(6,126)
Net income, pro-forma	<u>\$ 15,400</u>	<u>\$ 11,451</u>
Basic weighted average shares of common stock outstanding	56,114	55,076
Diluted weighted average shares of common stock outstanding	58,161	56,819

Earnings per share:

Basic - as reported	\$ 0.35	\$ 0.32
Basic - pro forma	\$ 0.27	\$ 0.21

Diluted - as reported	\$ 0.34	\$ 0.31
Diluted - pro forma	\$ 0.26	\$ 0.20

Effective April 1, 2003, the Company established a provision for recording income taxes at the statutory federal and state rates adjusted for differences related to the Company's activities (see Note 5, Income Taxes). Prior to this date, income taxes were minimal due to the benefit of net operating loss carryforwards. The Company applied the effective tax rates applicable for each period in computing the above pro-forma information for the respective periods.

3. Fixed Assets

Fixed assets consisted of the following:

	June 30, 2004	December 31, 2003
	(In thousands)	
Computer and communication equipment	\$ 29,965	\$ 21,992
Software, including software development costs	50,174	41,914
Leasehold improvements and other fixed assets	<u>4,619</u>	<u>3,071</u>
	84,758	66,977
Less: Accumulated depreciation & amortization	<u>(40,746)</u>	<u>(32,510)</u>
Fixed assets, net	<u>\$ 44,012</u>	<u>\$ 34,467</u>

In accordance with the provisions of Statement of Position 98-1, "Accounting for the Costs of Computer Software Developed or Obtained for Internal Use," the Company capitalizes qualifying computer software costs incurred during the application development stage. During the six months ended June 30, 2004 and 2003, software development costs totaling \$8.4 million and \$6.4 million were capitalized, respectively. For the six months ended June 30, 2004 and 2003, the Company's consolidated statements of income included \$4.7 million and \$3.5 million, respectively, in relation to the amortization of software development costs.

4. Intangible Assets

Intangible assets consisted of the following:

As of June 30, 2004 and December 31, 2003, intangible assets included the Lawrence patent, the Wagner patent and the Automated Auction Protocol Processor Patent, as well as capitalized costs incurred to establish, perfect and protect the Company's rights under the patents. In addition, the Company incurred costs in connection with various patent applications.

	June 30, 2004	December 31, 2003
	(In thousands)	
Patents, including capitalized legal costs	\$ 30,851	\$ 28,052
Less: accumulated amortization	<u>(12,030)</u>	<u>(9,125)</u>
Intangible assets, net:	<u>\$ 18,821</u>	<u>\$ 18,927</u>

The cost of acquired patents and the related costs incurred to establish, perfect and protect the Company's rights under the patents are amortized over a period not to exceed 17 years or the remaining life of the patent, whichever is shorter, using the straight-line method. Capitalized costs related to the filing of patents are generally amortized on a straight-line basis over a period not to exceed three years. During the six months ended June 30, 2004 and 2003, the Company recorded amortization expense of \$2.9 million and \$2.5 million, respectively, for these intangible assets. The estimated aggregate amortization expense for each of the next five fiscal years is as follows: \$6.0 million in 2005, \$5.6 million in 2006, \$1.1 million in 2007, \$0.4 million in 2008 and \$0.4 million in 2009.

5. Income Taxes

The provision for income taxes consisted of the following:

	Six months ended June 30,	
	2004	2003
	(In thousands)	
Current:		
Federal	\$ 9,923	\$ 2,187
State and Local	2,140	565
	<u>12,063</u>	<u>2,752</u>
Deferred	608	2,553
Provision for income taxes	<u>\$ 12,671</u>	<u>\$ 5,305</u>

As of March 31, 2003, the Company had net operating loss carryforwards ("NOLs") for income tax purposes of \$7.1 million. Effective April 1, 2003, the Company started recording income taxes at an effective tax rate of approximately 39.1% and utilized the \$2.8 million tax benefit of such NOLs.

At June 30, 2004, the valuation allowance against the deferred tax assets of \$11.7 million primarily related to non-deductible warrant expense where it appears more likely than not that such item will not be realized in the future.

Additionally, tax benefits associated with employee stock option and warrant exercises served to reduce taxes currently payable by \$5.8 million as of June 30, 2004. A corresponding amount was credited to additional paid-in capital.

6. Business Partner and Non-Employee Securities

The amortization expense for the issuance of business partner and non-employee securities was as follows:

	Six months ended June 30,	
	2004	2003
	(In thousands)	
Freedom warrants	\$ 299	\$ 598
UBS warrants	235	597
Non-employee stock options	52	50
Deutsche Bank warrants	-	(178)
	<u>\$ 586</u>	<u>\$ 1,067</u>

There were no new business partner transactions executed during the three months ended June 30, 2004.

In connection with an agreement between eSpeed, certain Cantor entities and certain UBS entities, the Company previously issued to UBS Americas Inc. (successor by merger to UBS USA Inc.) ("UBS") a warrant to purchase 300,000 shares of its Class A common stock (the "Warrant Shares"). The warrant has a term of 10 years from August 21, 2002 and has an exercise price equal to \$8.75, the market value of the underlying Class A common stock on the date of issuance. The warrant is fully vested and nonforfeitable, and is exercisable nine years and six months after issuance, subject to acceleration upon the satisfaction by UBS of certain commitment conditions. On August 21, 2002, the Company recorded additional paid in capital and unamortized expense of business partner securities of \$2.2 million, representing the fair value of the Warrant Shares.

Effective October 1, 2003, the UBS agreement was amended to revise the list of products for which UBS provides prices and improve the spreads, provide for commission incentives and extend the term of the agreement until July 31, 2005. In connection with the amendment, the Company agreed to

accelerate the exercisability of 125,000 Warrant Shares, of which 75,000 and 50,000 shares were exercised by UBS on October 23, 2003 and March 26, 2004, respectively. In addition, pursuant to the amended agreement, the Company may accelerate the exercisability of 25,000 Warrant Shares of its Class A common stock at the end of each of the seven quarters in the period from November 1, 2003 through July 31, 2005, upon the satisfaction by UBS of certain commitment conditions. The Company has informed UBS that it has not met the commitment conditions for the contractual quarter ended April 30, 2004, and that, accordingly, the exercisability of 25,000 Warrant Shares will not be accelerated. On July 1, 2004, the unamortized expense of such business partner securities was approximately \$0.5 million, which the Company will amortize on a straight-line basis until July 31, 2005.

In connection with an agreement with Deutsche Bank, AG ("Deutsche Bank"), the Company previously sold Series C Redeemable Convertible Preferred Stock ("Series C Preferred") to Deutsche Bank. On July 30th of each year of the five-year agreement in which Deutsche Bank fulfills its liquidity and market making obligations for specified products, one-fifth of such Series C Preferred would have automatically converted into warrants to purchase shares of the Company's Class A common stock.

Deutsche Bank was deemed to have fulfilled its obligations under the agreement for the twelve months ended July 30, 2002 and, accordingly, a warrant to purchase 150,000 shares of the Company's Class A common stock was issued by the Company. The Company informed Deutsche Bank that it was not in compliance with the agreement for the twelve months ended July 30, 2003 and that a warrant would not be issued for such period. As a result, the Company reversed the amortization expense recorded since August 2002 for such warrant.

Based on certain communications and the failure of Deutsche Bank to comply with the agreement since March 28, 2003, the Company further notified Deutsche Bank that it believes it has terminated its right to receive warrants under the agreement for the remaining commitment periods. The 150 shares of Series C Preferred with respect to the twelve-month period ended July 31, 2003 are redeemable by the Company for 1,500 shares of Class A common stock.

7. Investment in TradeSpark

On September 22, 2000, the Company made a cash investment in TradeSpark, L.P. ("TradeSpark") of \$2.0 million in exchange for a 5% interest in TradeSpark, and Cantor made a cash investment of \$4.3 million in TradeSpark and agreed to contribute to TradeSpark certain assets relating to its voice brokerage business in certain energy products in exchange for a 28.34% interest in TradeSpark. The Company and Cantor also executed an amendment to the Joint Services Agreement in order to enable each of us to engage in this business transaction. The remaining 66.66% interest in TradeSpark was purchased by energy industry market participants ("EIPs"). In connection with such investment, the Company entered into a perpetual technology services agreement with TradeSpark pursuant to which the Company provides the technology infrastructure for the transactional and technology related elements of the TradeSpark marketplace as well as certain other services to TradeSpark in exchange for specified percentages of transaction revenues from the marketplace. If a transaction is fully electronic, the Company receives 65% of the aggregate transaction revenues and TradeSpark receives 35% of the transaction revenues. In general, if TradeSpark provides voice-assisted brokerage services with respect to a transaction, then the Company receives 35% of the revenues and TradeSpark receives 65% of the revenues. Cantor also entered into an administrative services agreement with TradeSpark pursuant to which it provides administrative services to TradeSpark at cost. The Company and Cantor each received representation rights on the management committee of TradeSpark in proportion to their ownership interests in TradeSpark.

In order to provide incentives to the EIPs to trade on the TradeSpark electronic marketplace, which would have resulted in commissions to the Company under the TradeSpark technology services agreement, in 2000 the Company issued 5,500,000 shares of its Series A preferred stock and 2,500,000 shares of its Series B preferred stock to a limited liability company, EIP Holdings, LLC ("EIP Holdings"), newly-formed by the EIPs to hold their investments in TradeSpark and the Series A and

B preferred stock. Beginning in mid-2002, several of the TradeSpark EIP investors changed their focus from energy merchant trading to asset management and a traditional utility model, requiring an adjustment to the TradeSpark business model and a reduced focus on the TradeSpark investment by such energy partners.

In the first quarter of 2004, Cantor and eSpeed purchased 100% of EIP Holdings, the holding company formed by the EIPs that owned 66.66% of TradeSpark. The purchase price of \$2.4 million was paid through EIP Holdings Acquisition, LLC ("EIP Holdings Acquisition"), a Delaware limited liability company owned by the Company and Cantor. In connection with this purchase, the Company contributed to EIP Holdings Acquisition a 4.75% interest in TradeSpark and Cantor contributed its existing 28.34 % interest in TradeSpark along with their respective interests in TradeSpark's general partner. The Company retained a .25% interest in TradeSpark. The Company also contributed \$360,000, or 15%, of the \$2.4 million of the cash consideration. The Company serves as the Managing Member of EIP Holdings Acquisition and will receive 15%, and Cantor will receive 85%, of all profits and losses and liquidation value of EIP Holdings Acquisition. In addition, the Company received all right, title and interest in and to all shares of the Company's Series A and Series B Preferred Stock owned by the EIPs directly or indirectly through their interest in EIP Holdings. The 5,500,000 shares of Series A preferred stock and 2,500,000 shares of Series B preferred stock which were owned by EIP Holdings had been convertible into (i) an aggregate of 80,000 shares of Class A Common Stock at any time or (ii) warrants to purchase up to 8,000,000 shares of eSpeed's Class A Common Stock at \$27.94 per share upon certain conditions, including the achievement of minimum trading thresholds, that were unlikely to be satisfied. These 8,000,000 shares of Series A and Series B Preferred Stock were distributed to eSpeed by EIP Holdings Acquisition in March 2004 and retired by the Company's board of directors. Currently, EIP Holdings Acquisition owns 99.75% of TradeSpark and eSpeed owns .25% of TradeSpark.

The Company's net loss from its investment in TradeSpark, through both its direct investment in TradeSpark and its indirect interest through EIP Holdings Acquisition, totaled \$14,482 for the six months months ended June 30, 2004. This amount included the Company's \$110,462 share of the gain recognized for the negative goodwill recorded on the acquisition of EIP Holdings by EIP Holdings Acquisition. The Company's share of the net losses of TradeSpark was \$85,197 for the same period in 2003. The carrying value of the Company's investment in TradeSpark, through both its direct investment in TradeSpark and its indirect interest through EIP Holdings Acquisition, totaled \$750,261 and \$404,743 at June 30, 2004 and December 31, 2003, respectively.

8. Related Party Transactions

Cash and cash equivalents at June 30, 2004 and December 31, 2003 included \$205.5 million and \$173.2 million, respectively, of reverse repurchase agreements, which are transacted on an overnight basis with Cantor. Under the terms of these agreements, the securities collateralizing the reverse repurchase agreements are held under a custodial arrangement with a third party bank and are not permitted to be resold or pledged. The fair value of such collateral at June 30, 2004 and December 31, 2003 totaled \$219.5 million and \$175.0 million, respectively.

