

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

FORM S-8

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

RED ROBIN GOURMET BURGERS, INC.

(Exact name of registrant as specified in its charter)

Delaware

*(State or other jurisdiction of
incorporation or organization)*

**10000 E. Geddes Avenue, Suite 500
Englewood, CO 80112**
(Address of principal executive offices)

84-1573084

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

80112
(Zip code)

G.J. Hart

President and Chief Executive Officer

**10000 E. Geddes Avenue, Suite 500
Englewood, CO 80112**

(Name and address of agent for service)

(303) 846-6000

(Telephone number, including area code, of agent for service)

**Red Robin Gourmet Burgers, Inc. 2024 Performance Incentive Plan
Employment Inducement Grant**

(Full title of the Plan)

Copies to:

David S. Huntington, Esq.

Paul, Weiss, Rifkind, Wharton & Garrison LLP

**1285 Avenue of the Americas
New York, New York 10019-6064**

(212) 373-3000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

EXPLANATORY NOTE

This registration statement is filed by Red Robin Gourmet Burgers, Inc. (the "Company" or "Registrant") to register (i) 2,000,000 shares of the Company's common stock, par value \$0.001 per share (the "Common Stock") issuable under the Red Robin Gourmet Burgers, Inc. 2024 Performance Incentive Plan, which was approved by the Compensation Committee of the Company's Board of Directors on February 20, 2024 and approved by the Company's stockholders at the Company's 2024 annual meeting of stockholders on May 23, 2024, and (ii) 123,762 shares of Common Stock that may be issued upon the vesting of performance stock units (if such performance stock units vest above target level) previously granted to G.J. Hart, the Company's President and Chief Executive Officer, as previously disclosed.

PART I

**INFORMATION REQUIRED IN THE
SECTION 10(a) PROSPECTUS**

The document(s) containing the information specified in Part I of Form S-8 (plan information and Company information) will be sent or given to employees as specified by Rule 428(b)(1) under the Securities Act of 1933, as amended (the "Securities Act"). Such documents need not be filed with the Securities and Exchange

Commission (the “Commission”) either as part of this registration statement or as prospectuses or prospectus supplements pursuant to Securities Act Rule 424. These documents, which include the statement of availability required by Item 2 of Form S-8, and the documents incorporated by reference in this registration statement pursuant to Item 3 of Form S-8 (Part II hereof), taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

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PART II
INFORMATION NOT REQUIRED IN THE
REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents, previously filed by the Company with the Commission, are hereby incorporated in this registration statement by reference as of their date of filing with the Commission:

- The Company’s [Annual Report on Form 10-K for the fiscal year ended December 31, 2023, filed with the Commission on February 28, 2024](#) (the “2024 Annual Report”), including the portions of the Company’s [Definitive Proxy Statement on Schedule 14A, filed with the Commission on April 4, 2024](#), incorporated by reference into the 2024 Annual Report;
- The Company’s Current Report on Form 8-K filed on [January 25, 2024](#); and
- [The description of the Company’s Common Stock contained in its Registration Statement on Form S-3, filed with the SEC on May 29, 2020 \(File No. 333-238806\), and any other amendment or report filed for the purpose of updating such description.](#)

All other documents filed by the Company pursuant to Sections 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934 (the “Exchange Act”) subsequent to the date of this registration statement and prior to the filing of a post-effective amendment to this registration statement indicating that all securities offered under the registration statement have been sold, or deregistering all securities then remaining unsold, are also incorporated herein by reference and shall be a part hereof from the date of the filing of such documents.

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

Item 4. Description of Securities.

The Common Stock is registered pursuant to Section 12 of the Exchange Act and, therefore, the description of securities is omitted

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officer.

Section 145 of the Delaware General Corporation Law (the “DGCL”) provides that a corporation may indemnify directors and officers as well as other employees and agents against expenses (including attorneys’ fees) and (other than in actions by or in the right of the corporation to procure a judgment in its favor) judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed actions, suits or proceedings in which such person is made a party by reason of such person being or having been a director, officer, employee or agent of the registrant. The DGCL provides that Section 145 is not exclusive of other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise. Section 1 of Article VIII of the registrant’s Fourth Amended and Restated Bylaws provides for mandatory indemnification by the registrant of its present and former directors and officers and permits indemnification by the registrant of its employees and agents to the fullest extent permitted by the DGCL.

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Section 102(b)(7) of the DGCL permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director’s duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for unlawful payments of dividends or unlawful stock repurchases or redemptions, or (iv) for any transaction from which the director derived an improper personal benefit. The registrant’s certificate of incorporation provides that:

A director of [the Company] shall not be personally liable to [the Company] or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director’s duty of loyalty to [the Company] or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit.