Investments in TradeSpark, both direct and indirect, and the limited partnership (the "LP") that invested in Freedom International Brokerage ("Freedom") are accounted for using the equity method (see Note 7, Investment in TradeSpark). The carrying value of such related party investments was \$7.9 million and \$7.5 million at June 30, 2004 and December 31, 2003, respectively. For the six months ended June 30, 2004, the Company's share of the net losses of the LP and Tradespark was approximately \$10,000 in the aggregate.

Under the Amended and Restated Joint Services Agreement between the Company and Cantor and joint services agreements between the Company and TradeSpark, Freedom, Municipal Partners, LLC ("MPLLC") and CO2.com, LLC ("CO2e"), the Company owns and operates the electronic trading system and is responsible for providing electronic brokerage services, and Cantor, TradeSpark, Freedom, MPLLC or CO2e provides voice-assisted brokerage services, fulfillment services, such as clearance and settlement, and related services, such as credit risk management services, oversight of

the aggregate transaction revenues and TradeSpark or Freedom receives 35% of the transaction revenues. If TradeSpark or Freedom provides voice-assisted brokerage services with respect to a transaction, the Company receives 35% of the revenues and TradeSpark or Freedom receives 65% of the revenues. The Company and MPLLC each receive 50% of the fully electronic revenues related to municipal bonds. The Company's agreement with CO2e provides that it receives 50% of CO2e's fully electronic revenues and 15% of CO2e's voice-assisted and open outcry revenues until December 2003, and 20% of voice-assisted and open outcry revenues thereafter. In addition, the Company receives 25% of the net revenues from Cantor's gaming businesses.

Under those services agreements, the Company has agreed to provide Cantor, TradeSpark, Freedom, MPLLC and CO2e technology support services, including systems administration, internal network support, support and procurement for desktops of end-user equipment, operations and disaster recovery services, voice and data communications, support and development of systems for clearance and settlement services, systems support for brokers, electronic applications systems and network support, and provision and/or implementation of existing electronic applications systems, including improvements and upgrades thereto, and use of the related intellectual property rights. In general, the Company charges Cantor, TradeSpark, Freedom and MPLLC the actual direct and indirect costs, including overhead, of providing such services and receives payment on a monthly basis. These services are provided to CO2e at no additional cost other than the revenue sharing arrangement set forth above. In exchange for a 25% share of the net revenues from Cantor's gaming businesses, the Company is obligated to spend and does not get reimbursed for the first \$750,000 each quarter of the costs of providing support and development services for such gaming businesses. With respect to the eSpeed equity order routing business conducted for Cantor, the Company and Cantor each receive 50% of the revenues, after deduction of specified marketing, sales and other costs and fees. In addition, any eSpeed equity order routing business that is not conducted for Cantor will be treated generally as a fully electronic transaction, and the Company will receive 65% of the revenues of any such business and Cantor will receive 35% of such revenues.

In February 2003, we agreed with Cantor that with respect to (i) certain network access facilities services agreements and (ii) other circumstances in which Cantor refers network access facility services business to us, 60% of net revenues from such business would be paid to Cantor and 40% of such revenues would be paid to us. This revenue sharing arrangement will be made after deduction of all sales commissions, marketing, helpdesk, clearing and direct third-party costs, including circuits and maintenance.

Under an Administrative Services Agreement, Cantor provides various administrative services to the Company, including accounting, tax, legal, human resources and facilities management. The Company is required to reimburse Cantor for the cost of providing such services. The costs represent the direct and indirect costs of providing such services and are determined based upon the time incurred by the individual performing such services. Management believes that this allocation methodology is reasonable. The Administrative Services Agreement has a three-year term, which will renew automatically for successive one-year terms unless cancelled upon six months' prior notice by either the Company or Cantor. The Company incurred administrative fees for such services during the six months ended June 30, 2004 and 2003 totaling \$6.2 million and \$5.2 million, respectively. The services provided under both the Amended and Restated Joint Services Agreement and the Administrative Services Agreement are not the result of arm's-length negotiations because Cantor controls the Company. As a result, the amounts charged for services under these agreements may be higher or lower than amounts that would be charged by third parties if the Company did not obtain such services from Cantor.

Amounts due to or from related parties pursuant to the transactions described above are non-interest bearing. As of June 30, 2004 and December 31, 2003, receivables from TradeSpark, Freedom and MPLLC totaled approximately \$1.0 million and \$1.4 million, respectively, and are included in receivable from related parties in the consolidated statements of financial condition.

On September 11, 2001, the Company had property and casualty insurance coverage in the amount of \$40.0 million. As a result of the September 11 Events, fixed assets with a book value of approximately \$17.8 million were destroyed. The Company has recovered these losses through \$20.5 million of property insurance proceeds and, as such, has not recorded a net loss related to the destruction of its fixed assets.

During the year ended December 31, 2003, Cantor received an additional \$21.0 million of insurance proceeds in settlement for property damage related to the September 11 Events. The Company will be entitled to up to \$19.5 million of these proceeds as replacement assets are purchased in the future, depending on the ultimate replacement value of the assets destroyed. A gain may be recorded based on the amount allocated to the Company. However, the Company cannot currently estimate the amount or timing of any such gain, and accordingly, no gains on replacement of fixed assets have been recorded during the period.

As of June 30, 2004, the Company estimates that it had replaced assets with an aggregate value of approximately \$13.0 million. The Company expects to incur significant costs in relation to the replacement of fixed assets lost on September 11, 2001 when it builds its permanent infrastructure and moves into its new headquarters.

9. Earnings Per Share

The following is a reconciliation of the basic and diluted earnings per share computations:

	<u>Three Months Ended June 30,</u>	
	<u>2004</u>	<u>2003</u>
	<u>(In thousands, except per share amounts)</u>	
Net income for basic and diluted earnings per share	\$ 9,041	\$ 8,102
Shares of common stock and common stock equivalents		
Weighted average shares used in basic computation:	56,153	55,056
Dilutive effect of:		
Stock options	1,731	1,319
Business partner securities	74	72
Weighted average shares used in diluted computation	<u>57,958</u>	<u>56,447</u>
Earnings per share:		
Basic	\$ 0.16	\$ 0.15
Diluted	<u>\$ 0.16</u>	<u>\$ 0.14</u>

	<u>Six Months Ended June 30,</u>	
	<u>2004</u>	<u>2003</u>
	<u>(In thousands, except per share amounts)</u>	

Net income for basic and diluted earnings per share	\$ 19,736	\$ 17,577
Shares of common stock and common stock equivalents		
Weighted average shares used in basic computation:	56,114	55,076
Dilutive effect of:		
Stock options	1,963	1,655
Business partner securities	84	88
Weighted average shares used in diluted computation	58,161	56,819
Earnings per share:		
Basic	\$ 0.35	\$ 0.32
Diluted	\$ 0.34	\$ 0.31

Effective April 1, 2003, the Company began recording income taxes (see Note 5, Income Taxes). During the three months ended March 31, 2003, income taxes were minimal due to the benefit of net operating loss carryforwards. As a result, in applying the treasury stock method for the three and six month periods ended June 30, 2004 and 2003, the assumed proceeds of stock option exercises were computed as the sum of (i) the amount the employees paid on exercise and (ii) the amount of tax benefits associated with employee stock options exercised that were credited to additional paid-in capital. Prior to April 1, 2003, the Company excluded such tax benefits in assumed proceeds of stock option exercises, thereby increasing the dilutive effect of securities accordingly.

At June 30, 2004 and 2003, approximately 9.6 million and 10.7 million securities, respectively, were not included in the computation of diluted earnings per share because their effect would have been anti-dilutive.

10. Regulatory Capital Requirements

Through its subsidiary, eSpeed Government Securities, Inc., the Company is subject to SEC broker-dealer regulation under Section 15C of the Securities Exchange Act of 1934, which requires the maintenance of minimum liquid capital, as defined. At June 30, 2004, eSpeed Government Securities, Inc.'s liquid capital of \$110,181,249 was in excess of minimum requirements by \$110,156,249.

Additionally, the Company's subsidiary, eSpeed Securities, Inc., is subject to SEC broker-dealer regulation under Rule 17a-3 of the Securities Exchange Act of 1934, which requires the maintenance of minimum net capital and requires that the ratio of aggregate indebtedness to net capital, both as defined, shall not exceed 15 to 1. At June 30, 2004, eSpeed Securities, Inc. had net capital of \$94,624,134, which was \$94,619,134 in excess of its required net capital, and eSpeed Securities, Inc.'s net capital ratio was negligible as aggregate indebtedness totaled only \$777.

The regulatory requirements referred to above may restrict the Company's ability to withdraw capital from its regulated subsidiaries.

11. Commitments and Contingencies

On July 26, 2004, Cantor Fitzgerald and the Company announced that we will establish our new global headquarters at 110 E 59th Street in New York's midtown Manhattan. Under the Administrative Services Agreement, eSpeed is obligated to Cantor for its pro rata portion (based on square footage used) of rental payments during the 15 year term of the lease for the new headquarters. An evaluation of the effect of this new lease on the Company's schedule of significant contractual obligations, as disclosed in the Form 10-K for the year ended December 31, 2003, is currently being conducted.

Other than the above, there have been no significant changes in commitments and contingencies from the matters described in the notes to the Company's consolidated financial statements for the year ended December 31, 2003.

12. Segment and Geographic Data

Segment information: The Company currently operates its business in one segment, that of operating interactive electronic marketplaces for the trading of financial and non-financial products, licensing software, and providing technology support services to Cantor and other related and unrelated parties.

Product information: The Company currently markets its services through the following products: core products, including an integrated network engaged in electronic trading in government securities in multiple marketplaces over the eSpeed[®] system; new product rollouts, including introduction of products in non-equity capital markets; products enhancement software, which enables clients to engage in enhanced electronic trading of core products and future product rollouts; and eSpeed Software SolutionsSM, which allows customers to use the Company's intellectual property and trading expertise to build electronic marketplaces and exchanges, develop customized trading interfaces and enable real-time auctions and debt issuance. Revenues from core products comprise the majority of the Company's revenues.

Geographic information: The Company operates in the Americas (primarily in the United States), Europe and Asia. Revenue attribution for purposes of preparing geographic data is principally based upon the marketplace where the financial product is traded, which, as a result of regulatory jurisdiction constraints in most circumstances, is also representative of the location of the client generating the transaction resulting in commissionable revenue. The information that follows, in management's judgment, provides a reasonable representation of the activities of each region as of and for the periods indicated.

(In thousands)	Three months ended June 30th,	
	2004	2003
Transaction revenues:		
Europe	\$ 7,263	\$ 6,854
Asia	490	594
Total Non-Americas	7,753	7,448
Americas	26,749	24,978
Total	\$ 34,502	\$ 32,426

(In thousands)	<u>Six months ended June 30th,</u>	
	<u>2004</u>	<u>2003</u>
Transaction revenues:		
Europe	\$ 16,071	\$ 13,890
Asia	<u>1,027</u>	<u>1,202</u>
Total Non-Americas	17,098	15,092
Americas	<u>54,188</u>	<u>45,054</u>
Total	<u>\$ 71,286</u>	<u>\$ 60,146</u>

(In thousands)	<u>June 30,</u>	
	<u>2004</u>	<u>2003</u>
Average long-lived assets:		
Europe	\$ 14,938	\$ 3,053
Asia	<u>402</u>	<u>318</u>
Total Non-Americas	15,340	3,371
Americas	<u>27,485</u>	<u>21,925</u>
Total	<u>\$ 42,825</u>	<u>\$ 25,296</u>

ITEM 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The information in this report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements are based upon current expectations that involve risks and uncertainties. Any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements. For example, words such as "may," "will," "should," "estimates," "predicts," "potential," "continue," "strategy," "believes," "anticipates," "plans," "expects," "intends" and similar expressions are intended to identify forward-looking statements. Our actual results and the timing of certain events may differ significantly from the results discussed in the forward-looking statements. Factors that might cause or contribute to such a discrepancy include, but are not limited to, the effect of the September 11 Events on our operations, including in particular the loss of hundreds of eSpeed, Cantor and TradeSpark employees, our limited operating history, the possibility of future losses and negative cash flow from operations, the effect of market conditions, including volume and volatility, and the current global recession on our business, our ability to enter into marketing and strategic alliances, to hire new personnel, to expand the use of our electronic system, to induce clients to use our marketplaces and services and to effectively manage any growth we achieve, and other factors that are discussed under "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2003. The following discussion is qualified in its entirety by, and should be read in conjunction with, the more detailed information set forth in our financial statements and the notes thereto appearing elsewhere in this report.

Overview

We were incorporated on June 3, 1999 as a Delaware corporation. Prior to our initial public offering, we were a wholly-owned subsidiary of, and we conducted our operations as a division of, Cantor Fitzgerald Securities, which in turn is a 99.75%-owned subsidiary of Cantor Fitzgerald, L.P. We commenced operations as a division of Cantor on March 10, 1999, the date the first fully electronic transaction using our eSpeed[®] system was executed. Cantor has been developing systems to promote fully electronic marketplaces since the early 1990s. Since January 1996, Cantor has used our eSpeed[®] system internally to conduct electronic trading.