The Company maintains standard policies of insurance under which coverage is provided (a) to its directors and officers against loss arising from claims made by reason of breach of duty or other wrongful act, and (b) to the Company with respect to payments which may be made by the registrant to such officers and directors pursuant to the above indemnification provision or otherwise as a matter of law.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit No.	Description
3.1*	Restated Certificate of Incorporation of Red Robin Gourmet Burgers, Inc., dated as of May 28, 2015. Incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K filed on May 29, 2015.
3.2*	Red Robin Gourmet Burgers, Inc. Fifth Amended and Restated Bylaws, as amended March 20, 2023. Incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K filed on March 23, 2023.
3.3*	Specimen stock certificate. Incorporated by reference to Exhibit 4.1 to Amendment No. 1 of our Registration Statement on Form S-1 filed on June 10, 2002 (Registration No. 333-87044).
5.1	Opinion of Paul, Weiss, Rifkind, Wharton & Garrison LLP.
10.1*	Red Robin Gourmet Burgers, Inc. Employment Inducement Award Performance Stock Unit Grant Agreement. Incorporated by reference to Exhibit 10.2 to our Registration Statement on Form S-8 filed on September 13, 2022 (Registration Number 333-267400).
23.1	Consent of Paul, Weiss, Rifkind, Wharton & Garrison LLP (included in Exhibit 5.1).
23.2	Consent of Deloitte & Touche LLP.
24.1	Power of Attorney (included on signature page of this registration statement).
99.1*	Red Robin Gourmet Burgers, Inc. 2024 Performance Incentive Plan. Incorporated by reference to Appendix A to our Definitive Proxy Statement filed on April 4, 2024.
107	Filing Fee Table

* Incorporated herein by reference as indicated

Item 9. Undertakings.

(a) The undersigned registrant hereby undertakes:

1. To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

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

- (iii) To include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to section 13 or section 15(d) of the Exchange Act that are incorporated by reference in this registration statement.

2. That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
 3. To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to section 13(a) or section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Exchange Act) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Englewood, State of Colorado, on this 23rd day of May, 2024.

Date: May 23, 2024

RED ROBIN GOURMET BURGERS, INC.

By: /s/ G.J. Hart

Name: G.J. Hart
Title: President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints G.J. Hart, Todd Wilson and Sarah Mussetter and each of them, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same, with all exhibits thereto, and all documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities on May 23, 2024.

Signature	Title
<hr/> <i>/s/ G.J. HART</i> G.J. Hart	President and Chief Executive Officer; Director (Principal Executive Officer and Director)
<hr/> <i>/s/ TODD WILSON</i> Todd Wilson	Executive Vice President; Chief Financial Officer (Principal Financial Officer)
<hr/> <i>/s/ ROBYN ARNELL BRENDEN</i> Robyn Arnell Brenden	Chief Accounting Officer (Principal Accounting Officer)
<hr/> <i>/s/ DAVID A. PACE</i> David A. Pace	Chairperson of the Board
<hr/> <i>/s/ ANTHONY S. ACKIL</i> Anthony S. Ackil	Director
<hr/> <i>/s/ THOMAS G. CONFORTI</i> Thomas G. Conforti	Director
<hr/> <i>/s/ STEVEN K. LUMPKIN</i> Steven K. Lumpkin	Director
<hr/> <i>/s/ ALLISON PAGE</i> Allison Page	Director
<hr/> <i>/s/ NICOLE MILLER REGAN</i> Nicole Miller Regan	Director
<hr/> <i>/s/ ANDDRIA VARNADO</i> Anddria Varnado	Director

[LETTERHEAD OF PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP]

May 23, 2024

Red Robin Gourmet Burgers, Inc.
10000 East Geddes Avenue, Suite 500
Englewood, CO 80112

Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as special counsel to Red Robin Gourmet Burgers, Inc., a Delaware corporation (the "Company"), in connection with the Registration Statement on Form S-8 (the "Registration Statement") of the Company, filed with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended (the "Act"), and the rules and regulations thereunder (the "Rules"). You have asked us to furnish our opinion as to the legality of the securities being registered under the Registration Statement. The Registration Statement relates to the registration under the Act of (i) 2,000,000 shares (the "2024 Plan Shares") of the Company's common stock, par value \$0.001 per share issuable under the Red Robin Gourmet Burgers, Inc. 2024 Performance Incentive Plan (the "2024 Plan") and (ii) 123,762 additional shares (the "Inducement Grant Shares," and together with the 2024 Plan Shares, the "Shares") of the Common Stock, reserved for issuance upon vesting of performance stock units (the "PSUs") previously granted to G.J. Hart, the Company's President and Chief Executive Officer.