Concurrent with our initial public offering in December 1999, Cantor contributed to us, and we acquired from Cantor, certain of our assets. These assets primarily consisted of proprietary software, network distribution systems, technologies and other related contractual rights that comprise our eSpeed[®] system.

As of June 30, 2004, we had retained earnings of \$6.5 million. This amount primarily resulted from net income generated during the six months ended June 30, 2004, and the years ended December 31, 2003 and 2002, almost entirely offset by expenditures on our technology and infrastructure incurred in building our revenue base and from non-cash charges incurred in connection with the issuance of business partner securities.

We expect that we will continue to generate net income. However, in light of the rapidly changing nature of our business and the impact of the September 11 Events, we believe that period-to-period comparisons of our previously reported operating results will not necessarily be meaningful and should not be relied upon as an indication of future performance.

We operate interactive electronic marketplaces and license customized real-time software solutions to our clients. In general, we receive transaction fees based on a percentage of the face value of products traded through our system. Products may be traded on a fully electronic basis, electronically through a voice broker, or via open outcry with prices displayed on data screens. We receive different fees for these different system utilizations. Additionally, we receive revenues from licensing software and providing technology support.

We have pursued an aggressive strategy to convert certain of Cantor's financial marketplace products to our eSpeed[®] system and, with the assistance of Cantor, to continue to create new markets and convert new clients to our eSpeed[®] system. The process of converting these marketplaces includes

modifying existing trading systems to allow for transactions to be entered directly from a client location, signing an agreement with the client, installing the hardware and software at the client location and establishing communication lines between us and the client. Other than Cantor, no client of ours accounted for more than 10% of our transaction revenues from our date of inception through June 30, 2004. As a result of the September 11 Events and the resulting loss of voice brokers, Cantor's U.S. operations were reduced, including the trading by it of certain U.S. financial products. Cantor also sold the assets of its municipal bond business in the first quarter of 2002 after that business ceased operations on September 11, 2001, but acquired a special interest in MPLLC, the entity that acquired the assets. In addition, Cantor's business product development activity continues to be reduced due to the September 11 Events. If Cantor determines not to re-enter its affected businesses, exits additional businesses or does not continue to develop new products or enter into new businesses, we will likely be adversely affected.

Critical Accounting Policies

For a discussion of the Company's critical accounting policies, see "Critical Accounting Policies" in our Annual Report on Form 10-K.

Results of Operations

For the Three Months Ended June 30, 2004 Compared to the Three Months Ended June 30, 2003

Highlights

Diluted earnings per share for the three months ended June 30, 2004 and 2003 were \$0.16 and \$0.14, respectively. During the three months ended June 30, 2004, we recorded an income tax provision of \$5.8 million, or approximately \$0.10 per diluted share, corresponding to a 39.1% consolidated effective tax rate. For the same period a year earlier, we recorded an income tax provision of \$5.4 million, or approximately \$0.10 per diluted share, corresponding to a 40.0% consolidated effective tax rate.

For the three months ended June 30, 2004, transaction revenues with related parties amounted to \$34.5 million, an increase of 6% as compared to transaction revenues with related parties of \$32.4 million for the same period a year ago. Volumes transacted on our system per trading day increased approximately 8%. For the three months ended June 30, 2004, 84% of our transaction revenues were generated from fully electronic transactions.

Revenues

	Three Months Ended June 30,	
	2004	2003
(In thousands)		
Transaction revenues with related parties		
Fully electronic transactions	\$ 29,154	\$ 27,538
Voice-assisted brokerage transactions	5,190	4,645
Screen-assisted open outcry transactions	158	243
Total transaction revenues with related parties	34,502	32,426
Software Solutions fees from related parties	4,475	3,881
Software Solutions and licensing fees from unrelated parties	3,107	2,209
Interest income	761	563
Total revenues	<u>\$ 42,845</u>	<u>\$ 39,079</u>

Transaction revenues with related parties

For the three months ended June 30, 2004, we earned transaction revenues with related parties of \$34.5 million, an increase of 6% as compared to transaction revenues with related parties of \$32.4 million for the three month period ended June 30, 2003. There were 62 and 63 trading days in the

three-month periods ended June 30, 2004 and 2003, respectively. Transaction revenues per trading day increased by \$42 thousand, or 8%, from \$515 thousand for the three months ended June 30, 2003 to \$556 thousand for the three months ended June 30, 2004. Volumes transacted on our system increased by \$618 billion (approximately \$0.6 trillion), or 6%, from \$10,443 billion (approximately \$10.4 trillion) for the three months ended June 30, 2003 to \$11,061 billion (approximately \$11.1 trillion) for the three months ended June 30, 2004. This increase resulted primarily from favorable market conditions in the United States and in Europe, where market fluctuations drove increases in our product volumes and transactions counts, as well as continued adoption of our new software enhancements. For the three months ended June 30, 2004, 84% of our transaction revenues were generated from fully electronic transactions as compared to 85% for the same period in 2003.

Our revenues are highly dependent on transaction volume in the global financial product markets. Accordingly, among other things, equity market volatility, economic and political conditions in the United States of America and elsewhere in the world, concerns over inflation, institutional and consumer confidence levels, the availability of cash for investment by mutual funds and other wholesale and retail investors, fluctuating interest and exchange rates and legislative and regulatory changes and currency values may have an impact on our volume of transactions. In addition, a significant amount of our revenues is currently received in connection with our relationship with Cantor. Consequently, our revenues have been negatively affected by the effect of the September 11 Events on Cantor and may continue to be negatively affected in the future if Cantor's business continues to suffer due to the September 11 Events or otherwise.

Software Solutions fees from related parties

Software Solutions fees from related parties for the three months ended June 30, 2004 were \$4.5 million. This compares with Software Solutions fees from related parties for the three months ended June 30, 2003 of \$3.9 million, an increase of 15%. This increase resulted from an increase in demand for our support services from Cantor.

Software Solutions and licensing fees from unrelated parties

Software Solutions and licensing fees from unrelated parties for the three months ended June 30, 2004 were \$3.1 million as compared to Software Solutions and licensing fees from unrelated parties of \$2.2 million for the same period a year ago, a 41% increase, due primarily to licensing fees earned as part of the Wagner Patent settlement agreement with NYMEX. We anticipate that as we license our software and patents to additional market participants, our revenues from Software Solutions and licensing fees from unrelated parties will continue to grow.

Interest income

For the three months ended June 30, 2004, the blended weighted average interest rate on overnight reverse repurchase agreements and US Government Securities money market funds was 1.12% as compared to a 1.04% weighted average interest rate on overnight reverse repurchase agreements for the three months ended June 30, 2003. As a result of the increase in the average balances and interest rates between periods, we generated interest income of \$761 thousand for the three months ended June 30, 2004 as compared to \$563 thousand for the three months ended June 30, 2003, an increase of 35%.

Expenses

	Three Months Ended June 30,	
	2004	2003
(In thousands)		
Compensation and employee benefits	\$ 9,768	\$ 9,239
Occupancy and equipment:		
Amortization of software development costs	2,396	1,832
Other occupancy and equipment costs	6,073	5,739
Professional and consulting fees	865	863
Communications and client networks	1,595	1,714
Marketing	379	408
Administrative fees to related parties	3,212	2,590
Amortization of business partner and non-employee securities	142	362
Other	3,569	2,830
Total expense	<u>\$ 27,999</u>	<u>\$ 25,577</u>

Compensation and employee benefits

At June 30, 2004, we had 357 employees, which was an increase from the 332 employees we had at June 30, 2003. For the three months ended June 30, 2004, our compensation costs were \$9.8 million as compared to compensation costs of \$9.2 million for the same period a year earlier. This \$0.6 million increase, or 7%, in compensation costs resulted mainly from additional headcount. Compensation and employee benefits, as a percentage of revenue, were 23% and 24% for the six months ended June 30, 2004 and 2003, respectively. With a significant portion of employee compensation being discretionary and performance-based, compensation can vary from quarter to quarter.

Substantially all of our employees are full-time employees located predominately in the New York metropolitan area and London. Compensation costs include salaries, bonuses, payroll taxes and costs of employer-provided benefits for our employees. We expect that our future compensation costs will increase depending, in part, upon a variety of factors, including our incremental revenue growth.

Amortization of software development costs

Amortization and software development costs were \$2.4 million for the three months ended June 30, 2004, an increase of \$0.6 million, or 33%, as compared to amortization and software development costs of \$1.8 million for the three months ended June 30, 2003. The increase was related to increased investment in software development activities.

In accordance with the provisions of Statement of Position 98-1, "Accounting for the Costs of Computer Software Developed or Obtained for Internal Use," the Company capitalizes qualifying computer software costs incurred during the application development stage, and amortizes them over their estimated useful life of three years on a straight-line basis.

Other occupancy and equipment costs

Other occupancy and equipment costs were \$6.1 million for the three months ended June 30, 2004, a \$0.4 million increase, or 7%, as compared to other occupancy and equipment costs of \$5.7 million for the three months ended June 30, 2003. The increase was primarily caused by the occupancy and build-out of our temporary corporate headquarters in New York City.

Occupancy expenditures primarily consist of the rent and facilities costs of our offices in the New York metropolitan area and our offices in London and Tokyo. We moved into our temporary corporate headquarters in New York City during the second quarter of 2002. During the third quarter of 2004, the Company announced that it will establish its new global headquarters at 110 E 59th Street in New York's midtown Manhattan, with the relocation of employees to begin in the first quarter of 2005. We believe that other occupancy and equipment costs will increase in the future as we begin to occupy our new global headquarters and as we replace equipment lost in the September 11 Events.

However, we expect a portion of these capital expenditures to be covered by our insurance proceeds from our property and casualty insurance coverage.

Professional and consulting fees

Professional and consulting fees were \$0.9 million for the three months ended June 30, 2004 and 2003, respectively. Increases in legal and accounting fees were offset by decreases in consulting fees.

Communications and client networks

Communications costs were \$1.6 million for the three months ended June 30, 2004, a \$0.1 million decrease, or 6%, as compared to communication costs of \$1.7 million for the three months ended June 30, 2003. Cost controls resulted in reductions in communications rates and usage charges, which were somewhat offset by additional client networks charges as we processed increased volumes of transactions and continued to add new clients.

Communication costs include the costs of local and wide area network infrastructure, the cost of establishing the client network linking clients to us, data and telephone lines, data and telephone usage, and other related costs. We anticipate expenditures for communications and client networks will increase in the near future as we continue to connect additional customers to our network.

Marketing

Marketing expenses were \$0.4 million for the three months ended June 30, 2004 and 2003, respectively. Increases in advertising expenses were offset by decreases in printing and website costs.

Administrative fees to related parties

Administrative fees to related parties amounted to \$3.2 million for the three months ended June 30, 2004, a 23% increase over the \$2.6 million of such fees for the three months ended June 30, 2003.

Administrative fees to related parties are dependent upon both the costs incurred by Cantor and the portion of Cantor's administrative services that are utilized by us. Administrative fees to related parties are therefore partially correlated to our business growth.

Amortization of business partner and non-employee securities

We enter into strategic alliances with other industry participants in order to expand our business and to enter into new marketplaces. As part of these strategic alliances, we have issued warrants and convertible preferred stock. In addition, we have granted stock options to certain non-employees. These securities do not require cash outlays and do not represent a use of our assets. The expense related to these issuances is based on the value of the

securities being issued and the structure of the transaction. Generally, this expense is amortized over the term of the related agreement.

Charges in relation to the amortization of such securities were approximately \$0.1 million for the three months ended June 30, 2004 as compared to \$0.4 million for the three months ended June 30, 2003. This \$0.3 million decrease resulted primarily from the fact that value of a warrant agreement became fully amortized at the end of the first quarter of 2004, and thus contributed no amortization to the second quarter of 2004. The amendment of another warrant agreement that had the effect of extending the term over which the related warrant value is amortized further contributed to this decrease. These decreases were offset in part by a reversal of amortization taken in three months ended June 30, 2003 on warrants issued to a business partner who was determined not to have fulfilled its obligations under the related agreement. We believe period-to-period comparisons are not meaningful, as these transactions do not recur on a regular basis. Note 6 of our condensed consolidated financial statements in this Report on Form 10-Q contains further details regarding the amortization of business partner and non-employee securities.

Other expenses

Other expenses consist primarily of amortization of intangible assets, which totaled \$1.4 million for the three months ended June 30, 2004, insurance costs and travel, promotional and entertainment expenditures. For the three months ended June 30, 2004, other expenses were \$3.6 million, an increase

of \$0.8 million, or 29%, as compared to other expenses of \$2.8 million for the three months ended June 30, 2004, principally due to increases in travel and entertainment costs and recruitment fees, as well as a decrease in foreign currency translation gains.

Income taxes

During the three months ended June 30, 2004, we recorded an income tax provision of \$5.8 million corresponding to a 39.1% consolidated effective tax rate. During the same period a year earlier, we recorded an income tax provision \$5.4 million corresponding to a 40.0% consolidated effective tax rate. Our consolidated effective tax rate can vary from period to period depending on, among other factors, the geographic and business mix of our earnings.

Results of Operations

For the Six Months Ended June 30, 2004 Compared to the Six Months Ended June 30, 2003

Highlights

Diluted earnings per share for the six months ended June 30, 2004 and 2003 were \$0.34 and \$0.31, respectively. During the six months ended June 30, 2004, we recorded an income tax provision of \$12.7 million, or approximately \$0.22 per diluted share, corresponding to a 39.1% consolidated effective tax rate. For the same period a year earlier, we recorded an income tax provision of \$5.3 million, or approximately \$0.09 per diluted share, corresponding to a 23.1% consolidated effective tax rate. The consolidated effective tax rate for the six months ended June 30, 2003 was lower due to the fact that prior to the second quarter of 2003, our income taxes were minimal as the result of our NOLs.

For the six months ended June 30, 2004 transaction revenues with related parties amounted to \$71.3 million, an increase of 19% as compared to transaction revenues with related parties of \$60.1 million for the same period a year ago. Volumes transacted on our system per trading day increased approximately 16%. For the six months ended June 30, 2004, 84% of our transaction revenues were generated from fully electronic transactions.

Revenues

	<u>Six Months Ended June 30,</u>	
	<u>2004</u>	<u>2003</u>
(In thousands)		
Transaction revenues with related parties		
Fully electronic transactions	\$ 59,681	\$ 50,048
Voice-assisted brokerage transactions	11,216	9,806
Screen-assisted open outcry transactions	389	292
Total transaction revenues with related parties	71,286	60,146
Software Solutions fees from related parties	8,587	7,530
Software Solutions and licensing fees from unrelated parties	6,105	4,341
Interest income	1,505	1,105
Total revenues	<u>\$ 87,483</u>	<u>\$ 73,122</u>

Transaction revenues with related parties

For the six months ended June 30, 2004, we earned transaction revenues with related parties of \$71.3 million, an increase of 19% as compared to transaction revenues with related parties of \$60.1 million for the six month period ended June 30, 2003. There were 124 trading days in the six-month periods ended June 30, 2004 and 2003. Transaction revenues per trading day increased by \$90 thousand, or 19%, from \$485 thousand for the six months ended June 30, 2003 to \$575 thousand for the six months ended June 30, 2004. Volumes transacted on our system increased by \$3,177 billion (approximately

\$3.2 trillion), or 16%, from \$19,812 billion (approximately \$19.8 trillion) for the six months ended June 30, 2003 to \$22,989 billion (approximately \$23.0 trillion) for the six months ended June 30, 2004. This increase resulted primarily from favorable market conditions in the United States and in Europe, where market fluctuations drove increases in our product volumes and transactions counts, as well as continued adoption of our new software enhancements. For the six months ended June 30, 2004, 84% of our transaction revenues were generated from fully electronic transactions as compared to 83% for the same period in 2003.

Our revenues are highly dependent on transaction volume in the global financial product markets. Accordingly, among other things, equity market volatility, economic and political conditions in the United States of America and elsewhere in the world, concerns over inflation, institutional and consumer confidence levels, the availability of cash for investment by mutual funds and other wholesale and retail investors, fluctuating interest and exchange rates and legislative and regulatory changes and currency values may have an impact on our volume of

transactions. In addition, a significant amount of our revenues is currently received in connection with our relationship with Cantor. Consequently, our revenues have been negatively affected by the effect of the September 11 Events on Cantor and may continue to be negatively affected in the future if Cantor's business continues to suffer due to the September 11 Events or otherwise.

Software Solutions fees from related parties

Software Solutions fees from related parties for the six months ended June 30, 2004 were \$8.6 million. This compares with Software Solutions fees from related parties for the six months ended June 30, 2003 of \$7.5 million, an increase of 15%. This increase resulted from an increase in demand for our support services from Cantor.

Software Solutions and licensing fees from unrelated parties

Software Solutions and licensing fees from unrelated parties for the six months ended June 30, 2004 were \$6.1 million as compared to Software Solutions and licensing fees from unrelated parties of \$4.3 million for the same period a year ago, a 42% increase, due primarily to licensing fees earned as part of the Wagner Patent settlement agreement with NYMEX. We anticipate that as we license our software and patents to additional market participants, our revenues from Software Solutions and licensing fees from unrelated parties will continue to grow.

Interest income

For the six months ended June 30, 2004, the blended weighted average interest rate on overnight reverse repurchase agreements, tax free municipal bonds and US Government Securities money market funds was 1.15% as compared to a 1.04% weighted average interest rate on overnight reverse repurchase agreements for the six months ended June 30, 2003. As a result of the increase in the average balances and interest rates between periods, we generated interest income of \$1.5 million for the six months ended June 30, 2004 as compared to \$1.1 million for the six months ended June 30, 2003, an increase of 36%.

Expenses

	Six Months Ended June 30,	
	2004	2003
(In thousands)		
Compensation and employee benefits	\$ 19,083	\$ 18,083
Occupancy and equipment:		
Amortization of software development costs	4,651	3,510
Other occupancy and equipment costs	12,300	11,238
Professional and consulting fees	1,798	1,974
Communications and client networks	3,208	3,309
Marketing	765	742
Administrative fees to related parties	6,169	5,168
Amortization of business partner and non-employee securities	586	1,067
Other	6,516	5,149
Total expense	<u>\$ 55,076</u>	<u>\$ 50,240</u>

Compensation and employee benefits

At June 30, 2004, we had 357 employees, which was an increase from the 332 employees we had at June 30, 2003. For the six months ended June 30, 2004, our compensation costs were \$19.1 million as compared to compensation costs of \$18.1 million for the same period a year earlier. This \$1.0 million increase, or 6%, in compensation costs resulted mainly from additional headcount. Compensation and employee benefits, as a percentage of revenue, were 22% and 25% for the six months ended June 30, 2004 and 2003, respectively. With a significant portion of employee compensation being discretionary and performance-based, compensation can vary from quarter to quarter.

Substantially all of our employees are full-time employees located predominately in the New York metropolitan area and London. Compensation costs include salaries, bonuses, payroll taxes and costs of employer-provided benefits for our employees. We expect that our future compensation costs will increase depending, in part, upon a variety of factors, including our incremental revenue growth.

Amortization of software development costs

Amortization and software development costs were \$4.7 million for the six months ended June 30, 2004, an increase of \$1.2 million, or 34%, as compared to amortization and software development costs of \$3.5 million for the six months ended June 30, 2003. The increase was related to increased investment in software development activities.

In accordance with the provisions of Statement of Position 98-1, "Accounting for the Costs of Computer Software Developed or Obtained for Internal Use," the Company capitalizes qualifying computer software costs incurred during the application development stage, and amortizes them over their estimated useful life of three years on a straight-line basis.

Other occupancy and equipment costs

Other occupancy and equipment costs were \$12.3 million for the six months ended June 30, 2004, a \$1.1 million increase, or 10%, as compared to other occupancy and equipment costs of \$11.2 million for the six months ended June 30, 2003. The increase was primarily caused by the occupancy and build-out of our temporary corporate headquarters in New York City.

Other occupancy expenditures primarily consist of the rent and facilities costs of our offices in the New York metropolitan area and our offices in London and Tokyo. We moved into our temporary corporate headquarters in New York City during the second quarter of 2002. During the third quarter of 2004, the Company announced that it will establish its new global headquarters at 110 E 59th Street in New York's midtown Manhattan, with the relocation of employees to begin in the first quarter of 2005. We believe that other occupancy and equipment costs will increase in the future as we begin to

expect a portion of these capital expenditures to be covered by our insurance proceeds from our property and casualty insurance coverage.

Professional and consulting fees

Professional and consulting fees were \$1.8 million for the six months ended June 30, 2004, a \$0.2 million decrease, or 10%, as compared to professional and consulting fees of \$2.0 million for the six months ended June 30, 2003. Increases in accounting and tax fees were more than offset by decreases in consulting costs.

Communications and client networks

Communication costs were \$3.2 million for the six months ended June 30, 2004 as compared to \$3.3 million for the six months ended June 30, 2003. Cost controls resulted in reductions in communications rates and usage charges, which were somewhat offset by additional client networks charges as we processed increased volumes of transactions and continued to add new clients.

Communication costs include the costs of local and wide area network infrastructure, the cost of establishing the client network linking clients to us, data and telephone lines, data and telephone usage, and other related costs. We anticipate expenditures for communications and client networks will increase in the near future as we continue to connect additional customers to our network.

Marketing

Marketing expenses were \$0.8 million for the six months ended June 30, 2004, a \$0.1 million increase, or 14%, as compared to marketing expenses of \$0.7 million for the six months ended June 30, 2003. Increases in advertising expenses were offset partially by decreases in printing and website costs.

Administrative fees to related parties

Administrative fees to related parties amounted to \$6.2 million for the six months ended June 30, 2004, a 19% increase over the \$5.2 million of such fees for the six months ended June 30, 2003.

Administrative fees to related parties are dependent upon both the costs incurred by Cantor and the portion of Cantor's administrative services that are utilized by us. Administrative fees to related parties are therefore partially correlated to our business growth.

Amortization of business partner and non-employee securities

We enter into strategic alliances with other industry participants in order to expand our business and to enter into new marketplaces. As part of these strategic alliances, we have issued warrants and convertible preferred stock. In addition, we have granted stock options to certain non-employees. These securities do not require cash outlays and do not represent a use of our assets. The expense related to these issuances is based on the value of the securities being issued and the structure of the transaction. Generally, this expense is amortized over the term of the related agreement.

Charges in relation to the amortization of such securities were approximately \$0.6 million for the six months ended June 30, 2004 as compared to \$1.1 million for the six months ended June 30, 2003. This \$0.5 million decrease resulted primarily from the fact that value of a warrant agreement became fully amortized at the end of the first quarter of 2004, and thus contributed no amortization to the second quarter of 2004. The amendment of another warrant agreement that had the effect of extending the term over which the related warrant value is amortized further contributed to this decrease. These decreases were offset in part by a reversal of amortization taken in six months ended June 30, 2003 on warrants issued to a business partner who was determined not to have fulfilled its obligations under the related agreement. We believe period-to-period comparisons are not meaningful, as these transactions do not recur on a regular basis. Note 6 of our condensed consolidated financial statements in this Report on Form 10-Q contains further details regarding the amortization of business partner and non-employee securities.

Other expenses

Other expenses consist primarily of amortization of intangible assets, which totaled \$2.9 million for the six months ended June 30, 2004, insurance costs and travel, promotional and entertainment

expenditures. For the six months ended June 30, 2004, other expenses were \$6.5 million, an increase of \$1.4 million, or 27%, as compared to other expenses of \$5.1 million for the six months ended June 30, 2004, principally due to increases in amortization of intangibles, travel and entertainment costs and recruitment fees, as well as a decrease in foreign currency translation gains.

Income taxes

During the six months ended June 30, 2004, we recorded an income tax provision of \$12.7 million corresponding to a 39.1% consolidated effective tax rate. For the same period a year earlier, we recorded an income tax provision of \$5.3 million corresponding to a 23.2% consolidated effective tax rate. The consolidated effective tax rate for the six months ended June 30, 2003 was lower due to the fact that prior to the second quarter of 2003, our income taxes were minimal as the result of our NOLs. Our consolidated effective tax rate can vary from period to period depending on, among other factors, the geographic and business mix of our earnings.

Liquidity and Capital Resources

At June 30, 2004, we had cash and cash equivalents of \$239.6 million, an increase of \$11.1 million as compared to December 31, 2003. During the six months ended June 30, 2004, our operating activities provided cash of \$29.3 million. We also used net cash of \$20.9 million resulting from purchases of fixed assets, and the capitalization of software development costs and patent registration and defense costs. In addition, we realized \$2.7 million from exercises of employee stock options, \$0.1 million of which was receivable at June 30, 2004 and was received in the subsequent month.