In connection with the furnishing of this opinion, we have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents (collectively, the "Documents"):

1. the Registration Statement;
2. the Performance Stock Unit Award Agreement between the Company and G.J. Hart relating to the PSUs (the "PSU Agreement"); and
3. the 2024 Plan and the forms of award agreements relating to awards under the 2024 Plan (collectively, the "Plan Award Agreements," and together with the PSU Agreement, the "Award Agreements").

In addition, we have examined (i) such corporate records of the Company as we have considered appropriate, including a copy of the certificate of incorporation, as amended, and by-laws, as amended, of the Company, certified by the Company as in effect on the date of this letter and copies of resolutions of the board of directors of the Company relating to the issuance of the Shares, certified by the Company and (ii) such other certificates, agreements and documents as we deemed relevant and necessary as a basis for the opinion expressed below. We have also relied upon the factual matters contained in the representations and warranties of the Company made in the Documents and upon certificates of public officials and the officers of the Company.

In our examination of the documents referred to above, we have assumed, without independent investigation, the genuineness of all signatures, the legal capacity of all individuals who have executed any of the documents reviewed by us, the authenticity of all documents submitted to us as originals, the conformity to the originals of all documents submitted to us as certified, photostatic, reproduced or conformed copies of valid existing agreements or other documents, the authenticity of all the latter documents and that the statements regarding matters of fact in the certificates, records, agreements, instruments and documents that we have examined are accurate and complete.

Based upon the above, and subject to the stated assumptions, exceptions and qualifications, we are of the opinion that the Shares have been duly authorized by all necessary corporate action on the part of the Company and, when issued and delivered in accordance with the terms of the 2024 Plan and the respective Award Agreement, the Shares will be validly issued, fully paid and non-assessable.

The opinion expressed above is limited to the General Corporation Law of the State of Delaware. Our opinion is rendered only with respect to the laws, and the rules, regulations and orders under those laws, that are currently in effect. We hereby consent to use of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not thereby admit that we come within the category of persons whose consent is required by the Act or the Rules.

Very truly yours,

/s/ Paul, Weiss, Rifkind, Wharton & Garrison LLP

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated February 28, 2024 relating to the financial statements of Red Robin Gourmet Burgers, Inc. and the effectiveness of Red Robin Gourmet Burgers, Inc.'s internal control over financial reporting, appearing in the Annual Report on Form 10-K of Red Robin Gourmet Burgers, Inc. for the year ended December 31, 2023.

/s/ Deloitte & Touche LLP

Denver, Colorado
May 23, 2024

Calculation of Filing Fee Table

S-8
(Form Type)RED ROBIN GOURMET BURGERS, INC.
(Exact Name of Registrant as Specified in its Charter)

Table I: Newly Issued Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered	Proposed Maximum Offering Price Per Share	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common stock, \$0.001 par value per share ^{(1) (2)}	Other ⁽³⁾	2,000,000	\$6.87 ⁽³⁾	\$13,740,000 ⁽³⁾	\$147.60 per \$1,000,000	\$2,028.02
Equity	Common stock, \$0.001 par value per share ^{(2) (4)}	Other ⁽³⁾	123,762	\$6.87 ⁽³⁾	\$850,244.94 ⁽³⁾	\$147.60 per \$1,000,000	\$125.50
	Total Offering Amounts						\$2,153.52
	Total Fee Offsets						\$0.00
	Net Fee Due						\$2,153.52

- (1) Represents 2,000,000 additional shares of common stock, par value \$0.001 per share (the “Common Stock”) of Red Robin Gourmet Burgers, Inc. (the “Company”) reserved for issuance under the Red Robin Gourmet Burgers, Inc. 2024 Performance Incentive Plan (the “2024 Plan”).
- (2) Pursuant to Rule 416 of the Securities Act of 1933, as amended, this registration statement on Form S-8 also includes additional shares of Common Stock in respect of the securities identified in the above table that may become issuable by reason of any stock dividend, stock split, recapitalization or similar adjustments.
- (3) Estimated in accordance with Rule 457(c) solely for purposes of calculating the registration fee. The maximum price per share of common stock and the maximum aggregate offering price are based on the average of the \$7.06 (high) and \$6.68 (low) sale price of the common stock as reported on The Nasdaq Stock Market LLC on 5/17/2024, which date is within five business days prior to filing this registration statement.
- (4) Represents 123,762 shares of Common Stock that may be issued upon the vesting of performance stock units previously granted to G.J. Hart, the Company’s President and Chief Executive Officer, as described in the accompanying registration statement on Form S-8.