Our operating cash flows consist of transaction revenues with related parties and Software Solutions fees from related and unrelated parties, various fees paid to or costs reimbursed to Cantor, other costs paid directly by us and interest income. In its capacity as a fulfillment service provider, Cantor processes and settles transactions and, as such, collects and pays the funds necessary to clear transactions with the counterparty. In doing so, Cantor receives our portion of the transaction fee and, in accordance with the Joint Services Agreement, remits the amount owed to us. In addition, we have entered into similar services agreements with TradeSpark, Freedom, MPLLC and CO2e. Under the Administrative Services Agreement, the Amended and Restated Joint Services Agreement and the services agreements with TradeSpark, Freedom, MPLLC and CO2e, any net receivable or payable is settled at the discretion of the parties.

As of June 30, 2004, we had repurchased 186,399 shares of our Class A common stock for a total of \$2.1 million under our repurchase plan. Our board of directors has authorized the repurchase of up to an additional \$40.0 million of our outstanding Class A common stock. During the third quarter of 2004, we purchased an additional 1,600,176 shares for a total purchased price of \$19.5 million, bringing the total number of treasury shares owned to 1,786,575 at a book value of \$21.6 million.

We anticipate that we will experience an increase in our capital expenditures and lease commitments consistent with our anticipated growth in operations, infrastructure and personnel with our anticipated move into new

headquarters. Our property and casualty insurance coverage may mitigate our capital expenditures for the near term. During the year ended December 31, 2003, Cantor received an additional \$21.0 million of insurance proceeds in settlement for property damage related to the September 11 Events. We will be entitled to up to \$19.5 million of these proceeds as replacement assets are purchased in the future, depending on the ultimate replacement value of the assets destroyed. We currently anticipate that we will continue to experience growth in our operating expenses for the foreseeable future and that our operating expenses will be a material use of our cash resources.

Under the current operating structure, our cash flows from operations and our existing cash resources should be sufficient to fund our current working capital and current capital expenditure requirements for at least the next 12 months. However, we believe that there are a significant number of capital intensive opportunities for us to maximize our growth and strategic position, including, among other things, strategic alliances and joint ventures potentially involving all types and combinations of equity, debt, acquisition, recapitalization and reorganization alternatives. We are continually considering such

options, including the possibility of additional repurchases of our Class A common stock, and their effect on our liquidity and capital resources.

Aggregate Contractual Obligations

On July 26, 2004, Cantor Fitzgerald and the Company announced that we will establish our new global headquarters at 110 E 59th Street in New York's midtown Manhattan. Under the Administrative Services Agreement, eSpeed is obligated to Cantor for its pro rata portion (based on square footage used) of rental payments during the 15 year term of the lease for the new headquarters. An evaluation of the effect of this new lease on the Company's schedule of contractual obligations, as disclosed in the Form 10-K for the year ended December 31, 2003, is currently being conducted.

Other than the item described above, there have been no significant changes to our significant contractual obligations, as detailed in our Annual Report on Form 10-K for the year ended December 31, 2003.

Off-Balance Sheet Arrangements

As of June 30, 2004, we did not have any off-balance sheet arrangements, as defined in Item 303(a)(4)(ii) of Regulation S-K.

ITEM 3. Quantitative and Qualitative Disclosures about Market Risk

At June 30, 2004, we had invested \$205.5 million of our cash in securities purchased under reverse repurchase agreements, \$81.7 million of which is fully collateralized by U.S. government securities and \$123.8 million of which is fully collateralized by eligible equity securities, both of which are held in a third party custodial account. These reverse repurchase agreements have an overnight maturity and, as such, are highly liquid. Additionally, at June 30, 2004, we had invested \$7.8 million in a money market fund held at overnight durations. This fund solely invests in short-term U.S. government fixed income securities.

We generally do not use derivative financial instruments, derivative commodity instruments or other market risk sensitive instruments, positions or transactions. Accordingly, we believe that we are not subject to any material risks arising from changes in interest rates, foreign currency exchange rates, commodity prices, equity prices or other market changes that affect market risk sensitive instruments. Our policy is to invest our cash in a manner that provides us with an appropriate level of liquidity.

ITEM 4. Controls and Procedures

(a) Evaluation of Disclosure Controls and Procedures

The Company's management, with the participation of the Company's Chief Executive Officer and Interim Chief Financial Officer, evaluated the effectiveness of the Company's disclosure controls and procedures as of the end of the period covered by this report. Based on that evaluation, the Chief Executive Officer and Interim Chief Financial Officer concluded that the Company's disclosure controls and procedures as of the end of the period covered by this report were designed and were functioning effectively to provide reasonable assurance that the information required to be disclosed by the Company in reports filed under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. The Company believes that a controls system, no matter how well designed and operated, cannot provide absolute assurance that the objectives of the controls system are met, and no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within a company have been detected.

(b) Change in Internal Control over Financial Reporting

No change in the Company's internal control over financial reporting occurred during the Company's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II. - OTHER INFORMATION

ITEM 2. Changes in Securities and Use of Proceeds and Issuer Purchases of Equity Securities

There have been no repurchases or sales of our equity securities by us during the three months ended June 30, 2004.

ITEM 6. Exhibits and Reports on Form 8-K

(a) Exhibits.

Exhibit No.	Description
10.31	Employment Agreement, dated as of April 23, 2004 between eSpeed, Inc. and Kevin Foley

10.32	Employment Agreement, dated as of April 29, 2004 between eSpeed, Inc. and Paul Saltzman
31.1	Certification by the Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification by the Interim Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32	Certification Pursuant to 18 U.S.C. Section 1350, As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

(b) Reports on Form 8-K.

- (i) On April 26, 2004, we filed a report on Form 8-K under Item 5. "Other Events and Required FD Disclosure" with respect to the appointment of Kevin Foley as President, and the promotion of Lee Amaitis to Vice Chairman, of the Registrant.
- (ii) On May 3, 2004, we filed a report on Form 8-K under Item 7. "Financial Statements and Exhibits" and Item 12. "Results of Operations and Financials Condition" of Form 8-K, in which we announced our preliminary operating statistics for the quarter ended March 31, 2004.
- (iii) On May 5, 2004, we filed a report on Form 8-K under Item 5. "Other Events and Required FD Disclosure" with respect to the appointment of Paul Saltzman as Chief Operating Officer of the Registrant.
- (iv) On May 10, 2004 we filed a report on Form 8-K under Item 5. "Other Events and Required FD Disclosure" with respect to the resignation of Jeff Chertoff and the appointment of Jay Ryan as Interim Chief Financial Officer of the Registrant.
- (v) On June 2, 2004 we filed a report on Form 8-K under Item 5. "Other Events and Required FD Disclosure" with respect to the promotion of Joseph Noviello to Executive Vice President, Chief Product Architect of the Registrant, and the promotion of James Johnson to Senior Vice President, Chief Information Officer, of the Registrants.
- (vi) On July 1, 2004 we filed a report on Form 8-K under Item 7. "Financial Statements and Exhibits" and Item 12. "Results of Operations and Financials Condition" of Form 8-K, in which we updated our outlook for the quarter ended June 30, 2004.
- (vii) On August 5, 2004 we filed a report on Form 8-K under Item 7. "Financial Statements and Exhibits" and Item 12. "Results of Operations and Financials Condition" of Form 8-K, in which we announced our preliminary operating statistics for the quarter ended June 30, 2004.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this Report on Form 10-Q for the quarter ended June 30, 2004 to be signed on its behalf by the undersigned thereunto duly authorized.

eSpeed, Inc.
(Registrant)

/s/ Howard W. Lutnick
Howard W. Lutnick
Chairman of the Board and Chief Executive Officer

/s/ Jay Ryan
Jay Ryan
Senior Vice President and Interim Chief Financial Officer

Date: August 6, 2004

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EMPLOYMENT AGREEMENT

AGREEMENT, dated as of April 23, 2004, by and between eSpeed, Inc., a Delaware corporation, with offices at 135 E. 57th Street, New York, New York 10022, together with its successors and assigns (collectively, "eSpeed"), and Kevin Foley, residing at 55 East 86th Street, Apt. 15C, New York, New York, 10028 ("Employee").

eSpeed and Employee desire to enter into an employment agreement ("Agreement"), on the terms and conditions set forth below, to provide for the employment of Employee for the term herein specified. In consideration of the mutual agreements set forth below, eSpeed and Employee therefore agree:

Section 1. Employment and Term.

eSpeed hereby agrees with Employee, and Employee hereby agrees to serve, on the terms and conditions set forth in this Agreement, as the President of eSpeed with the duties set forth in Section 2, for a term beginning on May 3, 2004 (the "Start Date") and ending December 31, 2006 (the "Term of Employment"), unless earlier terminated as specified in Section 4 below. Nothing contained in this paragraph shall limit eSpeed's right to terminate Employee under Section 4.

Section 2. Duties.

Employee agrees that during the Term of Employment, Employee will perform such duties and assignments relating to the business of eSpeed and any entity whether now existing or hereafter arising that directly or indirectly, through one or more intermediaries, controls or is controlled by or under common control with eSpeed (each such entity, an "Affiliate"), consistent with the title of President, as the CEO of eSpeed shall direct. During the Term of Employment, Employee shall, except during customary vacation periods and periods of illness, devote all of Employee's business time, attention and energies to the performance of Employee's duties and to the business and affairs of eSpeed and to promoting the best interests of eSpeed, and Employee shall not, either during or outside of such normal business hours, directly or indirectly, engage in any activity inimical to such best interests. eSpeed retains the right to provide Employee with alternative work commensurate with the work Employee may be asked to normally perform under this Agreement.

Section 3. Compensation During the Term of Employment.

eSpeed shall pay to Employee compensation as follows:

(a) Employee shall receive an annual base salary of \$900,000 per annum, payable semi-monthly in accordance with eSpeed's then current payroll practices.

(b) Employee shall be entitled to a bonus of at least \$600,000 for 2004 if the pre tax operating earnings per share of eSpeed (in each case as customarily reported by eSpeed) for the April 1-December 31 period in 2004 is at least 10% higher than the pre tax operating earnings per share for the same period in 2003. Employee shall have the opportunity to earn an annual bonus for the 2004 fiscal year (less any amounts payable pursuant to the preceding sentence) of up to 100% of Employee's annual base salary, if the pre tax operating earnings per share of eSpeed (in each case as customarily reported by eSpeed) for the April 1-December 31 period in 2004 is at least 30% higher than the pre tax operating earnings per share for the same period in 2003, which amount shall be proportionately reduced in the event of an earnings increase of less than 30%, subject to the preceding sentence. This bonus is payable as soon as practicable following the end of the fiscal year in accordance with eSpeed's then current payroll practices, provided Employee has not given notice of resignation or been terminated for Cause (as defined herein) on or before such payment date, as the case may be. Except as provided in this Agreement, the bonus opportunities pursuant to this paragraph (b) will be pursuant to the terms of the eSpeed, Inc. 2003 Incentive Bonus Compensation Plan.

Employee shall be entitled to a bonus of at least \$600,000 for 2005 if the pre tax operating earnings per share of eSpeed (in each case as customarily reported by eSpeed) for 2005 is at least 10%

higher than the pre tax operating earnings per share for 2004. Employee shall be entitled to a bonus of at least \$600,000 for 2006 if the pre tax operating earnings per share of eSpeed (in each case as customarily reported by eSpeed) for 2006 is at least 10% higher than the pre tax operating earnings per share for 2005. Each such bonus is payable as soon as practicable following the end of the fiscal year in accordance with eSpeed's then current payroll practices, provided Employee has not given notice of resignation or been terminated for Cause (as defined herein) on or before such payment date, as the case may be.

(c) Employee shall also receive on the Start Date, options to purchase 500,000 shares of Class A Common Stock of eSpeed in accordance with the terms of the eSpeed, Inc. 1999 Long Term Incentive Plan, at an exercise price per share equal to the closing price per share of Class A Common Stock on the Start Date, and the award agreement for such option shall be substantially in the form attached hereto as Exhibit A.

(d) Employee shall be entitled each year to participate in such employee benefit plans and programs as eSpeed may from time to time offer to employees of eSpeed. Employee will also be entitled to a vacation or vacations in accordance with the policies of eSpeed for employees at his level as determined by the management of eSpeed from time to time. eSpeed shall not pay Employee any additional compensation for any vacation time not used by Employee, other than as required by law.

(e) All compensation shall be subject to withholding and other applicable taxes. Employee further agrees (i) that any sums owed (or owing in the future) to eSpeed (or any Affiliate) by Employee may be deducted from Employee's paychecks (or any bonus checks) in amounts that are in accordance with applicable law and (ii) that any sums owed to American Express and Employee's American Express Corporate Charge Card that are 90 days past due for payment may be deducted by eSpeed from Employee's paycheck (or any bonus checks) in amounts that are in accordance with applicable law and make payments to American Express on Employee's behalf and (iii) that any sums owed to American Express and Employee's American Express Corporate Charge Card upon the termination of Employee's employment (for whatever reason) may be deducted by eSpeed from any outstanding paycheck in amounts that are in accordance with applicable law and make payments to American Express on Employee's behalf.

(f) Employee agrees that any unauthorized or excess travel and entertainment expenses, as reasonably determined by eSpeed in accordance with its then current practices, may be offset against Employee's bonus payment or salary, at eSpeed's discretion.

(g) All bonuses shall be earned and payable only if Employee is employed by eSpeed or an Affiliate at the time payment is made (except termination of Employee without Cause); provided, however, that bonus payments payable with respect to 2006, if any, shall be earned and payable if Employee is employed by eSpeed or an Affiliate on December 31, 2006. Employee agrees that any compensation paid to Employee subsequent to the termination of Employee's employment with eSpeed (except termination of Employee without Cause) shall only be paid upon execution by Employee of a general unconditional release in favor of eSpeed in a form satisfactory to eSpeed.

Section 4. Termination.

(a) During the Term of Employment, eSpeed may terminate this Agreement with Employee for Cause and notice of such termination shall be sent to Employee. For the purposes hereof, "Cause" means Employee's (i) nonperformance or breach by Employee of any of the provisions of Sections 5(a) and 5(c) of this Agreement (and with respect to any of the provisions of Sections 5(b) and 5(d) only nonperformance or breach by Employee

which shall be material or not inadvertent), and with respect to provisions of this Agreement other than those contained in Section 5, material nonperformance or breach by Employee, (ii) conviction of a crime under U.S. Federal, state or local laws or any applicable foreign laws (including any pleas of *nolo contendere*), (iii) serious misconduct in connection with or affecting the business of eSpeed or any Affiliate, (iv) serious neglect or gross negligence in performing Employee's duties hereunder, (v) refusal to materially perform Employee's duties hereunder after delivery to Employee by eSpeed or an entity owned or controlled by eSpeed of written notice identifying the duties not being performed by Employee, which failure may include the

loss for a period of thirty (30) days during any calendar year of any regulatory approvals or licenses necessary to perform Employee's duties, (vi) violation by Employee or Employee aiding and abetting any violation by another, of any law, order, rule or regulation pertaining to Employee, or eSpeed or its affiliates including, among others, the rules, regulations and by laws of the National Association of Securities Dealers and the New York Stock Exchange, (vii) illegal drug use by Employee, or (viii) serious misconduct in connection with a request for reimbursement of expenses not actually incurred by Employee and/or not in accordance with eSpeed's travel and entertainment policy, or assisting others in such efforts.

(b) If during the Term of Employment, by reason of physical or mental disability, Employee is incapable of performing the essential functions of his position, with or without reasonable accommodation for a period of 60 out of 180 consecutive days, eSpeed at its option may thereafter terminate this Agreement with Employee and notice of such termination may be sent to Employee. Salary of Employee during any period of disability shall be in accordance with the then-current policy of eSpeed. If Employee shall die during the Term of Employment, the Term of Employment shall automatically terminate; in the event of such death, or if eSpeed terminates the Term of Employment pursuant to this Section, eSpeed shall pay to Employee or to Employee's legal representatives, or in accordance with a direction given by Employee to eSpeed in writing, Employee's compensation to the date on which such death or termination for disability occurs.

(c) In the event eSpeed notifies Employee of eSpeed's election to terminate this Agreement with Employee, such termination shall become effective (i) if mailed, three (3) days after mailing of notice thereof to Employee or (ii) if delivered by hand, upon delivery.

(d) In the event Employee is terminated for Cause or because of disability, he will resign from any officer and/or director positions he may hold.

Section 5. Non-Competition; Non-Disclosure;
Non-Solicitation; Non-Disparagement

(a) During the Term of Employment, Employee shall not, alone or with others, directly or indirectly, participate, engage, render services to or become interested in (as owner, stockholder, partner, lender or other investor, director, officer, employee, consultant or otherwise) any business activity that is in competition with, or otherwise related to or arises from, the then current or contemplated business of eSpeed or any Affiliate. Notwithstanding any other provisions herein, nothing in this Agreement shall prohibit Employee from acquiring or owning in accordance with eSpeed's policies and procedures regarding personal securities transactions, less than 1% of the outstanding securities of any class of any corporation that are listed on a national securities exchange or traded in the over-the-counter market.

(b) Employee acknowledges that during the Term of Employment he will have access to and become acquainted with eSpeed's confidential records. Employee hereby covenants and agrees that during the Term of Employment and thereafter, Employee shall keep strictly confidential all information which Employee presently possesses or which Employee may obtain during the course of Employee's employment or any consulting arrangement with eSpeed with respect to its client information, trade secrets, copyrights, patents, trademarks, service marks, source code, business practices, finances, developments, affairs, records, data, formulae, documents, intangible rights, other intellectual property and other confidential information (collectively, "Confidential Information") of eSpeed or any Affiliate, or information about eSpeed or any Affiliate not generally known to the public and not disclose the same, directly or indirectly, to any other person, firm or corporation or utilize the same, except solely in the course of performing his duties on behalf of eSpeed and its Affiliates pursuant to this Agreement. All Confidential Information relating to the business of eSpeed and its Affiliates which Employee shall develop, conceive, produce, prepare, use, construct or observe during the Term of Employment shall be and remain the sole property of eSpeed or the relevant Affiliate. Employee further agrees that upon the termination of Employee's employment (irrespective of the time, manner or cause of termination), Employee will surrender and deliver to eSpeed all Confidential Information, including but not limited to work papers, memoranda, lists, books, records and data of every kind, as well as any copies thereof, relating to or in connection with eSpeed's and its

Affiliates' Confidential Information and business. It is understood that Employee may be required to disclose Confidential Information pursuant to subpoena, other court process, at the direction of governmental or self-regulatory agencies (including the National Association of Securities Dealers, Inc. or the Securities and Exchange Commission) or otherwise as required by law.

(c) During the Term of Employment and for a period of three (3) years after the termination of his employment, for any reason whatsoever, Employee shall not, alone, or with others, directly or indirectly, solicit, hire or retain for Employee's benefit or the benefit of any person or organization other than eSpeed and its Affiliates, the employment or other services of any individual employed by eSpeed or any Affiliate or serving as a consultant or independent contractor at the time of such termination or within six months prior thereto.

(d) Employee recognizes that he is being placed in a position of trust and confidence and as such will not during the Term of Employment or thereafter defame, disparage, libel or slander eSpeed or its Affiliates in any way, nor will eSpeed or its Affiliates defame, disparage (except for any statements made pursuant to law or regulation, including Regulation FD), libel or slander Employee, and Employee will not during the Term of Employment or thereafter contact, respond to any request from or in any way discuss, criticize, defame, disparage, libel or slander eSpeed or its Affiliates, employees, agent to the media (print, television, or otherwise, whether on or off the record). This provision will not prohibit Employee from making statements to the media if authorized by eSpeed and pursuant to eSpeed company policy. It is expected that Employee will, in the ordinary course of business, be expected to communicate with the media regarding eSpeed's business.

Section 6. Other Employee Obligations.

(a) In order to retain and enhance eSpeed's standing and integrity at the forefront of the business community, the business conduct of Employee must be totally professional and Employee must at all times observe appropriate standards of politeness and courtesy in Employee's behavior both with the public and with colleagues. Employee is required to well and faithfully serve eSpeed and to the best of Employee's ability use

Employee's best endeavors at all times to promote the development of eSpeed's business and reputation.

(b) Employee must maintain the highest standards of honesty and fair dealing in Employee's work for eSpeed and any Affiliate. Great importance is attached to the observance of eSpeed's policies and procedures as expressed in any personnel or compliance manual, all Federal and State laws and regulations (or if applicable, those of a foreign jurisdiction) and the rules of the National Association of Securities Dealers, Inc. or any other applicable self-regulatory organization. Material breach of any of these obligations may be regarded as misconduct and may result in summary dismissal for Cause.

(c) If at any time during his employment with eSpeed Employee is, directly or indirectly, approached or solicited by a third party, with a view to or with the intention of taking up employment or entering into some other business relationship, whether directly or indirectly, with that of any other party which is involved in a business which is competitive with the current or then contemplated business of eSpeed or any Affiliate, as known to Employee, Employee shall disclose that fact immediately in writing to the CEO of eSpeed. Moreover, during the Term of Employment and any extensions of employment, Employee shall not, directly or indirectly, solicit, encourage the solicitation of, or discuss employment or entering into a business relationship, whether directly or indirectly with a party which is involved in a business which is competitive with the current or then contemplated business of eSpeed or any Affiliate, as known to Employee.

(d) During the Term of Employment and any extensions thereof, Employee shall not, without the written consent of eSpeed, enter into an agreement, whether oral, written or otherwise, with any person, firm or corporation providing for Employee's future employment by such or any other person, firm or corporation.

Section 7. Injunctive Relief

The parties acknowledge that in the event of a breach or a threatened breach by Employee of any of Employee's obligations under this Agreement, eSpeed and its Affiliates will not have an

adequate remedy at law. Accordingly, and notwithstanding Section 8 hereof, in the event of any such breach or threatened breach by Employee, eSpeed and its Affiliates shall be entitled to specific performance of this Agreement or such equitable and injunctive relief, without proof of special damages or the posting of any bond or other security, as may be available to restrain Employee and any business, firm, partnership, individual, corporation or entity participating in such breach or threatened breach from the violation of the provisions hereof. eSpeed and its Affiliates will be entitled to seek such relief, without the posting of any bond or other security, in court pursuant to Section 7502(c) of the New York Civil Practice Law and Rules, or any successor provision thereto. Nothing herein shall be construed as prohibiting eSpeed or any Affiliate from pursuing any other remedies available at law or in equity for such breach or threatened breach in any dispute submitted to arbitration under Section 8 hereof.

Section 8. Arbitration.

Subject to the provisions of Section 7, any disputes, differences or controversies arising under this Agreement shall be settled and finally determined by arbitration before a panel of three arbitrators in New York, New York, according to the rules of the National Association of Securities Dealers, Inc. (or the American Arbitration Association or any other alternative dispute resolution organization) now in force and hereafter adopted and the laws of the state of New York then in effect. The arbitrators shall make their award in accordance with and based upon all provisions of this Agreement and judgment upon any award rendered by the arbitrators shall be entered in any court having jurisdiction thereof. However, it is understood and agreed that the arbitrators are not authorized or entitled to include as part of any award rendered by them, special, exemplary or punitive damages or amounts in the nature of special, exemplary or punitive damages regardless of the nature or form of the claim or grievance that has been submitted to arbitration.

It is expressly agreed that arbitration as provided herein shall be the exclusive means for determination of all matters arising in connection with this Agreement and neither party hereto shall institute any action or proceeding in any court of law or equity other than: (a) to request enforcement of the arbitrators award hereunder; or (b) by eSpeed to bring an action or proceeding seeking injunctive relief from a court of competent jurisdiction as set forth in paragraph 7. The foregoing sentence shall be a bona fide defense to any action or proceeding instituted contrary to this Agreement.

Section 9. Entire Agreement; Enforceability; Partial Invalidation; Attorneys' Fees.

This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and no modification or waiver of any provision hereof will be binding upon any party unless in writing and signed by the parties hereto.

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted. In the event that a court of competent jurisdiction shall determine that any covenant set forth in this Agreement is impermissibly broad in scope, duration or geographical area, or is in the nature of a penalty, then the parties intend that such court should limit the scope, duration or geographical area of such covenant to the extent, and only to the extent, necessary to render such covenant reasonable and enforceable, and enforce the covenant as so limited.

The parties agree that if Employee brings an action, claim or proceeding against eSpeed, any Affiliate, or any partner, stockholder, officer, director or employee of any of them, that relates to or implicates this Agreement, whether as to its breach, validity, efficacy or otherwise, the non-prevailing party shall pay the reasonable attorney's fees of the prevailing party.

Section 10. Miscellaneous.

This Agreement:

(a) shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted assigns, heirs, executors and administrators. No waiver or modification shall be deemed to be a subsequent waiver or modification of the same or any other term, covenant or condition in this Agreement;

(b) may not be assigned, in whole or in part, by either party hereto without the prior written consent of the other party (any purported assignment hereof in violation of this provision being null and void); however, it may be assigned without recourse, in whole or in part by eSpeed to any Affiliate or to any successor in interest of eSpeed or any Affiliate by merger, consolidation, reorganization or otherwise, and may be executed in various counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and shall be governed by and construed in accordance with the laws of the State of New York,

without giving effect to the principles of conflicts of laws thereof. Employee hereby waives personal service of process, and irrevocably submits to service of process by mail; and

(c) shall be effective only when executed both by eSpeed and Employee and upon such shall be binding and enforceable; the Agreement in unsigned form does not become an offer of any kind and does not become capable of acceptance until executed by Employee, and at such time, the Agreement is capable of acceptance by signature by an official at eSpeed; and

(d) may be executed in one or more counterparts, all of which together shall constitute but one Agreement.

Section 11. Notices.

All notices pursuant to this Agreement shall be in writing, shall either be delivered by hand or mailed by certified or registered mail, return receipt requested, postage prepaid to the address set forth above or to such other address as may be designated for such purpose in written notice and shall be effective upon receipt when delivered by hand or on the third business day after the day on which mailed. Any notice to eSpeed hereunder will similarly be sent to:

Stephen Merkel, Esq.
Executive Vice President and
General Counsel
ESpeed, Inc.
135 East 57th Street
New York, New York 10022
(212) 829-4829

Section 12. No Conflicts.

Employee represents and warrants that Employee is not in default under, or in breach of, any agreement requiring Employee to preserve the confidentiality of any information, client lists, trade secrets or other confidential information or agreements not to compete or interfere with any prior employer including, but not limited to, any employment agreement; and neither the execution and delivery of this agreement nor the performance by Employee of Employee's obligations hereunder will conflict with, result in a breach of, or constitute a default under, any confidentiality or non-competition agreement or any employment agreement to which Employee is a party or to which Employee may be subject.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESS

Name:

WITNESS

Name:

eSPEED, INC.

By: /s/ Howard W. Lutnick

Name: Howard W. Lutnick

Title: Chairman, CEO

By: /s/ Kevin Foley

Kevin Foley

EMPLOYMENT AGREEMENT

AGREEMENT, dated as of April 29, 2004, by and between eSpeed, Inc., a Delaware corporation, with offices at 135 E. 57th Street, New York, New York 10022, together with its successors and permitted assigns (collectively, "eSpeed"), and Paul Saltzman, residing at 80 Sulgrave Road, Scarsdale, N.Y. 10583 ("Employee").

eSpeed and Employee desire to enter into an employment agreement ("Agreement"), on the terms and conditions set forth below, to provide for the employment of Employee for the term herein specified. In order to induce Employee to enter into this Agreement, simultaneously herewith, Employee is entering into an agreement with Cantor Fitzgerald L.P. ("Cantor Fitzgerald") (such agreement, as it may be amended from time to time, is referred to as the "CF Agreement"). In consideration of the mutual agreements set forth below and the agreements set forth in the CF Agreement, eSpeed and Employee therefore agree:

Section 1. Employment and Term.

eSpeed hereby agrees to employ Employee, and Employee hereby agrees to serve, on the terms and conditions set forth in this Agreement, as the Chief Operating Officer and Executive Vice President of eSpeed with the duties set forth in Section 2, for a term beginning on or about May 24, 2004 (the "Start Date") and ending December 31, 2006, unless earlier terminated as specified in Section 4 below (the "Term of Employment"). Nothing contained in this paragraph shall limit eSpeed's right to terminate Employee under Section 4.

Section 2. Duties.

Employee agrees that during the Term of Employment, Employee will perform such duties and assignments relating to the business of eSpeed and any entity whether now existing or hereafter arising that directly or indirectly, through one or more intermediaries, controls or is controlled by or under common control with eSpeed (each such entity, an "Affiliate"), as the CEO of eSpeed shall direct that are generally incident to and commensurate with, Employee's position as Chief Operating Officer and Executive Vice President of eSpeed. Employee will report directly and exclusively to the CEO of eSpeed. During the Term of Employment, Employee shall, except during customary vacation periods and periods of illness, devote all of Employee's business time, attention and energies to the performance of Employee's duties and to the business and affairs of eSpeed and its Affiliates and to promoting the best interests of eSpeed and its Affiliates, and Employee shall not, either during or outside of such normal business hours, directly or indirectly, engage in any activity inimical to such best interests. eSpeed retains the right to provide Employee with alternative work commensurate with the work Employee may be asked to normally perform under this Agreement.

Section 3. Compensation During the Term of Employment.

eSpeed shall pay to Employee compensation as follows:

- (a) Employee shall receive an annual base salary of \$500,000 per annum, payable semi-monthly in accordance with eSpeed's then current payroll practices.
- (b) Employee shall be paid an annual bonus of \$300,000 in each of 2004, 2005 and 2006. This bonus is payable on or about December 15 of each such fiscal year in accordance with eSpeed's then current payroll practices, provided, Employee has not given notice of resignation or been terminated for Cause (as defined herein) on or before such payment date, as the case may be. Subject to the foregoing, Employee's bonus payment in 2004 shall be \$300,000 (notwithstanding that Employee has not been employed by eSpeed since the beginning of 2004).
- (c) Employee shall also receive, as soon as practical following the execution of this Agreement by both parties, options to purchase 200,000 shares of Class A Common Stock of eSpeed in accordance with the terms of the eSpeed, Inc. 1999 Long Term Incentive Plan and the Option Agreement in the form attached hereto as Exhibit A (the "Option Agreement"). Employee shall also

receive, as soon as practical following the Start Date, a signing bonus of \$50,000; provided, however, in the event Employee has given notice of resignation or has been terminated for Cause before December 31, 2006, Employee shall return this amount to eSpeed.

(d) Employee shall be entitled each year to participate in such employee benefit plans and programs as eSpeed may from time to time offer to employees of eSpeed as well as to all employee benefit plans and programs provided to other Executive Vice Presidents of eSpeed. Employee will also be entitled to a vacation or vacations in accordance with the policies of eSpeed as determined by the management of eSpeed from time to time, provided that Employee shall receive no less vacation time than the other Executive Vice Presidents of eSpeed. eSpeed shall not pay Employee any additional compensation for any vacation time not used by Employee, other than as required by law.

(e) All compensation shall be subject to applicable withholding and other applicable taxes. Employee further agrees (i) that any sums then due and payable to eSpeed (or any of its Affiliate) by Employee may be deducted from Employee's paychecks (or any bonus checks) in amounts that are in accordance with applicable law and (ii) that any sums then due and payable to American Express under Employee's American Express Corporate Charge Card that are 90 days past due for payment and are not subject to payment or reimbursement by eSpeed in accordance with Section 9 of this Agreement may be deducted by eSpeed from Employee's paycheck (or any bonus checks) in amounts that are in accordance with applicable law and make payments to American Express on Employee's behalf and (iii) that any sums then due and payable to American Express under Employee's American Express Corporate Charge Card and are not subject to payment or reimbursement by eSpeed in accordance with Section 9 of this Agreement upon the termination of Employee's employment (for whatever reason) may be deducted by eSpeed from any outstanding paycheck in amounts that are in accordance with applicable law and make payments to American Express on Employee's behalf.

(f) Employee agrees that any travel and entertainment expense that is incurred by Employee in violation of Section 9 of this Agreement may be offset against Employee's bonus payment or salary at eSpeed's discretion.

(g) Except in the event of termination of this Agreement by eSpeed without Cause, all compensation shall be earned and payable only if Employee is employed by eSpeed or an Affiliate at the time payment is made. Employee agrees that any compensation paid to Employee subsequent to the termination of Employee's employment with eSpeed shall only be paid upon execution by Employee of a general unconditional release in favor of eSpeed in a form reasonably satisfactory to eSpeed. Any such release will not release eSpeed from any indemnification rights Employee may have under the Delaware General Corporations Law or pursuant to the Certificate of Incorporation or Bylaws of eSpeed, or its Affiliates, where applicable.

Section 4. Termination.

(a) During the Term of Employment, eSpeed may terminate this Agreement with Employee for Cause and notice of such termination shall be delivered to Employee. For the purposes hereof, "Cause" means Employee's (i) nonperformance or breach by Employee of any of the provisions of Section 5 of this Agreement, and with respect to provisions of this Agreement other than those contained in Section 5, material nonperformance or material breach by Employee which is not cured within 30 days after receipt by Employee of written notice thereof from eSpeed, (ii) conviction of a felony under U.S. Federal, state or local laws or any applicable foreign laws (including any pleas of *nolo contendere*), (iii) serious misconduct in connection with or affecting the

business of eSpeed or any Affiliate which is not cured within 30 days after receipt by Employee of written notice thereof from eSpeed, (iv) serious neglect or gross negligence in performing Employee's duties hereunder which is not cured within 30 days after receipt by Employee of written notice thereof from eSpeed, (v) failure to perform Employee's duties hereunder after delivery to Employee by eSpeed or an entity owned or controlled by eSpeed of written notice identifying the duties not being performed by Employee, which failure may include the loss for a period of thirty (30) days during any calendar year of any regulatory approvals or licenses necessary to perform Employee's duties, and which failure is not cured within 30 days after receipt by Employee of written notice thereof from eSpeed, (vi) violation by Employee or Employee aiding and abetting any violation by another, as reasonably

determined by eSpeed, of any law, order, rule or regulation pertaining to Employee, or eSpeed or its affiliates including, among others, the rules, regulations and by laws of the National Association of Securities Dealers and the New York Stock Exchange, (vii) illegal drug use by Employee, or (viii) request for reimbursement of expenses not actually incurred by Employee and/or not in accordance with Section 9 hereof, or knowingly assisting others in such efforts.

(b) If in eSpeed's judgment during the Term of Employment, by reason of physical or mental disability, Employee is incapable of performing the essential functions of his position, with or without reasonable accommodation for a period of 60 out of 180 consecutive days, eSpeed at its option may thereafter terminate this Agreement with Employee and notice of such termination may be sent to Employee. If Employee shall die during the Term of Employment, the Term of Employment shall automatically terminate; in the event of such death, or if eSpeed terminates the Term of Employment pursuant to this Section, eSpeed shall pay to Employee or to Employee's legal representatives, or in accordance with a direction given by Employee to eSpeed in writing, Employee's compensation to the date on which such death or termination for disability occurs.

(c) In the event Employee is terminated for Cause or because of disability, he will resign from any officer and/or director positions with eSpeed and its Affiliates he may hold.

Section 5. Non-Competition; Non-Disclosure;
Non-Solicitation; Non-Disparagement

(a) During the term of his employment hereunder, Employee shall not, (i) directly or indirectly, or by action in concert with others, solicit, induce, or influence, or attempt to solicit, induce or influence, any other employee or consultant of eSpeed or any Affiliate to engage in any Competing Business (as hereinafter defined) or otherwise enter into a Competing Business with any such person, (ii) solicit any of the customers of eSpeed or any Affiliate (or any of their employees), induce such customers or their employees to reduce their volume of business with, terminate their relationship with or otherwise adversely affect their relationship with, eSpeed or any Affiliate, (iii) do business with any person who was a customer of eSpeed or any Affiliate during the twelve-month period prior to the date of termination of Employee's employment hereunder if such business would constitute a Competing Business, (iv) directly or indirectly engage in, represent in any way, or be connected with, any Competing Business, directly competing with the business of eSpeed or of any Affiliate, whether such engagement shall be as an officer, director, owner, employee, partner, consultant, affiliate or other participant in any Competing Business or (v) assist others in engaging in any Competing Business in the manner described in the foregoing clause (iv). An activity shall be deemed to be a "Competing Business" if it (i) involves the conduct of the wholesale or institutional brokerage business, (ii) consists of marketing, manipulating or distributing financial price information of a type supplied by eSpeed or any Affiliate to information distribution services or (iii) competes with any other business conducted by eSpeed or any Affiliate, or eSpeed or such Affiliate took substantial steps in anticipation of commencing such business. Notwithstanding any other provisions herein, nothing in this Agreement shall prohibit Employee from acquiring or owning in accordance with eSpeed's policies and procedures regarding personal securities transactions, less than 1% of the outstanding securities of any mutual fund or any class of any corporation that are listed on a national securities exchange or traded in the over-the-counter market or any partnership interests of Cantor Fitzgerald, L.P.

(b) Employee acknowledges that during the Term of Employment he will have access to and become acquainted with eSpeed's confidential records. Employee hereby covenants and agrees that during the Term of Employment and thereafter, Employee shall keep strictly confidential all nonpublic information which Employee presently possesses or which Employee may obtain during the course of Employee's employment or any consulting arrangement with eSpeed with respect to its client information, trade secrets, copyrights, patents, trademarks, service marks, source code, business practices, finances, developments, affairs, records, data, formulae, documents, intangible rights, other intellectual property and other confidential information (collectively, "Confidential Information") of eSpeed or any of its Affiliates, or information about eSpeed or any Affiliate not generally known to the public and not disclose the same, directly or indirectly, to any other person, firm or corporation or utilize the same, except (i) as required by law, (ii) to enforce his rights under this Agreement or any

other agreement with eSpeed or its Affiliates or (iii) solely in the course of performing his duties on behalf of eSpeed and its Affiliates pursuant to this Agreement. All Confidential Information relating to the business of eSpeed and its Affiliates which Employee shall develop, conceive, produce, prepare, use, construct or observe during the Term of Employment shall be and remain the sole property of eSpeed or the relevant Affiliate. Employee further agrees that upon the termination of Employee's employment (irrespective of the time, manner or cause of termination), Employee will surrender and deliver to eSpeed all written Confidential Information in his possession or control, including but not limited to work papers, memoranda, lists, books, records and data of every kind, as well as any copies thereof, relating to or in connection with eSpeed's and its Affiliates' Confidential Information and business. It is understood and agreed that Employee may be required to disclose Confidential Information pursuant to subpoena, other court process, at the direction of governmental or self-regulatory agencies (including the National Association of Securities Dealers, Inc. or the Securities and Exchange Commission) or otherwise as required by law.

(c) During the Term of Employment and for a period of three (3) years after the termination of his employment, for any reason whatsoever, Employee shall not, alone, or with others, directly or indirectly, solicit (other than, solely with respect to any period of time after the Term of Employment, a general solicitation for employment not targeted at employees of eSpeed or its Affiliates), hire or retain for Employee's benefit or the benefit of any person or organization other than eSpeed and its Affiliates, the employment or other services of any individual employed by eSpeed or any Affiliate at the time of such termination or within six months prior thereto. Notwithstanding anything to the contrary contained herein, Employee shall not be deemed to have violated this Section 5(c) if an employee or former employee of eSpeed or its affiliates is solicited or hired by any person or organization for which Employee is employed or retained as a consultant or in which Employee owns stock or other equity interests, so long as Employee was not involved, directly or indirectly in any way

whatsoever, in the solicitation, hiring or retention of such employee or former employee.

(d) Employee recognizes that he is being placed in a position of trust and confidence and as such will not during the Term of Employment or thereafter defame, disparage (except to the extent necessary to enforce his rights), libel or slander eSpeed or its Affiliates in any way, nor will eSpeed or its Affiliates defame, disparage (except to the extent necessary to enforce its rights, or any statements made pursuant to law or regulation, including Regulation FD), libel or slander Employee, and Employee will not during the Term of Employment or thereafter contact, respond to any request from or in any way discuss, criticize, defame, disparage, libel or slander eSpeed or its Affiliates, employees, agent to the media (print, television, or otherwise, whether on or off the record).

Section 6. Other Employee Obligations.

(a) In order to retain and enhance eSpeed's standing and integrity at the forefront of the business community, the business conduct of Employee must be totally professional and Employee must at all times observe appropriate standards of politeness and courtesy in Employee's behavior both with the public and with colleagues. Employee is required to well and faithfully serve eSpeed and to the best of Employee's ability use Employee's best endeavors at all times to promote the development of eSpeed's business and reputation.

(b) Employee must maintain the highest standards of honesty and fair dealing in Employee's work for eSpeed and any Affiliate. Great importance is attached to the observance of eSpeed's policies and procedures as expressed in any personnel or compliance manual (copies of which have previously been provided to Employee), all Federal and State laws and regulations (or if applicable, those of a foreign jurisdiction) and the rules of the National Association of Securities Dealers, Inc. or any other applicable self-regulatory organization. Material breach of any of these obligations may be regarded as misconduct and may result in dismissal for Cause pursuant to Section 4(a) of this Agreement.

(c) If at any time during the term of his employment hereunder Employee is, directly or indirectly, approached or solicited by a third party, with a view to or with the intention of taking up employment or entering into some other business relationship, whether directly or indirectly, with that of any other party which is involved in a business which is competitive with the current or then

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contemplated business of eSpeed or any Affiliate, as known to Employee, Employee shall disclose that fact immediately in writing to the CEO of eSpeed. Moreover, during the term of his employment hereunder, Employee shall not, directly or indirectly, solicit, encourage the solicitation of, or discuss employment or entering into a business relationship, whether directly or indirectly with a party which is involved in a business which is competitive with the current or then contemplated business of eSpeed or any Affiliate, as known to Employee.

(d) During the term of his employment hereunder, Employee shall not, without the written consent of eSpeed, enter into an agreement, whether oral, written or otherwise, with any person, firm or corporation providing for Employee's future employment by such or any other person, firm or corporation.

Section 7. Injunctive Relief

The parties acknowledge that in the event of a breach or a threatened breach by Employee of any of Employee's obligations under this Agreement or by eSpeed of any of eSpeed's obligations under Section 5(d) hereof, eSpeed and its Affiliates or Employee, as the case may be, will not have an adequate remedy at law. Accordingly, and notwithstanding Section 8 hereof, in the event of any such breach or threatened breach by Employee, or eSpeed, as the case may be, eSpeed and its Affiliates or Employee, as the case may be, shall be entitled to specific performance of the applicable provisions of this Agreement or such equitable and injunctive relief, without proof of special damages or the posting of any bond or other security, as may be available to restrain Employee or eSpeed and its Affiliates, as the case may be, and any business, firm, partnership, individual, corporation or entity participating in such breach or threatened breach from the violation of the provisions hereof. eSpeed, its Affiliates and Employee will be entitled to seek such relief, without the posting of any bond or other security, in court pursuant to Section 7502(c) of the New York Civil Practice Law and Rules, or any successor provision thereto. Nothing herein shall be construed as prohibiting eSpeed or any Affiliate or Employee from pursuing any other remedies available at law or in equity for such breach or threatened breach in any dispute submitted to arbitration under Section 8 hereof.

Section 8. Arbitration.

Subject to the provisions of Section 7, any disputes, differences or controversies arising under this Agreement shall be settled and finally determined by arbitration before three arbitrators in New York, New York, according to the rules of the American Arbitration Association now in force and hereafter adopted and the laws of the state of New York then in effect. The arbitrators shall make their award in accordance with and based upon all provisions of this Agreement and judgment upon any award rendered by the arbitrators shall be entered in any court having jurisdiction thereof. However, it is understood and agreed that the arbitrators are not authorized or entitled to include as part of any award rendered by them, special, exemplary or punitive damages or amounts in the nature of special, exemplary or punitive damages regardless of the nature or form of the claim or grievance that has been submitted to arbitration.

It is expressly agreed that arbitration as provided herein shall be the exclusive means for determination of all matters arising in connection with this Agreement and neither party hereto shall institute any action or proceeding in any court of law or equity other than: (a) to request enforcement of the arbitrators award hereunder; or (b) by eSpeed or Employee to bring an action or proceeding seeking injunctive relief from a court of competent jurisdiction as set forth in paragraph 7. The foregoing sentence shall be a bona fide defense to any action or proceeding instituted contrary to this Agreement.

Section 9. Expense Reimbursement.

Employee shall be entitled to be reimbursed by eSpeed for all reasonable expenses and disbursements incurred by him in the course of the performance of his duties hereunder, including expenses for travel and entertainment, in accordance with eSpeed policies and practices for Executive Vice Presidents, upon submission of supporting documentation (it being understood and agreed that Employee will be treated no less favorably than any other executive officer of eSpeed).

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Section 10. Entire Agreement; Enforceability; Partial Invalidity, Attorneys' Fees.

This Agreement and the Option Agreement contain the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements between the parties including the non-disclosure agreement dated April 19, 2004, and no modification or waiver of any provision hereof will be binding upon any party unless in writing and signed by the parties hereto.

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted. In the event that a court of competent jurisdiction shall determine that any covenant set forth in this Agreement is impermissibly broad in scope, duration or geographical area, or is in the nature of a penalty, then the parties intend that such court should limit the scope, duration or geographical area of such covenant to the extent, and only to the extent, necessary to render such covenant reasonable and enforceable, and enforce the covenant as so limited.

Employee and eSpeed agree that if Employee brings an action, claim or proceeding against eSpeed, any Affiliate, or any partner, stockholder, officer, director or employee of any of them (each a "Party"), or if any Party brings an action, claim or proceeding against Employee, that relates to or implicates this Agreement, whether as to its validity, efficacy or otherwise, the non-prevailing party shall pay the reasonable attorney's fees of the prevailing party.

Section 11. Miscellaneous.

This Agreement:

(a) shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted assigns, heirs, executors and administrators. No waiver or modification shall be deemed to be a subsequent waiver or modification of the same or any other term, covenant or condition in this Agreement;

(b) may not be assigned, in whole or in part, by either party hereto without the prior written consent of the other party (any purported assignment hereof in violation of this provision being null and void); however, it may be assigned without recourse, in whole or in part by eSpeed to any creditworthy Affiliate or to any substantially equivalent, creditworthy successor in interest of eSpeed or any Affiliate by merger, consolidation, reorganization or otherwise, and may be executed in various counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to the principles of conflicts of laws thereof. Employee hereby waives personal service of process, and irrevocably submits to service of process by mail; and

(c) shall be effective only when executed both by eSpeed and Employee and upon such shall be binding and enforceable; the Agreement in unsigned form does not become an offer of any kind and does not become capable of acceptance until executed by Employee, and at such time, the Agreement is capable of acceptance by signature by an official at eSpeed; and

(d) may be executed in one or more counterparts, all of which together shall constitute but one Agreement.

Section 12. Notices.

All notices pursuant to this Agreement shall be in writing, shall either be delivered by hand or mailed by certified or registered mail, return receipt requested, postage prepaid to the address set forth above or to such other address as may be designated for such purpose in written notice and shall be effective upon receipt when delivered by hand or on the third business day after the day on which mailed. Any notice to eSpeed hereunder will similarly be sent to:

Stephen Merkel, Esq.
Executive Vice President and
General Counsel
eSpeed, Inc.
135 East 57th Street
New York, New York 10022
(212) 829-4829

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Any notice to Employee hereunder will similarly be sent to:

Kenneth A. Lefkowitz, Esq.
Hughes Hubbard & Reed LLP
1 Battery Park Plaza
New York, New York 10004
(212) 422-4726

Section 13. No Conflicts.

Employee represents and warrants that Employee is not in default under, or in breach of, any agreement requiring Employee to preserve the confidentiality of any information, client lists, trade secrets or other confidential information or agreements not to compete or interfere with any prior employer including, but not limited to, any employment agreement; and neither the execution and delivery of this agreement nor the performance by Employee of Employee's obligations hereunder will conflict with, result in a breach of, or constitute a default under, any confidentiality or non-competition agreement or any employment agreement to which Employee is a party or to which Employee may be subject.

eSpeed represents and warrants to Employee that this Agreement has been duly authorized by the Compensation Committee of the Board of Directors of eSpeed.

Section 14. Legal Fee Reimbursement.

eSpeed shall reimburse Employee for up to \$15,000 of reasonable legal fees and expenses incurred by him in connection with the negotiation of this Agreement and related matters after receipt by eSpeed of an invoice with respect thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESS

eSPEED, INC.

By: /S/ Howard Lutnick

Name: Howard W. Lutnick
Name: Title: Chairman, CEO

Name:

WITNESS

/S/ Paul Saltzman

Paul Saltzman

Name:

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EXHIBIT 31.1

I, Howard W. Lutnick, certify that:

1. I have reviewed this quarterly report on Form 10-Q of eSpeed, Inc. for the quarter ended June 30, 2004;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
 - b. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of this disclosure controls and procedures as of the end of the period covered by this quarterly report based on such evaluation; and
 - c. Disclosed in this quarterly report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors:
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 6, 2004

/s/ Howard W. Lutnick

Howard W. Lutnick

Chairman of the Board and Chief Executive Officer

I, Jay Ryan, certify that:

1. I have reviewed this quarterly report on Form 10-Q of eSpeed, Inc. for the quarter ended June 30, 2004;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
 - b. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of this disclosure controls and procedures as of the end of the period covered by this quarterly report based on such evaluation; and
 - c. Disclosed in this quarterly report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors:
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 6, 2004

/s/ Jay Ryan
 Jay Ryan
 Senior Vice President and Interim Chief Financial Officer

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report of eSpeed, Inc., a Delaware corporation (the "Company") on Form 10-Q for the period ended June 30, 2004 as filed with the Securities and Exchange Commission on the date hereof (the "Form 10-Q"), each of Howard W. Lutnick, Chief Executive Officer of the Company, and Jay Ryan, Interim Chief Financial Officer of the Company, certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to his knowledge:

- (1) The Form 10-Q fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Howard W. Lutnick

Name: Howard W. Lutnick

Title: Chairman of the Board and
Chief Executive Officer

Date: August 6, 2004

/s/ Jay Ryan

Name: Jay Ryan

Title: Senior Vice President and
Interim Chief Financial Officer

Date: August 6, 2004
